

MAINE STATE LEGISLATURE

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R.S.

DATE: 2/25/2000

(Filing No. S- 511)

CRIMINAL JUSTICE

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 154, L.D. 474, Bill, "An Act Relating to the Crime of Murder and to the Murder of Children"

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

Sec. 1. 17-A MRSA §1251, as repealed and replaced by PL 1983, c. 673, §3, is amended by adding at the end a new paragraph to read:

In setting the length of imprisonment, if the victim is a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact in determining the final sentence in the 2nd and final step in the sentencing process. Nothing in this paragraph may be construed to restrict a court in setting the length of imprisonment from considering the age of the victim in other circumstances when relevant.

Sec. 2. 17-A MRSA §1252, sub-§5-B is enacted to read:

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the

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2 time the crime was committed, a court shall assign special weight
 4 to this objective fact in determining the basic term of
 6 imprisonment as the first step in the sentencing process. The
 8 court shall assign special weight to any subjective victim impact
 10 in determining the maximum period of incarceration in the 2nd
 12 step in the sentencing process. The court may not suspend that
portion of the maximum term of imprisonment based on objective or
subjective victim impact in arriving at the final sentence as the
3rd step in the sentencing process. Nothing in this subsection
may be construed to restrict a court in setting a sentence from
considering the age of the victim in other circumstances when
relevant.'

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SUMMARY

18 This amendment replaces the bill. The amendment requires
 20 that in the first step of the sentencing process to determine the
 22 base sentence for a person convicted of murder, attempted murder,
 24 manslaughter, elevated aggravated assault or aggravated assault
 26 of a child, the court assign special weight to the objective fact
 28 that the victim had not in fact attained 6 years of age. The
 30 amendment also requires that the court, in the 2nd step of the
 32 sentencing process for attempted murder, manslaughter, elevated
 34 aggravated assault or aggravated assault of a child who had not
 36 in fact attained the age of 6 years or the 2nd and final step of
 38 the sentencing process for murder of a child who had not in fact
 attained the age of 6 years, assign special weight to any
 subjective victim impact. Finally, the amendment requires that,
 in determining the final sentence for attempted murder,
 manslaughter, elevated aggravated assault or aggravated assault
 of a child who had not in fact attained the age of 6 years, the
 court may not suspend that portion of the sentence that is based
 on the objective or subjective victim impact as determined in
 steps one and 2 of the sentencing process. These new directives
 to the court may not be construed to restrict the court in
 setting the term of imprisonment from considering the age of the
 victim in other circumstances when relevant.