

# MAINE STATE LEGISLATURE

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AK  
R. of S.

L.D. 292

(Filing No. H-443 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 224, L.D. 292, Bill, "An Act to Provide a Deterrent to Child Sexual Abuse"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 17-A MRSA §254, sub-§3, as enacted by PL 1975, c. 499, §1, is amended to read:

3. Sexual abuse of minors is a Class D crime, except that sexual abuse of minors is a Class C crime when:

A. The actor is more than 10 years older than the other person;

B. The actor knows the other person is related within the 2nd degree of consanguinity; or

C. The actor has 2 or more prior Maine convictions for violations of this section. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

**COMMITTEE AMENDMENT**

2           **Sec. 2. 17-A MRSA §255, sub-§2,** as enacted by PL 1975, c. 499,  
§1, is amended to read:

4           2. Unlawful sexual contact is a Class D crime, except that  
a violation of subsection 1, paragraph C or G is a Class C crime,  
6           and a violation of this section when the actor has 2 or more  
prior Maine convictions for violations of this section is a Class  
8           C crime. For purposes of this subsection, the dates of both of  
10           the prior convictions must precede the commission of the offense  
being enhanced by no more than 5 years, although both prior  
12           convictions may have occurred on the same day. The date of a  
conviction is deemed to be the date that sentence is imposed,  
14           even though an appeal was taken. The date of a commission of an  
offense is presumed to be that stated in the complaint,  
16           information or indictment, notwithstanding the use of the words  
"on or about" or the equivalent.

18           **Sec. 3. 17-A MRSA §556, sub-§2,** as enacted by PL 1975, c. 499,  
§1, is amended to read:

20           2. Incest is a Class D crime, except that a violation of  
22           this section when the actor has 2 or more prior Maine convictions  
for violations of this section, is a Class C crime. For purposes  
24           of this subsection, the dates of both of the prior convictions  
must precede the commission of the offense being enhanced by no  
26           more than 5 years, although both prior convictions may have  
occurred on the same day. The date of a conviction is deemed to  
28           be the date that sentence is imposed, even though an appeal was  
taken. The date of a commission of an offense is presumed to be  
30           that stated in the complaint, information or indictment,  
32           notwithstanding the use of the words "on or about" or the  
equivalent.

34           **FISCAL NOTE**

36           The increase of certain sexual abuse, incest and unlawful  
sexual contact crimes from Class D to Class C crimes will  
38           increase state correctional costs by shifting some correctional  
costs from the counties to the State. Sentences of more than 9  
40           months for Class C crimes must be served in a state correctional  
institution. The cost to the State per sentence is \$42,050 based  
42           upon an average length of stay of one year and 9 months.  
Sentences imposed for Class D offenses must be served in county  
44           jail facilities.

46           This change will also increase indigent defense costs. The  
Judicial Department may require additional General Fund  
48           appropriations to cover these costs. The amounts can not be  
estimated at this time.

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STATEMENT OF FACT

This amendment replaces the bill, although it retains the proposals made by the bill. Sexual abuse of minors is raised from a Class D crime to a Class C crime when the actor is 10 or more years older than the victim, and also when the actor knows the victim is within the 2nd degree of consanguinity. The 2nd degree of consanguinity includes the actor's siblings, parents, children, aunts and uncles, nieces and nephews, grandparents, grandchildren and cousins.

The amendment makes the 3rd offense of sexual abuse of minors, unlawful sexual contact and incest a Class C crime.

The Department of Corrections has prepared the following correctional impact statement pursuant to the Maine Revised Statutes, Title 34-A, section 1402: "L.D. 292, An Act to Provide a Deterrent to Child Sexual Abuse, would raise sexual abuse of a minor from a Class D to a Class C offense when the offender is 10 or more years older than the victim, or the offender knows the victim is within the 2nd degree of consanguinity of the offender. A sentence of more than 9 months imposed for a Class C offense must be served in a state correctional facility. Looking at sentences served for Class C offenses, the average length of stay was found to be about one year and 9 months. The cost to the State per sentence is \$42,050."

The amendment also adds a fiscal note.

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the House  
5/26/93 (Filing No. H-443)