

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1211, L.D. 1711, Bill, "An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer"

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

Sec. 1. 25 MRSA §2806, sub-§1, ¶B, as amended by PL 1993, c. 744, §12, is further amended to read:

B. May suspend or revoke the certificate issued pursuant to former section 2803, 2805 or 2805-A or section 2803-A, 2804-B, 2804-C or 2804-D of any person who:

(1) Has been found guilty of murder or any crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(2) Has engaged in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(3) Has been found guilty of conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(4) Has engaged in conduct specified in subparagraph (2) in another state or other jurisdiction, unless that

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conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(5) Has falsified or misrepresented material facts in obtaining or maintaining the certificate; ~~or~~

(6) Has engaged in conduct that violates the standards established by the board pursuant to section 2803-B, subsection 1, ~~provided--that as long as~~ the conduct, when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent law enforcement officer would observe in the same situation; ~~and or~~

(7) Has engaged in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D with another person, not the person's spouse, if at the time of the sexual act or sexual contact:

(a) The officer was engaged in an investigation or purported investigation involving an allegation of abuse, as defined in Title 19, section 762, subsection 1 and in Title 19-A, section 4002, subsection 1;

(b) The other person was the alleged victim of that abuse;

(c) The parties did not have a preexisting and ongoing sexual relationship that included engaging in any sexual act or sexual contact; and

(d) Fewer than 60 days had elapsed since the officer initially became involved in the investigation or purported investigation; and

Sec. 2. 25 MRSA §2806, sub-§1, ¶C, as amended by PL 1989, c. 521, §§9 and 17, is further amended to read:

C. Shall investigate a complaint, on its own motion or otherwise, regarding the failure of a law enforcement or corrections officer to comply with the requirements of section ~~or~~ 2804-D, 2804-E or 2804-F, and any rules adopted under those sections. The board may, upon notice, conduct an informal conference with the officer. If the board finds that the factual basis of the complaint is true and that

2 further action is warranted, it may take the following
action:

4 (1) Enter into a consent agreement with the officer,
which agreement may contain provisions to ensure
6 compliance, including voluntary surrender of the
certificate and terms and conditions of
8 recertification; or

10 (2) Refer the complaint to the Attorney General for
action in the Administrative Court.'

12 Further amend the bill by inserting at the end before the
14 summary the following:

16
18 **FISCAL NOTE**

The costs associated with the additional certification
20 activities can be absorbed by the Department of Public Safety
utilizing existing budgeted resources.

22 This bill may increase the number of civil suits filed in
24 the court system. The additional workload and administrative
costs associated with the minimal number of new cases filed can
26 be absorbed within the budgeted resources of the Judicial
Department. The collection of additional filing fees may also
28 increase General Fund revenue by minor amounts.'

30 **SUMMARY**

32 This amendment replaces the bill. It states that the Board
of Trustees of the Maine Criminal Justice Academy may suspend or
34 revoke the certification of a law enforcement officer who engages
in a sexual act or sexual contact with an alleged victim of abuse
36 when the law enforcement officer is involved in the investigation
or purported investigation of that alleged abuse and the alleged
38 victim is not the law enforcement officer's spouse.
Certification may not be suspended or revoked if the law
40 enforcement officer and the alleged victim had a preexisting
sexual relationship or if the sexual act or sexual contact
42 occurred at least 60 days after the law enforcement officer first
became involved in the investigation. The amendment also makes a
44 technical correction.

46 This amendment also adds a fiscal note to the bill.