MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1109

H.P. 823

House of Representatives, April 1, 1993

An Act to Amend the Sexual Assault Laws.

Reference to the Committee on Judiciary suggested and ordered printed.

JOSEPH W. MAYO, Clerk

Presented by Representative CATHCART of Orono.

Cosponsored by Representatives: BENNETT of Norway, COTE of Auburn, MORRISON of Bangor, OTT of York, PARADIS of Augusta, Senators: HANLEY of Oxford, PINGREE of Knox.

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

2		C 4 4
4	by P	Sec. 1. 17 -A MRSA $\S251$, sub- $\S1$, \PC , as repealed and replaced L 1985, c. 495, $\S5$, is amended to read:
б		C. "Sexual act" means:
8		(1) Any act between 2 persons involving direct
10		physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the
12		other;
14		(2) Any act between a person and an animal being used by another person which act involves direct physical
16		contact between the genitals of one and the mouth or anus of the other, or direct physical contact between
18		the genitals of one and the genitals of the other; er
20.		(3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device
22		manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or
24		for the purpose of causing bodily injury or offensive physical contact. : or
26		(4) Any act involving direct physical contact between
28		the genitals and anus of one and any body part of the other when penetration occurs and when that act is done
30		for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or
32		offensive physical contact.
34		A <u>As defined in subparagraphs (1) to (3), a</u> sexual act may be proved without allegation or proof of penetration. <u>To</u>
36		prove a sexual act under subparagraph (4), penetration must be alleged and proved.
38		
40	401,	Sec. 2. 17-A MRSA §255, sub-§1, ¶F, as amended by PL 1989, c. Pt. A, §6, is further amended to read:
42		F. The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled
44		in a private or public elementary, secondary or special education school, facility or institution and the actor is a
46		teacher, employee or other official having instructional, supervisory or disciplinary authority over the student; er

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2	401, Pt. A, §6, is amended to read:
4	G. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent,
6	guardian or other similar person responsible for the long-term general care and welfare of that other person; or
8	Sec. 4. 17-A MRSA §255, sub-§1, ¶H is enacted to read:
10 12	H. The other person submits as a result of compulsion.
14	<pre>Sec. 5. 17-A MRSA §255, sub-§2, as enacted by PL 1975, c. 499, §1, is amended to read:</pre>
16 18	2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph C is a Class C crime and a violation of subsection 1, paragraph H is a Class B crime.
20	violacion of subsection i, paragraph n is a class b clime.
22	STATEMENT OF FACT
24	This bill expands the definition of sexual act to include the penetration of the genitals or anus of one person with any body part of another person when the purpose of the act is for
26	arousing or gratifying sexual desire or for causing bodily injury or offensive physical contact. The existing acts defined as
28	"sexual acts" do not require the allegation and proof of penetration; this new provision does require the allegation and
30	proof of penetration as an element of the crime.
32	This bill makes unlawful sexual contact a Class B crime if compulsion is a factor. Sexual contact is defined in the Maine
34	Revised Statutes, Title 17-A, section 251 as "any touching of the genitals or anus, directly or through clothing, other than as
16	would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily
88	injury or offensive physical contact." Compulsion is defined in Title 17-A, section 251 as "the use of physical force, a threat
:0	to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that
:2	person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or
4	another human being." Compulsion places no duty upon the victim

Sec. 3. 17-A MRSA §255, sub-§1, ¶G, as enacted by PL 1989, c.

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to resist the actor.