

MAINE STATE LEGISLATURE

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Ms.

STATE LAW
AUGUSTA, MAINE

L.D. 1717

DATE: 4-10-06

(Filing No. H-978)

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

HOUSE 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 bill in section 3 in subsection 4-E in the 5th line (page 1, line 38 in L.D.) by inserting after the following: "suspended" the following: ', unless certification has been obtained pursuant to subsection 9, in which case the court shall impose a minimum term of imprisonment of 10 years, none of which may be suspended'

Further amend the bill in section 4 in subsection 4-F in the last line (page 2, line 3 in L.D.) by inserting after the following: "suspended" the following: ', unless certification has been obtained pursuant to subsection 9, in which case the court shall impose a minimum term of imprisonment of 25 years, none of which may be suspended'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 17-A MRSA §1252, sub-§9 is enacted to read:

9. If the State pleads and proves that a crime under section 253 was committed against a person who had not attained 12 years of age, the court notwithstanding subsection 2 may impose a minimum sentence of imprisonment of 10 years pursuant to subsection 4-E or a minimum sentence of imprisonment of 25 years pursuant to subsection 4-F if the requirements of this subsection are met.

HOUSE AMENDMENT

R.O.S.

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A. The court must obtain a statement pursuant to paragraph B attesting that, while a longer term of imprisonment is appropriate, the harm to the victim from requiring the victim to testify exceeds the benefit to society of incarcerating the defendant for a longer period of time.

B. The statement pursuant to paragraph A must be in the form of:

(1) Written certification submitted to the court and oral testimony introduced on the record from either:

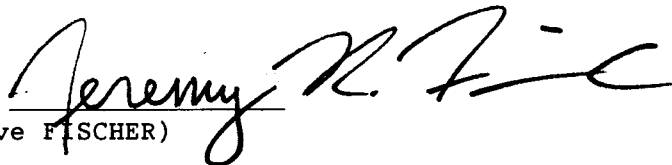
(a) The Attorney General, if the case is prosecuted by the Office of the Attorney General; or

(b) The district attorney for the county that is prosecuting the case; and

(2) Written concurrence from the legal guardian of the victim.'

SUMMARY

This amendment retains the mandatory minimum sentences of imprisonment specified in the bill of 25 years for a person who is convicted of gross sexual assault when the victim is less than 12 years of age and life for a repeat offender, except that this amendment allows the court to impose a minimum sentence of 10 years for a first-time offender and a minimum sentence of 25 years for a repeat offender if the prosecuting attorney and the legal guardian of the victim submit a statement that, while a longer term of imprisonment is appropriate, the harm to the victim from requiring the victim to testify exceeds the benefit to society of incarcerating the defendant for a longer period of time.

SPONSORED BY: 
(Representative FISCHER)

TOWN: Presque Isle

FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 1717

LR 2770(14)

**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*

Sponsor: Rep. Fischer

Fiscal Note Required: Yes

Fiscal Note

Reduction of future biennium cost increase - General Fund

Correctional and Judicial Impact Statements:

This amendment allows a court to decrease the term of imprisonment if certain requirements are met. Such a change may reduce the increased future correctional costs the bill creates.