

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1195

H.P. 824

House of Representatives, March 8, 2005

**An Act To Protect Women and Children from Sexual Predators by
Requiring the State Bureau of Identification to Distribute Registrant
Information to Town Clerks**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative VAUGHAN of Durham.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: FAIRCLOTH of Bangor, McKANE of Newcastle, PARADIS of Frenchville,
SHIELDS of Auburn, Senator: PERRY of Penobscot.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §3360-M**, as enacted by PL 1999, c. 719, §1
5 and affected by §11, is amended to read:

6 **§3360-M. Payment for forensic examinations for alleged victims**
7 **of rape**

8
9 **1. Payment.** The board shall pay the costs of forensic
10 examinations for alleged victims of ~~gross-sexual-assault~~ rape
11 from the Victims' Compensation Fund. The board shall track
12 expenditures for forensic examinations separately from all other
13 expenditures. Forensic examination payments are not subject to
14 any other provision of this chapter.

15 **2. Forensic examination.** The board shall determine by rule
16 what a forensic examination may include for purposes of payment.
17 An examination must include at least all services directly
18 related to the gathering of forensic evidence and related testing
19 and treatment for pregnancy and sexually transmitted diseases.
20 The board shall pay a licensed hospital or licensed health care
21 practitioner the actual cost of the forensic examination up to a
22 maximum of \$500.

23 **3. Process for payment.** A licensed hospital or licensed
24 health care practitioner that performs forensic examinations for
25 alleged victims of ~~gross-sexual-assault~~ rape shall submit a bill
26 to the Victims' Compensation Board directly for payment of the
27 forensic examinations. The hospital or health care practitioner
28 that performs a forensic examination shall take steps necessary
29 to ensure the confidentiality of the alleged victim's identity.
30 The bill submitted by the hospital or health care practitioner
31 may not identify the alleged victim by name but must be assigned
32 a tracking number that corresponds to the forensic examination
33 kit. The tracking number may not be the alleged victim's social
34 security number. The hospital or health care practitioner that
35 performs the examination may not bill the alleged victim or the
36 alleged victim's insurer, nonprofit hospital or medical service
37 organization or health maintenance organization for payment of
38 the examination. The alleged victim is not required to report the
39 alleged offense to a law enforcement agency.

40 **4. Other reimbursement.** The fact that forensic
41 examinations are paid for separately through the Victims'
42 Compensation Fund does not preclude alleged victims of ~~gross~~
43 ~~sexual-assault~~ rape from seeking reimbursement for expenses other
44 than those for the forensic examination. A victim seeking
45 reimbursement from the Victims' Compensation Fund for expenses
46 other than the forensic examination is subject to all other
47 provisions of this chapter.
48
49
50

2 **5. Rules.** Rules adopted pursuant to this section are
routine technical rules as defined in ~~Title--5~~, chapter 375,
4 subchapter ~~II-A-~~ 2-A.

6 **Sec. 2. 15 MRSA §3101, sub-§4, ¶C-2**, as enacted by PL 1997, c.
645, §2, is amended to read:

8
C-2. With respect to the finding of appropriateness
10 required by paragraph E, subparagraph (2), the State has the
burden of proof, except that in a case involving a juvenile
12 who is charged with one or more juvenile crimes that, if the
juvenile were an adult, would constitute murder, attempted
14 murder, felony murder, Class A manslaughter other than the
reckless or criminally negligent operation of a motor
16 vehicle, elevated aggravated assault, arson that recklessly
endangers any person, causing a catastrophe, Class A robbery
18 or Class A ~~gross-sexual-assault~~ rape in which the victim
submits as a result of compulsion, the juvenile has the
20 burden of proof.

22 **Sec. 3. 15 MRSA §3308, sub-§7, ¶D**, as amended by PL 1997, c.
752, §15 and PL 2003, c. 689, Pt. B, §6, is further amended to
24 read:

26 D. When a juvenile who is adjudicated of a juvenile crime
that if committed by an adult would be ~~gross-sexual-assault~~
28 rape under Title 17-A, section 253, subsection 1 is
committed to a Department of Corrections juvenile
30 correctional facility or placed on probation, the Department
of Corrections shall provide, while the juvenile is
32 committed or on probation, a copy of the juvenile's judgment
and commitment to the Department of Health and Human
34 Services, to all law enforcement agencies that have
jurisdiction in those areas where the juvenile may reside,
36 work or attend school and to the superintendent of any
school system in which the juvenile attends school during
38 the period of commitment or probation. The Department of
Corrections shall provide a copy of the juvenile's judgment
40 and commitment to all licensed and registered day-care
facility operators located in the municipality where the
42 juvenile resides, works or attends school during the period
of commitment or probation. Upon request, the Department of
44 Corrections shall also provide a copy of the juvenile's
judgment and commitment to other entities that are involved
46 in the care of children and are located in the municipality
where the juvenile resides, works or attends school during
48 the period of commitment or probation. The Department of
Corrections may provide a copy of the juvenile's judgment
50 and commitment to any other agency or person whom the

2 Department of Corrections determines is appropriate to
ensure public safety. Neither the failure of the Department
4 of Corrections to perform the requirements of this paragraph
nor compliance with this paragraph subjects the Department
6 of Corrections or its employees to liability in a civil
action.

8 **Sec. 4. 15 MRSA §3309-A, sub-§4**, as amended by PL 1999, c. 65,
§1, is further amended to read:

10
12 **4. Juvenile adjudicated of rape.** After adjudication and
before disposition when a juvenile is adjudicated of a juvenile
14 crime that if committed by an adult would be ~~gross-sexual-assault~~
rape under Title 17-A, section 253, subsection 1, the court shall
16 order the juvenile to undergo a diagnostic evaluation and may
order the evaluation to take place at a detention facility
18 described in section 3203-A, subsection 7, paragraph B.

20 **Sec. 5. 17-A MRSA §8, sub-§1**, as amended by PL 1999, c. 438,
§1, is further to read:

22 1. It is a defense that prosecution was commenced after the
expiration of the applicable period of limitations provided in
24 this section; ~~provided~~ except that a prosecution for murder or
criminal homicide in the first or 2nd degree, or, if the victim
26 had not attained the age of 16 years at the time of the crime, a
prosecution for: incest; unlawful sexual contact; ~~sexual-abuse-of~~
28 a-minor child molestation; or rape or, formerly denominated as
~~gross sexual assault,--formerly-denominated~~ and as gross sexual
30 misconduct, may be commenced at any time.

32 **Sec. 6. 17-A MRSA §8, sub-§2.** as amended by PL 1999, c. 438,
§2, is further amended to read:

34
36 2. Prosecutions for crimes other than murder or criminal
homicide in the first or 2nd degree, or, if the victim had not
38 attained the age of 16 years at the time of the crime,
prosecutions for: incest; unlawful sexual contact; ~~sexual-abuse~~
of-a-minor child molestation; or rape or, formerly denominated as
40 ~~gross sexual assault,--formerly-denominated~~ and as gross sexual
42 misconduct, are subject to the following periods of limitations:

44 A. A prosecution for a Class A, Class B or Class C crime
must be commenced within 6 years after it is committed; and

46 B. A prosecution for a Class D or Class E crime must be
commenced within 3 years after it is committed.

48
50 **Sec. 7. 17-A MRSA §202, sub-§1**, as amended by PL 1991, c. 377,
§8, is further amended to read:

2 1. A person is guilty of felony murder if acting alone or
4 with one or more other persons in the commission of, or an
attempt to commit, or immediate flight after committing or
6 attempting to commit, murder, robbery, burglary, kidnapping,
arson, ~~gross--sexual--assault~~ rape, or escape, the person or
8 another participant in fact causes the death of a human being,
and the death is a reasonably foreseeable consequence of such
commission, attempt or flight.

10 **Sec. 8. 17-A MRSA §253**, as corrected by RR 2003, c. 2, §25,
12 is amended to read:

14 **§253. Rape**

16 1. A person is guilty of ~~gross--sexual--assault~~ rape if that
18 person engages in a sexual act with another person and:

20 A. The other person submits as a result of compulsion, as
22 defined in section 251, subsection 1, paragraph E.
Violation of this paragraph is a Class A crime; or

24 B. The other person, not the actor's spouse, has not in
26 fact attained the age of 14 years. Violation of this
paragraph is a Class A crime.

28 2. A person is guilty of ~~gross--sexual--assault~~ rape if that
person engages in a sexual act with another person and:

30 A. The actor has substantially impaired the other person's
32 power to appraise or control the other person's sexual acts
by administering or employing drugs, intoxicants or other
34 similar means. Violation of this paragraph is a Class B
crime;

36 B. The actor compels or induces the other person to engage
38 in the sexual act by any threat. Violation of this
paragraph is a Class B crime;

40 C. The other person suffers from mental disability that is
42 reasonably apparent or known to the actor, and which in fact
renders the other person substantially incapable of
44 appraising the nature of the contact involved or of
understanding that the person has the right to deny or
46 withdraw consent. Violation of this paragraph is a Class B
crime;

48 D. The other person is unconscious or otherwise physically
50 incapable of resisting and has not consented to the sexual
act. Violation of this paragraph is a Class B crime;

2 E. The other person, not the actor's spouse, is in official
4 custody as a probationer or a parolee, or is detained in a
6 hospital, prison or other institution, and the actor has
supervisory or disciplinary authority over the other
person. Violation of this paragraph is a Class B crime;

8 F. The other person, not the actor's spouse, has not in
10 fact attained the age of 18 years and is a student enrolled
12 in a private or public elementary, secondary or special
14 education school, facility or institution and the actor is a
teacher, employee or other official having instructional,
supervisory or disciplinary authority over the student.
Violation of this paragraph is a Class C crime;

16 G. The other person, not the actor's spouse, has not
18 attained the age of 18 years and is a resident in or
attending a children's home, day care facility, residential
20 child care facility, drug treatment center, camp or similar
school, facility or institution regularly providing care or
22 services for children, and the actor is a teacher, employee
or other person having instructional, supervisory or
disciplinary authority over the other person. Violation of
24 this paragraph is a Class C crime;

26 H. The other person has not in fact attained the age of 18
28 years and the actor is a parent, stepparent, foster parent,
guardian or other similar person responsible for the
30 long-term care and welfare of that other person. Violation
of this paragraph is a Class B crime;

32 I. The actor is a psychiatrist, a psychologist or licensed
34 as a social worker or purports to be a psychiatrist, a
psychologist or licensed as a social worker to the other
36 person and the other person, not the actor's spouse, is a
patient or client for mental health therapy of the actor.
38 As used in this paragraph, "mental health therapy" means
psychotherapy or other treatment modalities intended to
40 change behavior, emotions or attitudes, which therapy is
based upon an intimate relationship involving trust and
42 dependency with a substantial potential for vulnerability
and abuse. Violation of this paragraph is a Class C crime;
or

44 J. The actor owns, operates or is an employee of an
46 organization, program or residence that is operated,
administered, licensed or funded by the Department of Health
48 and Human Services and the other person, not the actor's
spouse, receives services from the organization, program or
50 residence and the organization, program or residence

2 recognizes the other person as a person with mental
retardation. It is an affirmative defense to prosecution
4 under this paragraph that the actor receives services for
mental retardation or is a person with mental retardation as
6 defined in Title 34-B, section 5001, subsection 3.
Violation of this paragraph is a Class C crime.

8 3. It is a defense to a prosecution under subsection 2,
paragraph A, that the other person voluntarily consumed or
10 allowed administration of the substance with knowledge of its
nature, except that it is no defense when the other person is a
12 patient of the actor and has a reasonable belief that the actor
is administering the substance for medical or dental examination
14 or treatment.

16 6. In using a sentencing alternative involving a term of
imprisonment for a person convicted of violating this section, a
18 court shall, in determining the maximum period of incarceration
as the 2nd step in the sentencing process, treat each prior Maine
20 conviction for a violation of this section as an aggravating
sentencing factor.

22 A. When the sentencing class for a prior conviction under
24 this section is Class A, the court shall enhance the basic
period of incarceration by a minimum of 4 years of
26 imprisonment.

28 B. When the sentencing class for a prior conviction under
this section is Class B, the court shall enhance the basic
30 period of incarceration by a minimum of 2 years of
imprisonment.

32 C. When the sentencing class for a prior conviction under
34 this section is Class C, the court shall enhance the basic
period of incarceration by a minimum of one year of
36 imprisonment.

38 In arriving at the final sentence as the 3rd step in the
sentencing process, the court may not suspend that portion of the
40 maximum term of incarceration based on a prior conviction.

42 7. If the State pleads and proves that a violation of
subsection 1 or subsection 2 was committed in a safe children
44 zone, the court, in determining the appropriate sentence, shall
treat this as an aggravating sentencing factor.

46 **Sec. 9. 17-A MRSA §254.** as amended by PL 2003, c. 138, §§2 to
48 4, is further amended to read:

50 **§254. Child molestation**

2 1. A person is guilty of ~~sexual-abuse-of-a-minor~~ child
3 molestation if:

4
5 A. The person engages in a sexual act with another person,
6 not the actor's spouse, who is either 14 or 15 years of age
7 and the actor is at least 5 years older than the other
8 person. Violation of this paragraph is a Class D crime;

9
10 A-1. The person violates paragraph A and the actor knows
11 that the other person is related to the actor within the 2nd
12 degree of consanguinity. Violation of this paragraph is a
13 Class C crime;

14
15 A-2. The person violates paragraph A and the actor is at
16 least 10 years older than the other person. Violation of
17 this paragraph is a Class C crime;

18
19 C. The person is at least 21 years of age and engages in a
20 sexual act with another person, not the actor's spouse, who
21 is either 16 or 17 years of age and is a student enrolled in
22 a private or public elementary, secondary or special
23 education school, facility or institution and the actor is a
24 teacher, employee or other official in the school district,
25 school union, educational unit, school, facility or
26 institution in which the student is enrolled. Violation of
27 this paragraph is a Class E crime;

28
29 D. The person violates paragraph C and the actor knows that
30 the student is related to the actor within the 2nd degree of
31 consanguinity. Violation of this paragraph is a Class D
32 crime;

33
34 E. The person violates paragraph C and the actor is at
35 least 10 years older than the student. Violation of this
36 paragraph is a Class D crime; or

37
38 F. The person intentionally subjects another person, not
39 the actor's spouse, who is either 14 or 15 years of age to
40 any sexual contact and the actor is at least 10 years older
41 than the other person. Violation of this paragraph is a
42 Class D crime.

43
44 2. It is a defense to a prosecution under subsection 1,
45 paragraphs A, A-1, A-2 and F, that the actor reasonably believed
46 the other person is at least 16 years of age.

47
48 4. As used in this section, "related to the actor within
49 the 2nd degree of consanguinity" has the meaning set forth in
50 section 556.

2 **Sec. 10. 17-A MRSA §1202, sub-§1-A, ¶C**, as enacted by PL 2003,
c. 711, Pt. B, §16, is amended to read:

4
6 C. In the case of a crime of ~~gross-sexual-assault~~ rape, if
the State pleads and proves that at the time of the crime
the victim had not attained 12 years of age and that the
8 defendant has previously been convicted and sentenced for
committing gross sexual assault, rape or gross sexual
10 misconduct against a victim who had not attained 12 years of
age, the period of probation may be life or any term of
12 years. In addition to any conditions imposed under section
1204, the court shall attach as a condition of probation
14 that the convicted person participate in counseling or
treatment to the satisfaction of the probation officer.

16 **Sec. 11. 17-A MRSA §1252, sub-§4-B, ¶A**, as amended by PL 2003,
18 c. 711, Pt. B, §19, is further amended to read:

20 A. As used in this section, "repeat sexual assault
offender" means a person who commits a new ~~gross-sexual~~
22 ~~assault~~ rape after having been convicted previously and
sentenced for any of the following:

24 (1) ~~Gross Rape, formerly denominated as gross~~ sexual
26 ~~assault,--formerly--denominated~~ and as gross sexual
misconduct;

28 (2) ~~--Rape;~~

30 (3) Attempted murder accompanied by sexual assault;

32 (4) Murder accompanied by sexual assault; or

34 (5) Conduct substantially similar to a crime listed in
36 subparagraph (1), (2), (3) or (4) that is a crime under
the laws of the United States or any other state.

38 The date of sentencing is the date of the oral pronouncement
40 of the sentence by the trial court, even if an appeal is
taken.

42 **Sec. 12. 17-A MRSA §1252, sub-§4-C**, as enacted by PL 2003, c.
44 711, Pt. B, §20, is amended to read:

46 **4-C.** If the State pleads and proves that a Class A crime of
~~gross-sexual-assault~~ rape was committed by a person who had
48 previously been convicted and sentenced for a Class B or Class C
crime of unlawful sexual contact, or an essentially similar crime
50 in another jurisdiction, that prior conviction must be given

2 serious consideration by the court in exercising its sentencing
3 discretion.

4 **Sec. 13. 19-A MRSA §1653, sub-§6-A. ¶A**, as amended by PL 2003,
5 c. 711, Pt. C, §1, is further amended to read:

6
7 A. For the purposes of this section, "child-related sexual
8 offense" means the following sexual offenses if, at the time
9 of the commission of the offense, the victim was under 18
10 years of age:

11 (1) Sexual exploitation of a minor, under Title 17-A,
12 section 282;

13 (2) ~~Gross--sexual--assault~~ Rape, under Title 17-A,
14 section 253;

15 (3) ~~Sexual--abuse--of--a--minor~~ Child molestation, under
16 Title 17-A, section 254;

17 (4) Unlawful sexual contact, under former Title 17-A,
18 section 255;

19 (5) Visual sexual aggression against a child, under
20 Title 17-A, section 256;

21 (6) Sexual misconduct with a child under 14 years of
22 age, under Title 17-A, section 258; or

23 (7) An offense in another jurisdiction, including, but
24 not limited to, that of a state, federal, military or
25 tribal court, that includes the essential elements of
26 an offense listed in subparagraph (1), (2), (3), (4),
27 (5) or (6).

28
29 **Sec. 14. 19-A MRSA §1658, sub-§4**, as enacted by PL 1997, c.
30 363, §1, is amended to read:

31
32 **4. Exception.** The court is not required to terminate the
33 parental rights and responsibilities of a parent convicted of
34 ~~gross--sexual--assault~~ rape under Title 17-A, section 253,
35 subsection 1, paragraph B, that resulted in the conception of the
36 child if:

37 A. The parent or guardian of the other parent filed the
38 petition;

39 B. The other parent informs the court that the sexual act
40 was consensual; and
41

2 C. The other parent opposes the termination of the parental
rights and responsibilities of the parent convicted of the
4 ~~gross-sexual-assault~~ rape.

6 **Sec. 15. 22 MRSA §4002, sub-§1-B, ¶A**, as amended by PL 2001,
c. 696, §10, is further amended to read:

8 A. The parent has subjected any child for whom the parent
was responsible to aggravated circumstances, including, but
10 not limited to, the following:

12 (1) Rape, formerly denominated as gross sexual
misconduct, and gross sexual assault, sexual abuse,
14 incest, aggravated assault, kidnapping, promotion of
prostitution, abandonment, torture, chronic abuse or
16 any other treatment that is heinous or abhorrent to
society.

18 **Sec. 16. 22 MRSA §4055, sub-§1-A, ¶B**, as amended by PL 1995,
20 c. 481, §3, is further amended to read:

22 B. The victim of any of the following crimes was a child
for whom the parent was responsible or the victim was a
24 child who was a member of a household lived in or frequented
by the parent and the parent has been convicted of:

- 26 (1) Murder;
- 28 (2) Felony murder;
- 30 (3) Manslaughter;
- 32 (4) Aiding or soliciting suicide;
- 34 (5) Aggravated assault;
- 36 (6) Rape, formerly denominated as gross sexual assault
38 and as gross sexual misconduct;
- 40 ~~(7) --Gross-sexual-misconduct-or-gross-sexual-assault;~~
- 42 (8) ~~Sexual-abuse-of-minors~~ Child molestation;
- 44 (9) Incest;
- 46 (10) Kidnapping;
- 48 (11) Promotion of prostitution; or
- 50 (12) A comparable crime in another jurisdiction;

2 **Sec. 17. 24 MRSA §2986**, as enacted by PL 1999, c. 719, §2 and
affected by §11, is amended to read:

4 **§2986. Performing forensic examinations for alleged victims of**
6 **rape**

8 **1. Standard forensic examination kit.** All licensed
hospitals and licensed health care practitioners shall use a
10 standard forensic examination kit developed and furnished by the
Department of Public Safety pursuant to Title 25, section 2915 to
12 perform forensic examinations for alleged victims of ~~gross-sexual~~
assault rape.

14 **2. Victims' Compensation Board billing.** All licensed
hospitals and licensed health care practitioners that perform
16 forensic examinations for alleged victims of ~~gross-sexual-assault~~
rape shall submit a bill to the Victims' Compensation Board
18 directly for payment of the forensic examinations. The Victims'
20 Compensation Board shall determine what a forensic examination
includes pursuant to Title 5, section 3360-M. The hospital or
22 health care practitioner that performs a forensic examination
shall take steps necessary to ensure the confidentiality of the
24 alleged victim's identity. The bill submitted by the hospital or
health care practitioner may not identify the alleged victim by
26 name but must be assigned a tracking number that corresponds to
the forensic examination kit. The tracking number may not be the
28 alleged victim's social security number. The Victims'
Compensation Board shall pay the actual cost of the forensic
30 examination up to a maximum of \$500. Licensed hospitals and
licensed health care practitioners that perform forensic
32 examinations for alleged victims of ~~gross-sexual-assault~~ rape may
not bill the alleged victim or the alleged victim's insurer,
34 nonprofit hospital or medical service organization or health
maintenance organization for payment for the examination.

36 **3. Completed kit.** If the alleged victim has not reported
38 the alleged offense to a law enforcement agency when the
examination is complete, the hospital or health care practitioner
40 shall then notify the nearest law enforcement agency, which shall
transport and store the kit for at least 90 days. The completed
42 kit may be identified only by the tracking number. If during
that 90-day period an alleged victim decides to report the
44 alleged offense to a law enforcement agency, the alleged victim
may contact the hospital or health care practitioner to determine
46 the tracking number. The hospital or health care practitioner
shall provide the alleged victim with the tracking number on the
48 forensic examination kit and shall inform the alleged victim
which law enforcement agency is storing the kit.

2 If the alleged victim reports the alleged offense to a law
3 enforcement agency by the time the examination is complete, the
4 investigating law enforcement agency shall transport the kit
5 directly to the Maine State Police Crime Laboratory.

6 **4. Other payment.** A licensed hospital or licensed health
7 care practitioner is not precluded from seeking other payment for
8 treatment or services provided to an alleged victim that are
9 outside the scope of the forensic examination.

10 **Sec. 18. 25 MRSA §1574, sub-§4, ¶E,** as amended by PL 1997, c.
11 608, §3, is further amended to read:

12 E. Gross Rape, including that formerly denominated as gross
13 sexual assault,--including--that--formerly--denominated and as
14 gross sexual misconduct;

15 **Sec. 19. 25 MRSA §1574, sub-§4, ¶E-1,** as enacted by PL 1997, c.
16 608, §3, is repealed.

17 **Sec. 20. 25 MRSA §1574, sub-§4, ¶F,** as enacted by PL 1995, c.
18 457, §1, is repealed and the following enacted in its place:

19 F. Child molestation;

20 **Sec. 21. 25 MRSA §1574, sub-§5, ¶C,** as enacted by PL 2001, c.
21 325, §5, is repealed and the following enacted in its place:

22 C. Child molestation;

23 **Sec. 22. 25 MRSA §1574, sub-§6, ¶F,** as enacted by PL 2003, c.
24 393, §3, is amended to read:

25 F. Gross Rape, including that formerly denominated as gross
26 sexual assault;

27 **Sec. 23. 25 MRSA §2915.** as enacted by PL 1999, c. 719, §3 and
28 affected by §11, is amended to read:

29 **§2915. Uniform forensic examination kit for evidence collection**
30 **in alleged cases of rape**

31 **1. Development of uniform forensic examination kit.** The
32 Department of Public Safety shall determine by rule what
33 constitutes a uniform standardized forensic examination kit for
34 evidence collection in alleged cases of ~~gross--sexual--assault~~
35 rape. The rules must define the contents of the kit,
36 instructions for administering the kit and a checklist that
37 examiners must follow and enclose in the completed kit.

2 **2. Use of uniform forensic examination kit.** A licensed
3 hospital or licensed health care practitioner that conducts
4 physical examinations of alleged victims of ~~gross-sexual-assault~~
5 rape shall use the uniform standardized forensic examination kit
6 developed by the Department of Public Safety pursuant to
7 subsection 1. A health care practitioner who conducts physical
8 examinations of alleged victims of ~~gross-sexual-assault~~ rape must
9 be trained in the proper evidence collection procedures for
10 conducting a forensic examination.

11
12 Evidence collection results may not be excluded as evidence in
13 any proceeding before any court of this State as a result of the
14 examiner's failure to use the standardized evidence collection
15 kit or as a result of the examiner's failure to be trained in the
16 proper procedures for the collection of evidence required by this
17 subsection.

18 **3. Furnishing of uniform forensic examination kit.** The
19 Department of Public Safety shall furnish the uniform forensic
20 examination kits to licensed hospitals and licensed health care
21 practitioners that perform forensic examinations of alleged
22 victims of ~~gross-sexual-assault~~ rape.

23 **4. Rules.** Rules adopted pursuant to this section are
24 routine technical rules as defined in Title 5, chapter 375,
25 subchapter ~~II~~-A- 2-A.

26
27 **Sec. 24. 25 MRSA §3821.** as enacted by PL 1999, c. 719, §4 and
28 affected by §11, is amended to read:

29 **§3821. Transportation and storage of forensic examination kits**

30
31 If an alleged victim of ~~gross-sexual-assault~~ rape has a
32 forensic examination and has not reported the alleged offense to
33 a law enforcement agency when the examination is complete, the
34 licensed hospital or licensed health care practitioner that
35 completed the forensic examination shall notify the nearest law
36 enforcement agency. That law enforcement agency shall transport
37 the completed kit, identified only by a tracking number assigned
38 by the hospital or health care practitioner, to its evidence
39 storage facility. The law enforcement agency shall store the kit
40 for at least 90 days from the time of receipt. If during that
41 90-day period the alleged victim reports the offense to a law
42 enforcement agency, the agency storing the kit shall transport
43 the kit to the Maine State Police Crime Laboratory.

44
45 **Sec. 25. 30-A MRSA §287, sub-§1,** as amended by PL 1999, c.
46 719, §5 and affected by §11, is further amended to read:

1. **Payment of expenses by district attorney.** Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual crimes against minors or assault when serious bodily injury has been inflicted, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution. Pursuant to Title 5, section 3360-M, the Victims' Compensation Board shall pay the expenses of forensic examinations for alleged victims of ~~gross-sexual-assault~~ rape.

Sec. 26. 30-A MRSA §287, sub-§2-A, as enacted by PL 1999, c. 719, §6 and affected by §11, is amended to read:

2-A. Drug and alcohol testing. Notwithstanding subsections 1 and 2 and Title 5, section 3360-M, the district attorney shall pay the expense of any analysis of a drug or alcohol test performed as part of a forensic examination of an alleged victim of ~~gross-sexual-assault~~ rape when the purpose of the analysis is to obtain evidence for the prosecution.

Sec. 27. 34-A MRSA §11221, sub-§6-A is enacted to read:

6-A. Distribution of information to town clerk. The bureau shall distribute, via electronic mail, the information described in subsections 1 and 11 to the town clerk of a town that has no police department.

The bureau shall send an electronic mail containing the new releases of registrants to the town clerk on a monthly basis.

Sec. 28. 34-A MRSA §11221, sub-§11 is enacted to read:

11. Law enforcement agency; provide information to bureau. A law enforcement agency shall notify the bureau if the law enforcement agency has a registrant in its custody.

SUMMARY

This bill changes the name of a couple of sex crimes from gross sexual assault and sexual abuse of a minor to rape and child molestation. The bill also requires the Department of Public Safety, State Bureau of Identification to distribute information contained in the sex offender registry to town clerks of towns that do not have police departments. The bill also requires a law enforcement agency to notify the bureau by electronic mail if the law enforcement agency has a registrant in its custody.