

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 1384

H.P. 976

House of Representatives, March 13, 2007

An Act To Rename and Specifically Identify Sex Crimes

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.

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

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

4 **§3360-M. Payment for forensic examinations for alleged victims of rape**

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

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

15 **3. Process for payment.** A licensed hospital or licensed health care practitioner that
16 performs forensic examinations for alleged victims of ~~gross sexual assault~~ rape shall
17 submit a bill to the Victims' Compensation Board directly for payment of the forensic
18 examinations. The hospital or health care practitioner that performs a forensic
19 examination shall take steps necessary to ensure the confidentiality of the alleged victim's
20 identity. The bill submitted by the hospital or health care practitioner may not identify
21 the alleged victim by name but must be assigned a tracking number that corresponds to
22 the forensic examination kit. The tracking number may not be the alleged victim's social
23 security number. The hospital or health care practitioner that performs the examination
24 may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or
25 medical service organization or health maintenance organization for payment of the
26 examination. The alleged victim is not required to report the alleged offense to a law
27 enforcement agency.

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

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

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

38 C-2. With respect to the finding of appropriateness required by paragraph E,
39 subparagraph (2), the State has the burden of proof, except that in a case involving a
40 juvenile who is charged with one or more juvenile crimes that, if the juvenile were an

1 adult, would constitute murder, attempted murder, felony murder, Class A
2 manslaughter other than the reckless or criminally negligent operation of a motor
3 vehicle, elevated aggravated assault, arson that recklessly endangers any person,
4 causing a catastrophe, Class A robbery or Class A ~~gross sexual assault~~ rape in which
5 the victim submits as a result of compulsion, the juvenile has the burden of proof.

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

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

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

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

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

38 1. It is a defense that prosecution was commenced after the expiration of the
39 applicable period of limitations provided in this section; ~~provided except~~ that a
40 prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim
41 had not attained the age of 16 years at the time of the crime, a prosecution for: incest;
42 unlawful sexual contact; ~~sexual abuse of a minor~~ child molestation; or rape or, formerly

1 denominated as gross sexual assault, ~~formerly denominated~~ and as gross sexual
2 misconduct, may be commenced at any time.

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

5 **2.** Prosecutions for crimes other than murder or criminal homicide in the first or
6 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime,
7 prosecutions for: incest; unlawful sexual contact; ~~sexual abuse of a minor~~ child
8 molestation; or rape ~~or, formerly denominated as~~ gross sexual assault, ~~formerly~~
9 ~~denominated~~ and as gross sexual misconduct, are subject to the following periods of
10 limitations:

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

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

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

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

23 **Sec. 8. 17-A MRSA §253**, as amended by PL 2003, c. 711, Pt. B, §2 and
24 corrected by RR 2003, c. 2, §25, is further amended to read:

25 **§253. Rape**

26 **1.** A person is guilty of ~~gross sexual assault~~ rape if that person engages in a sexual
27 act with another person and:

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

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

32 C. The other person, not the actor's spouse, has not in fact attained 12 years of age.
33 Violation of this paragraph is a Class A crime.

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

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

- 1 B. The actor compels or induces the other person to engage in the sexual act by any
2 threat. Violation of this paragraph is a Class B crime;
- 3 C. The other person suffers from mental disability that is reasonably apparent or
4 known to the actor, and which in fact renders the other person substantially incapable
5 of appraising the nature of the contact involved or of understanding that the person
6 has the right to deny or withdraw consent. Violation of this paragraph is a Class B
7 crime;
- 8 D. The other person is unconscious or otherwise physically incapable of resisting
9 and has not consented to the sexual act. Violation of this paragraph is a Class B
10 crime;
- 11 E. The other person, not the actor's spouse, is in official custody as a probationer or
12 a parolee, or is detained in a hospital, prison or other institution, and the actor has
13 supervisory or disciplinary authority over the other person. Violation of this
14 paragraph is a Class B crime;
- 15 F. The other person, not the actor's spouse, has not in fact attained the age of 18
16 years and is a student enrolled in a private or public elementary, secondary or special
17 education school, facility or institution and the actor is a teacher, employee or other
18 official having instructional, supervisory or disciplinary authority over the student.
19 Violation of this paragraph is a Class C crime;
- 20 G. The other person, not the actor's spouse, has not attained the age of 18 years and
21 is a resident in or attending a children's home, day care facility, residential child care
22 facility, drug treatment center, camp or similar school, facility or institution regularly
23 providing care or services for children, and the actor is a teacher, employee or other
24 person having instructional, supervisory or disciplinary authority over the other
25 person. Violation of this paragraph is a Class C crime;
- 26 H. The other person has not in fact attained the age of 18 years and the actor is a
27 parent, stepparent, foster parent, guardian or other similar person responsible for the
28 long-term care and welfare of that other person. Violation of this paragraph is a
29 Class B crime;
- 30 I. The actor is a psychiatrist, a psychologist or licensed as a social worker or
31 purports to be a psychiatrist, a psychologist or licensed as a social worker to the other
32 person and the other person, not the actor's spouse, is a patient or client for mental
33 health therapy of the actor. As used in this paragraph, "mental health therapy" means
34 psychotherapy or other treatment modalities intended to change behavior, emotions
35 or attitudes, which therapy is based upon an intimate relationship involving trust and
36 dependency with a substantial potential for vulnerability and abuse. Violation of this
37 paragraph is a Class C crime; or
- 38 J. The actor owns, operates or is an employee of an organization, program or
39 residence that is operated, administered, licensed or funded by the Department of
40 Health and Human Services and the other person, not the actor's spouse, receives
41 services from the organization, program or residence and the organization, program
42 or residence recognizes the other person as a person with mental retardation. It is an
43 affirmative defense to prosecution under this paragraph that the actor receives
44 services for mental retardation or is a person with mental retardation as defined in

1 Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C
2 crime.

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

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

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

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

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

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

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

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

29 **§254. Child molestation**

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

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

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

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

1 C. The person is at least 21 years of age and engages in a sexual act with another
2 person, not the actor's spouse, who is either 16 or 17 years of age and is a student
3 enrolled in a private or public elementary, secondary or special education school,
4 facility or institution and the actor is a teacher, employee or other official in the
5 school district, school union, educational unit, school, facility or institution in which
6 the student is enrolled. Violation of this paragraph is a Class E crime;

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

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

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

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

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

19 **Sec. 10. 17-A MRSA §1252, sub-§4-B, ¶A**, as amended by PL 2003, c. 711, Pt.
20 B, §19, is further amended to read:

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

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

26 (2) ~~Rape;~~

27 (3) Attempted murder accompanied by sexual assault;

28 (4) Murder accompanied by sexual assault; or

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

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

33 **Sec. 11. 17-A MRSA §1252, sub-§4-C**, as enacted by PL 2003, c. 711, Pt. B,
34 §20, is further amended to read:

35 4-C. If the State pleads and proves that a Class A crime of ~~gross sexual assault~~ rape
36 was committed by a person who had previously been convicted and sentenced for a Class
37 B or Class C crime of unlawful sexual contact, or an essentially similar crime in another
38 jurisdiction, that prior conviction must be given serious consideration by the court in
39 exercising its sentencing discretion.

1 **Sec. 12. 19-A MRSA §1653, sub-§6-A, ¶A**, as amended by PL 2005, c. 366, §2,
2 is further amended to read:

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

- 6 (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- 7 (2) ~~Gross sexual assault~~ Rape, under Title 17-A, section 253;
- 8 (3) ~~Sexual abuse of a minor~~ Child molestation, under Title 17-A, section 254;
- 9 (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section
10 255;
- 11 (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- 12 (6) Sexual misconduct with a child under 14 years of age, under Title 17-A,
13 section 258;
- 14 (6-A) Solicitation of a child by computer to commit a prohibited act, under Title
15 17-A, section 259; or
- 16 (7) An offense in another jurisdiction, including, but not limited to, that of a
17 state, federal, military or tribal court, that includes the essential elements of an
18 offense listed in subparagraph (1), (2), (3), (4), (5), (6) or (6-A).

19 **Sec. 13. 19-A MRSA §1658, sub-§4**, as enacted by PL 1997, c. 363, §1, is
20 amended to read:

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

- 24 A. The parent or guardian of the other parent filed the petition;
- 25 B. The other parent informs the court that the sexual act was consensual; and
- 26 C. The other parent opposes the termination of the parental rights and
27 responsibilities of the parent convicted of the ~~gross sexual assault~~ rape.

28 **Sec. 14. 22 MRSA §4002, sub-§1-B, ¶A**, as amended by PL 2001, c. 696, §10,
29 is further amended to read:

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

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

36 **Sec. 15. 22 MRSA §4055, sub-§1-A, ¶B**, as amended by PL 1995, c. 481, §3, is
37 further amended to read:

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

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

17 **Sec. 16. 24 MRSA §2986**, as amended by PL 2005, c. 538, §§1 and 2, is further
18 amended to read:

19 **§2986. Performing forensic examinations for alleged victims of rape**

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

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

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

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

14 If an examination is performed under subsection 5 and the alleged victim does not, within
15 60 days, regain a state of consciousness adequate to decide whether or not to report the
16 alleged offense, the State may file a motion in the District Court relating to storing or
17 processing the forensic examination kit. Upon finding good cause and after considering
18 factors, including, but not limited to, the possible benefits to public safety in processing
19 the kit and the likelihood of the alleged victim's regaining a state of consciousness
20 adequate to decide whether or not to report the alleged offense in a reasonable time, the
21 District Court may order either that the kit be stored for additional time or that the kit be
22 transported to the Maine State Police Crime Laboratory for processing, or such other
23 disposition that the court determines just. In the interests of justice or upon motion by the
24 State, the District Court may conduct hearings required under this paragraph
25 confidentially and in camera and may impound pleadings and other records related to
26 them.

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

30 **5. Implied consent.** If an alleged victim of gross sexual assault is unconscious and a
31 reasonable person would conclude that exigent circumstances justify conducting a
32 forensic examination, a licensed hospital or licensed health care practitioner may perform
33 an examination in accordance with the provisions of this section.

34 A forensic examination kit completed in accordance with this subsection must be treated
35 in accordance with Title 25, section 3821 and must preserve the alleged victim's
36 anonymity. In addition, the law enforcement agency shall immediately report to the
37 district attorney for the district in which the hospital or health care practitioner is located
38 that such a forensic examination has been performed and a forensic examination kit has
39 been completed under this subsection.

40 **6. Liability.** A licensed hospital or licensed health care practitioner in the exercise of
41 due care is not liable for an act done or omitted in performing a sexual assault forensic
42 examination under this section.

1 **Sec. 17. 25 MRSA §1574, sub-§4, ¶E**, as amended by PL 1997, c. 608, §3, is
2 further amended to read:

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

5 **Sec. 18. 25 MRSA §1574, sub-§4, ¶E-1**, as enacted by PL 1997, c. 608, §3, is
6 repealed.

7 **Sec. 19. 25 MRSA §1574, sub-§4, ¶F**, as enacted by PL 1995, c. 457, §1, is
8 repealed and the following enacted in its place:

9 F. Child molestation:

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

12 C. Child molestation:

13 **Sec. 21. 25 MRSA §1574, sub-§6, ¶F**, as enacted by PL 2003, c. 393, §3, is
14 amended to read:

15 F. ~~Gross Rape, including that formerly denominated as gross~~ sexual assault;

16 **Sec. 22. 25 MRSA §2915**, as enacted by PL 1999, c. 719, §3 and affected by §11,
17 is amended to read:

18 **§2915. Uniform forensic examination kit for evidence collection in cases of alleged**
19 **rape**

20 **1. Development of uniform forensic examination kit.** The Department of Public
21 Safety shall determine by rule what constitutes a uniform standardized forensic
22 examination kit for evidence collection in ~~gross sexual assault~~ **alleged**
23 **rape**. The rules must define the contents of the kit, instructions for administering the kit
24 and a checklist that examiners must follow and enclose in the completed kit.

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

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

36 **3. Furnishing of uniform forensic examination kit.** The Department of Public
37 Safety shall furnish the uniform forensic examination kits to licensed hospitals and

1 licensed health care practitioners that perform forensic examinations of alleged victims of
2 ~~gross sexual assault~~ rape.

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

5 **Sec. 23. 25 MRSA §3821**, as amended by PL 2005, c. 538, §3, is further amended
6 to read:

7 **§3821. Transportation and storage of forensic examination kits**

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

18 In the case of a forensic examination performed under Title 24, section 2986,
19 subsection 5, the law enforcement agency must immediately notify the district attorney
20 for the district in which the hospital or health care practitioner is located that such a
21 forensic examination has been performed and a forensic examination kit has been
22 completed under Title 24, section 2986, subsection 5.

23 **Sec. 24. 30-A MRSA §287, sub-§1**, as amended by PL 1999, c. 719, §5 and
24 affected by §11, is further amended to read:

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

33 **Sec. 25. 30-A MRSA §287, sub-§2-A**, as enacted by PL 1999, c. 719, §6 and
34 affected by §11, is further amended to read:

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

