

MAINE STATE LEGISLATURE

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L.D. 1717

DATE: 4-27-06

(Filing No. H-1071)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "C" to H.P. 1224, L.D. 1717, Bill, "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

Amend the amendment by inserting before section 1 the following:

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

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

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

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

3. Process for payment. A licensed hospital or licensed health care practitioner that performs forensic examinations for

alleged victims of ~~gross-sexual-assault~~ rape shall submit a bill
to the Victims' Compensation Board directly for payment of the
forensic examinations. The hospital or health care practitioner
that performs a forensic examination shall take steps necessary
to ensure the confidentiality of the alleged victim's identity.
The bill submitted by the hospital or health care practitioner
may not identify the alleged victim by name but must be assigned
a tracking number that corresponds to the forensic examination
kit. The tracking number may not be the alleged victim's social
security number. The hospital or health care practitioner that
performs the examination may not bill the alleged victim or the
alleged victim's insurer, nonprofit hospital or medical service
organization or health maintenance organization for payment of
the examination. The alleged victim is not required to report the
alleged offense to a law enforcement agency.

4. Other reimbursement. The fact that forensic
examinations are paid for separately through the Victims'
Compensation Fund does not preclude alleged victims of ~~gross
sexual-assault~~ rape from seeking reimbursement for expenses other
than those for the forensic examination. A victim seeking
reimbursement from the Victims' Compensation Fund for expenses
other than the forensic examination is subject to all other
provisions of this chapter.

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

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

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

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
read:

2 D. When a juvenile who is adjudicated of a juvenile crime
3 that if committed by an adult would be ~~gross-sexual-assault~~
4 rape under Title 17-A, section 253, subsection 1 is
5 committed to a Department of Corrections juvenile
6 correctional facility or placed on probation, the Department
7 of Corrections shall provide, while the juvenile is
8 committed or on probation, a copy of the juvenile's judgment
9 and commitment to the Department of Health and Human
10 Services, to all law enforcement agencies that have
11 jurisdiction in those areas where the juvenile may reside,
12 work or attend school and to the superintendent of any
13 school system in which the juvenile attends school during
14 the period of commitment or probation. The Department of
15 Corrections shall provide a copy of the juvenile's judgment
16 and commitment to all licensed and registered day-care
17 facility operators located in the municipality where the
18 juvenile resides, works or attends school during the period
19 of commitment or probation. Upon request, the Department of
20 Corrections shall also provide a copy of the juvenile's
21 judgment and commitment to other entities that are involved
22 in the care of children and are located in the municipality
23 where the juvenile resides, works or attends school during
24 the period of commitment or probation. The Department of
25 Corrections may provide a copy of the juvenile's judgment
26 and commitment to any other agency or person whom the
27 Department of Corrections determines is appropriate to
28 ensure public safety. Neither the failure of the Department
29 of Corrections to perform the requirements of this paragraph
30 nor compliance with this paragraph subjects the Department
31 of Corrections or its employees to liability in a civil
32 action.

33 **Sec. 4. 15 MRSA §3309-A, sub-§4**, as amended by PL 1999, c. 65,
34 §1, is further amended to read:

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

42 **Sec. 5. 17-A MRSA §8, sub-§1**, as amended by PL 1999, c. 438,
43 §1, is further amended to read:

44 **1.** It is a defense that prosecution was commenced after the
45 expiration of the applicable period of limitations provided in
46 this section; ~~provided~~ except that a prosecution for murder or
47 criminal homicide in the first or 2nd degree, or, if the victim
48
49
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had not attained the age of 16 years at the time of the crime, a
2 prosecution for: incest; unlawful sexual contact; ~~sexual-abuse-of~~
a ~~minor~~ child molestation; or rape ~~or, formerly denominated as~~
4 gross sexual assault, ~~formerly denominated~~ and as gross sexual
misconduct, may be commenced at any time.

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

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

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

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

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

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

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

38 **§253. Rape**

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

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

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

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

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

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

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

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

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

 F. The other person, not the actor's spouse, has not in
fact attained the age of 18 years and is a student enrolled
in a private or public elementary, secondary or special
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;

 G. The other person, not the actor's spouse, has not
attained the age of 18 years and is a resident in or
attending a children's home, day care facility, residential
child care facility, drug treatment center, camp or similar
school, facility or institution regularly providing care or
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
this paragraph is a Class C crime;

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

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

20 J. The actor owns, operates or is an employee of an
organization, program or residence that is operated,
22 administered, licensed or funded by the Department of Health
and Human Services and the other person, not the actor's
24 spouse, receives services from the organization, program or
residence and the organization, program or residence
26 recognizes the other person as a person with mental
retardation. It is an affirmative defense to prosecution
28 under this paragraph that the actor receives services for
mental retardation or is a person with mental retardation as
30 defined in Title 34-B, section 5001, subsection 3.
Violation of this paragraph is a Class C crime.

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

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

48 A. When the sentencing class for a prior conviction under
this section is Class A, the court shall enhance the basic

2 period of incarceration by a minimum of 4 years of
imprisonment.

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

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

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

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

22 **Sec. 9. 17-A MRSA §254**, as amended by PL 2003, c. 138, §§2 to
24 4, is further amended to read:

26 **§254. Child molestation**

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

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

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

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

44 C. The person is at least 21 years of age and engages in a
46 sexual act with another person, not the actor's spouse, who
is either 16 or 17 years of age and is a student enrolled in
48 a private or public elementary, secondary or special
education school, facility or institution and the actor is a
50 teacher, employee or other official in the school district,

2 school union, educational unit, school, facility or
institution in which the student is enrolled. Violation of
4 this paragraph is a Class E crime;

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

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

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

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

24 4. As used in this section, "related to the actor within
the 2nd degree of consanguinity" has the meaning set forth in
26 section 556.'

28 Further amend the amendment by inserting after section 2 the
following:

30 'Sec. 3. 17-A MRSA §1252, sub-§4-B, ¶A, as amended by PL 2003,
32 c. 711, Pt. B, §19, is further amended to read:

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

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

42 (2) ~~Rape;~~

44 (3) Attempted murder accompanied by sexual assault;

46 (4) Murder accompanied by sexual assault; or
48

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

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

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

12 **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
14 previously been convicted and sentenced for a Class B or Class C
crime of unlawful sexual contact, or an essentially similar crime
16 in another jurisdiction, that prior conviction must be given
serious consideration by the court in exercising its sentencing
18 discretion.'

20 Further amend the amendment by inserting after section 4 the
following:

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

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

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

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

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

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

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

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

50 (7) An offense in another jurisdiction, including, but
not limited to, that of a state, federal, military or

2 tribal court, that includes the essential elements of
an offense listed in subparagraph (1), (2), (3), (4),
4 (5) or (6).

6 **Sec. 6. 19-A MRSA §1658, sub-§4**, as enacted by PL 1997, c.
363, §1, is amended to read:

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

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

16 B. The other parent informs the court that the sexual act
18 was consensual; and

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

24 **Sec. 7. 22 MRSA §4002, sub-§1-B, ¶A**, as amended by PL 2001, c.
696, §10, is further amended to read:

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

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

38 **Sec. 8. 22 MRSA §4055, sub-§1-A, ¶B**, as amended by PL 1995, c.
481, §3, is further amended to read:

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

46 (1) Murder;

48 (2) Felony murder;

50 (3) Manslaughter;

- 2 (4) Aiding or soliciting suicide;
- 4 (5) Aggravated assault;
- 6 (6) Rape, formerly denominated as gross sexual assault
and as gross sexual misconduct;
- 8 ~~(7) --Gross-sexual-misconduct-or-gross-sexual-assault;~~
- 10 (8) ~~Sexual-abuse-of-minors~~ Child molestation;
- 12 (9) Incest;
- 14 (10) Kidnapping;
- 16 (11) Promotion of prostitution; or
- 18 (12) A comparable crime in another jurisdiction;
- 20

22 **Sec. 9. 24 MRSA §2986**, as enacted by PL 1999, c. 719, §2 and
affected by §11, is amended to read:

24 **§2986. Performing forensic examinations for alleged victims of**
26 **rape**

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

34 **2. Victims' Compensation Board billing.** All licensed
hospitals and licensed health care practitioners that perform
36 forensic examinations for alleged victims of ~~gross-sexual-assault~~
rape shall submit a bill to the Victims' Compensation Board
38 directly for payment of the forensic examinations. The Victims'
Compensation Board shall determine what a forensic examination
40 includes pursuant to Title 5, section 3360-M. The hospital or
health care practitioner that performs a forensic examination
42 shall take steps necessary to ensure the confidentiality of the
alleged victim's identity. The bill submitted by the hospital or
44 health care practitioner may not identify the alleged victim by
name but must be assigned a tracking number that corresponds to
46 the forensic examination kit. The tracking number may not be the
alleged victim's social security number. The Victims'
48 Compensation Board shall pay the actual cost of the forensic
examination up to a maximum of \$500. Licensed hospitals and
50 licensed health care practitioners that perform forensic

2 examinations for alleged victims of ~~gross-sexual-assault~~ rape may
not bill the alleged victim or the alleged victim's insurer,
4 nonprofit hospital or medical service organization or health
maintenance organization for payment for the examination.

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

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

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

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

32 E. ~~Gross Rape, including that formerly denominated as gross~~
34 sexual assault, ~~including that formerly denominated and~~ as
gross sexual misconduct;

36 **Sec. 11. 25 MRSA §1574, sub-§4, ¶E-1,** as enacted by PL 1997, c.
38 608, §3, is repealed.

40 **Sec. 12. 25 MRSA §1574, sub-§4, ¶F,** as enacted by PL 1995, c.
42 457, §1, is repealed and the following enacted in its place:

44 F. Child molestation;

46 **Sec. 13. 25 MRSA §1574, sub-§5, ¶C,** as enacted by PL 2001, c.
325, §5, is repealed and the following enacted in its place:

48 C. Child molestation;

2 **Sec. 14. 25 MRSA §1574, sub-§6, ¶F**, as enacted by PL 2003, c.
393, §3, is amended to read:

4 F. Gross Rape, including that formerly denominated as gross
5 sexual assault;

6 **Sec. 15. 25 MRSA §2915**, as enacted by PL 1999, c. 719, §3 and
7 affected by §11, is amended to read:

10 **§2915. Uniform forensic examination kit for evidence collection**
11 **in alleged cases of rape**

12 1. **Development of uniform forensic examination kit.** The
13 Department of Public Safety shall determine by rule what
14 constitutes a uniform standardized forensic examination kit for
15 evidence collection in alleged cases of ~~gross--sexual--assault~~
16 rape. The rules must define the contents of the kit,
17 instructions for administering the kit and a checklist that
18 examiners must follow and enclose in the completed kit.

19 2. **Use of uniform forensic examination kit.** A licensed
20 hospital or licensed health care practitioner that conducts
21 physical examinations of alleged victims of ~~gross--sexual--assault~~
22 rape shall use the uniform standardized forensic examination kit
23 developed by the Department of Public Safety pursuant to
24 subsection 1. A health care practitioner who conducts physical
25 examinations of alleged victims of ~~gross--sexual--assault~~ rape must
26 be trained in the proper evidence collection procedures for
27 conducting a forensic examination.

28 Evidence collection results may not be excluded as evidence in
29 any proceeding before any court of this State as a result of the
30 examiner's failure to use the standardized evidence collection
31 kit or as a result of the examiner's failure to be trained in the
32 proper procedures for the collection of evidence required by this
33 subsection.

34 3. **Furnishing of uniform forensic examination kit.** The
35 Department of Public Safety shall furnish the uniform forensic
36 examination kits to licensed hospitals and licensed health care
37 practitioners that perform forensic examinations of alleged
38 victims of ~~gross--sexual--assault~~ rape.

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

42 **Sec. 16. 25 MRSA §3821**, as enacted by PL 1999, c. 719, §4 and
43 affected by §11, is amended to read:

44

§3821. Transportation and storage of forensic examination kits

2
3 If an alleged victim of ~~gross-sexual-assault~~ rape has a
4 forensic examination and has not reported the alleged offense to
5 a law enforcement agency when the examination is complete, the
6 licensed hospital or licensed health care practitioner that
7 completed the forensic examination shall notify the nearest law
8 enforcement agency. That law enforcement agency shall transport
9 the completed kit, identified only by a tracking number assigned
10 by the hospital or health care practitioner, to its evidence
11 storage facility. The law enforcement agency shall store the kit
12 for at least 90 days from the time of receipt. If during that
13 90-day period the alleged victim reports the offense to a law
14 enforcement agency, the agency storing the kit shall transport
15 the kit to the Maine State Police Crime Laboratory.

16
17 **Sec. 17. 30-A MRSA §287, sub-§1**, as amended by PL 1999, c.
18 719, §5 and affected by §11, is further amended to read:

19
20 **1. Payment of expenses by district attorney.** Except as
21 provided in subsection 2, in all cases reported to a law
22 enforcement officer of sexual crimes against minors or assault
23 when serious bodily injury has been inflicted, the office of the
24 district attorney of the county in which the alleged crime
25 occurred shall pay the expenses of a physical examination of the
26 victim conducted for the purpose of obtaining evidence for the
27 prosecution. Pursuant to Title 5, section 3360-M, the Victims'
28 Compensation Board shall pay the expenses of forensic
29 examinations for alleged victims of ~~gross-sexual-assault~~ rape.

30
31 **Sec. 18. 30-A MRSA §287, sub-§2-A**, as enacted by PL 1999, c.
32 719, §6 and affected by §11, is amended to read:

33
34 **2-A. Drug and alcohol testing.** Notwithstanding subsections
35 1 and 2 and Title 5, section 3360-M, the district attorney shall
36 pay the expense of any analysis of a drug or alcohol test
37 performed as part of a forensic examination of an alleged victim
38 of ~~gross-sexual-assault~~ rape when the purpose of the analysis is
39 to obtain evidence for the prosecution.

40
41 **Sec. 19. 34-A MRSA §11221, sub-§6-A** is enacted to read:

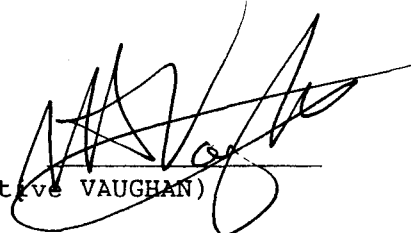
42
43 **6-A. Distribution of information to town clerk.** The bureau
44 shall distribute, via electronic mail, the information described
45 in subsections 1 and 11 to the town clerk of a town that has no
46 police department.

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

50

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "C" to H.P. 1224,
L.D. 1717

2 electronic mail if the law enforcement agency has a registrant in
its custody.

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8 SPONSORED BY: 
(Representative VAUGHAN)

10 TOWN: Durham

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FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 1717

LR 2770(21)

An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age

Fiscal Note for House Amendment 'C' to Committee Amendment 'C'

Sponsor: Rep. Vaughan

Fiscal Note Required: Yes

Fiscal Note

Current Cost - State Mandate

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$2,960	\$0	\$0
Highway Fund	\$0	\$5,040	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$2,960	\$0	\$0
Highway Fund	\$0	\$5,040	\$0	\$0

State Mandate

New or Expanded Activity

Requiring local law enforcement agencies to notify the Department of Public Safety by electronic mail if the agency has a registered sex offender in its custody represents a state mandate. The costs are not expected to be significant.

Unit Affected

Municipality
County

Costs

Insignificant

Fiscal Detail and Notes

The Department of Public Safety will require a one-time General Fund appropriation of \$2,960 in fiscal year 2006-07 and a one-time Highway Fund allocation of \$5,040 in fiscal year 2006-07 for the costs of certain computer enhancements needed to distribute information from the sex offender registry.