

L.D. 1483 2 (Filing No. H-563) 4 STATE OF MAINE HOUSE OF REPRESENTATIVES 8 **115TH LEGISLATURE** FIRST REGULAR SESSION 10 12 COMMITTEE AMENDMENT " \mathcal{H} " to H.P. 1015, L.D. 1483, Bill, "An Act to Remove the Statute of Limitations for Incest and Gross 14 Sexual Assault" 16 Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its 18 place the following: 20 'Sec. 1. 17-A MRSA §8, sub-§1, as amended by PL 1981, c. 470, 22 Pt. A, §37, is further amended to read: 24 1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal 26 homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, a 28. prosecution for incest, rape or gross sexual assault, formerly 30 denominated as gross sexual misconduct, may be commenced at any time. 32 Sec. 2. 17-A MRSA §8, sub-§2, as amended by PL 1981, c. 470, Pt. A, §38, is further amended to read: 34 36 2. Prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, 38 prosecutions for incest, rape or gross sexual assault, formerly 40 denominated as gross sexual misconduct, are subject to the following periods of limitations: 42 A. A prosecution for a Class A, Class B or Class C crime 44 must be commenced within 6 years after it is committed; and 46 в. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

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COMMITTEE AMENDMENT "H" to H.P. 1015, L.D. 1483

Sec. 3. Application. This Act applies to the following crimes in which the victim has not attained the age of 16 years at the time of the crime:

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the effective date of this Act; and 2. Incest, rape and gross sexual assault, formerly denominated as gross sexual misconduct, for which the

Incest and gross sexual assault committed on or after

denominated as gross sexual misconduct, for which the prosecution has not yet been barred by the previous statute of limitations in force on the effective date of this Act.

FISCAL NOTE

16 This bill eliminates the statue of limitations for the criminal prosecution of the crimes of rape or gross sexual assault and incest if the victim of the crime was not at least 16 years of age at the time the crime was committed. The additional work load and administrative costs associated with a minimal number of new cases filed in Superior Court as a result will be absorbed within the budgeted resources of the Judicial Department.

The appointment of court-appointed counsel for indigent defendants who are charged with these crimes will result in costs to the Judicial Department. A General Fund appropriation to the Judicial Department may be necessary for the Indigent Defense Program once the cumulative effect of all legislation for which court-appointed counsel for indigent defendants must be provided is known.

32 The impact to the Department of Corrections will depend upon the number of additional individuals convicted of these crimes as 34 the result of the elimination of the statute of limitations who will serve their sentences in the State's correctional 36 institutions.'

STATEMENT OF FACT

This amendment replaces the bill. It makes technical corrections but maintains the purpose and effect of removing the criminal statute of limitations for the crimes of gross sexual assault and incest against persons under the age of 16 years at the time of the crime.

This amendment clarifies that the criminal statute of limitations is removed for the crime of rape, which is included in gross sexual assault. It also clarifies that crimes committed under the gross sexual misconduct statute are included even though the name of that crime was changed to gross sexual assault by the 114th Legislature.

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COMMITTEE AMENDMENT " A to H.P. 1015, L.D. 1483

The current statute of limitations is too rigid to 2 accommodate the large number of cases in which the minor, although not repressing the memory of the sexual assault or 4 incest, is coerced by circumstances to not report or take any action on the abuse for years. These circumstances can exist, б for example, when the minor remains for years in the same household as the perpetrator and, because of the young age of the 8 minor and the often fiduciary-type relationship between the perpetrator and the minor, the perpetrator continues to exercise 10 a certain degree of control over the minor through the relationship, fear or both. 12

Another type of situation that the current statute does not adequately address is that of persons who slowly, usually through
therapy, remember or "discover" the facts of their sexual assault or incest: what happened, when, where, who was involved. Rarely
would this happen within the current 6-year statute of limitations for gross sexual assault.

Removing the criminal statute of limitations is intended to eliminate the inequities caused to victims by the current law. 22 At the same time, such removal does not, in and of itself, result 24 in unfairness to the perpetrator. This amendment adds an application section to clearly state that the Legislature's intent in amending the criminal statute of limitations for these 26 crimes is to allow prosecution of those crimes committed before the effective date of this bill if the current statute of 28 limitations has not expired by the effective date of this bill. The Legislature determined this was the furthest back the statute 30 could reach while still being constitutionally defensible.

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