

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1997

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Legislative Document

No. 1952

H.P. 1400

House of Representatives, December 31, 1997

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### **An Act to Increase Penalties for Certain Sex Offenders.**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 29, 1997. Referred to the Committee on Criminal Justice pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GAGNON of Waterville. (By Request)

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

2  
4           Sec. 1. 15 MRSA §815 is enacted to read:

6           §815. Negotiated pleas prohibited

8           A prosecuting attorney is prohibited from negotiating a plea  
10 with a person charged with gross sexual assault, pursuant to  
12 Title 17-A, section 253, subsection 1, paragraph B, if that plea  
would result in the person being charged with a lesser crime or  
being incarcerated for a shorter period of time than that  
required by Title 17-A, section 1251-A.

14           Sec. 2. 17-A MRSA §1251-A is enacted to read:

16           §1251-A. Imprisonment for gross sexual assault

18           A person convicted of the crime of gross sexual assault,  
20 pursuant to section 253, subsection 1, paragraph B, must be  
22 sentenced to imprisonment for life or any term of years that is  
24 not less than 25 years. The sentencing court shall specify the  
length of the sentence to be served and shall commit the person  
to the Department of Corrections. Notwithstanding the provisions  
of section 1152, subsection 2, paragraphs A to E, the court may  
not suspend any portion of the sentence.

26           Sec. 3. 17-A MRSA §1252, as amended by PL 1997, c. 460, §5,  
28 is further amended by repealing and replacing the headnote to  
30 read:

32           §1252. Imprisonment for crimes other than murder and gross sexual  
assault

34           Sec. 4. 17-A MRSA §1252, sub-§1, as amended by PL 1995, c.  
36 425, §2, is further amended to read:

38           1. In the case of a person convicted of a crime other than  
40 murder or gross sexual assault, pursuant to section 253,  
42 subsection 1, paragraph B, the court may sentence to imprisonment  
for a definite term as provided for in this section, unless the  
statute which that the person is convicted of violating expressly  
provides that the fine and imprisonment penalties it authorizes  
44 may not be suspended, in which case the convicted person shall  
must be sentenced to imprisonment and required to pay the fine  
46 authorized therein. Except as provided in subsection 7, the  
place of imprisonment must be as follows.

48           A. For a Class D or Class E crime the court must specify a  
county jail as the place of imprisonment.

50           B. For a Class A, Class B or Class C crime the court must:

2 (1) Specify a county jail as the place of imprisonment  
4 if the term of imprisonment is 9 months or less; or

6 (2) Commit the person to the Department of Corrections  
8 if the term of imprisonment is more than 9 months.

8 **Sec. 5. 17-A MRSA §1253, sub-§9 is enacted to read:**

10 9. A person who is convicted of gross sexual assault,  
12 pursuant to section 253, subsection 1, paragraph B, is ineligible  
14 for deductions, as provided in this section, from that person's  
sentence to imprisonment.

16 **Sec. 6. 17-A MRSA §1263, sub-§1, ¶B, as amended by PL 1989, c.**  
18 **728, §2, is further amended to read:**

20 B. The conviction is for a Class A, Class B or Class C  
22 crime, excluding the following:

24 (1) Sections 253, subsection 1, paragraph B, 755, 756  
26 and 757; and

28 (2) Any sentence controlled by section 1252,  
30 subsections 4 and 5, unless the defendant is sentenced  
32 to a term of imprisonment with at least 3 years  
34 unsuspended, with the last year of the unsuspended  
portion to be served with intensive supervision,  
provided that the conditions of subsection 2 are also  
met. The defendant may be sentenced to imprisonment  
with intensive supervision under this subparagraph  
regardless of whether the defendant petitions the court  
or otherwise agrees to imprisonment with intensive  
supervision;

36 **Sec. 7. 34-A MRSA §3035, sub-§6 is enacted to read:**

38 6. Exceptions. A person convicted of gross sexual assault,  
40 pursuant to Title 17-A, section 253, subsection 1, paragraph B,  
42 may not participate in the rehabilitative programs described in  
this section.

44 **SUMMARY**

46 This bill increases the penalties for a person convicted of  
48 gross sexual assault against a person who was less than 14 years  
50 of age at the time of the crime in the following ways.

2           1. A mandatory sentence, similar to that now given for  
persons convicted of murder, of incarceration for at least 25  
4 years is specified. The sentencing court is prohibited from  
suspending any part of the sentence.

6           2. The convicted person is ineligible for early release.  
Deductions of time from the sentence of incarceration are not  
8 allowed because of "good time."

10          3. The convicted person is ineligible for work release  
programs and furloughs.

12  
14          The bill also prohibits plea bargaining if the plea offered  
by the prosecuting attorney would result in the person charged  
with gross sexual assault being charged with a lesser offense or  
16 serving less than 25 years in prison.