

# MAINE STATE LEGISLATURE

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R. of S

L.D. 179

DATE: 4/10/95

(Filing No. H- 95 )

**CRIMINAL JUSTICE**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 131, L.D. 179, Bill, "An Act to Prohibit Private Indecency"

Amend the bill by striking out the title and substituting the following:

**'An Act to Prohibit Visual Sexual Aggression Against a Child and Private Indecency'**

Further 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 §256 is enacted to read:**

**§256. Visual sexual aggression against a child**

1. A person is guilty of visual sexual aggression against a child if, for the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age.

2. Visual sexual aggression against a child is a Class D crime.

**Sec. 2. 17-A MRSA §854, as amended by PL 1989, c. 401, Pt. B, §§6 and 7, is further amended to read:**

**COMMITTEE AMENDMENT**

R. of S.

§854. Indecent conduct

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1. A person is guilty of ~~public-indecency~~ indecent conduct if:

A. In a public place:

(1) The actor engages in a sexual act, as defined in section 251; or

(2) The actor knowingly exposes the actor's genitals under circumstances which that, in fact, are likely to cause affront or alarm; or

B. In a private place, the actor exposes the actor's genitals with the intention that the actor be seen from a public place or from another private place; or

C. In a private place, the actor exposes the actor's genitals with the intention that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm.

2. For purposes of this section "public place" includes, but is not limited to, motor vehicles which that are on a public way.

2-A. It is a defense to prosecution under subsection 1, paragraph C, that the other person previously lived or currently is living in the same household as the actor.

3. ~~Public-indecency~~ Indecent conduct is a Class E crime.'

Further amend the bill by inserting at the end before the statement of fact the following:

**FISCAL NOTE**

This bill establishes a new Class D crime and a new Class E crime. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.22 per day for each offender. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload, administrative costs and indigent defense costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of

2 additional fines may also increase General Fund revenue by minor  
amounts.'

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**STATEMENT OF FACT**

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8 This amendment replaces the original bill. This amendment  
creates a new sex offense prohibiting exposure of the genitals by  
10 an adult to a child and exposure of the genitals by a child to an  
adult when such exposure is caused by the adult for the purpose  
12 of arousing or gratifying sexual desire or for the purpose of  
causing affront or alarm.

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16 This amendment changes the name of public indecency to  
indecent conduct. Under the current public indecency law,  
18 exposure by a person of the person's genitals to another person  
in the same private place is not illegal, even if the actor knows  
that the act will cause affront or alarm. The current law is  
20 amended to prohibit that act, if the actor knows that the act  
will cause affront or alarm to another person located in the same  
private place, unless the other person previously lived or  
22 currently is living in the same household as the actor. The  
"same household" limitation is treated as a defense to a  
24 prosecution under the new crime.

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28 The Department of Corrections has prepared the following  
correctional impact statement pursuant to the Maine Revised  
Statutes, Title 34-A, section 1402: "L.D. 179, An Act to Prohibit  
30 Private Indecency, would create a new Class E offense. Sentences  
imposed for Class E offenses must be served in a county jail  
32 facility. Looking at the sentences served for Class E offenses,  
the average length of stay was found to be about 67 days. The  
average cost per day in a county jail is \$83.22. The projected  
34 average cost per sentence for a Class E offense is \$5,576."