

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1859

7
8 H.P. 1324

House of Representatives, January 15, 1986

9 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

10 Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

11 Presented by Representative Kane of So. Portland.
12

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Resolve a Conflict in the Law
19 Dealing with the Crime of Gross Sexual Misconduct.
20

21 Emergency preamble. Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, during the First Regular Session of the
25 112th Legislature, a provision of the crime of gross
26 sexual misconduct was inadvertently amended by 2 sep-
27 arate bills; and

28 Whereas, these amendments have resulted in confu-
29 sion concerning what provisions of the law are in ef-
30 fect; and

31 Whereas, it is especially important that the
32 criminal law speak clearly; and

33 Whereas, in the judgment of the Legislature,
34 these facts create an emergency within the meaning of

1 the Constitution of Maine and require the following
2 legislation as immediately necessary for the preser-
3 vation of the public peace, health and safety; now,
4 therefore,

5 Be it enacted by the People of the State of Maine as
6 follows:

7 17-A MRSA §253, sub-§4, as amended by PL 1985, c.
8 247, §2, and c. 414, §3, is repealed and the follow-
9 ing enacted in its place:

10 4. Violation of subsection 1 is a Class A
11 crime. It is a defense to prosecution under subsec-
12 tion 1, paragraph A, which reduces the crime to a
13 Class B crime that the other person was a voluntary
14 social companion of the defendant at the time of the
15 offense and had, on that occasion, permitted the de-
16 fendant sexual contact or voluntarily engaged in sex-
17 ual contact with the defendant.

18 **Emergency clause.** In view of the emergency cited
19 in the preamble, this Act shall take effect when ap-
20 proved.

1

STATEMENT OF FACT

2 Public Law 1985, chapter 247, repealed the last
3 sentence of the Maine Revised Statutes, Title 17-A,
4 section 253, subsection 4, which read: "It is an af-
5 firmative defense to a prosecution under subsection
6 1, paragraph A, that the defendant and the victim
7 were living together as man and wife at the time of
8 the crime." Public Law 1985, chapter 414, later
9 amended the Maine Revised Statutes, Title 17-A, sec-
10 tion 253, subsection 4, to clarify the defense of the
11 victim having voluntarily engaged in sexual contact
12 with the defendant. Public Law 1985, chapter 414,
13 failed to refer to Public Law 1985, chapter 247, and
14 thus failed to include the repeal of the last sen-
15 tence of the Maine Revised Statutes, Title 17-A, sec-
16 tion 253, subsection 4. This bill is simply a mini
17 "errors" bill which repeals and replaces the Maine
18 Revised Statutes, Title 17-A, section 253, subsection
19 4, to make it clear that the amendments to that sub-
20 section made by Public Law 1985, chapters 247 and 414
21 are both in force.

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