

# MAINE STATE LEGISLATURE

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Date: 6/13/11

L.D. 1399  
(Filing No. H-618)

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1028, L.D. 1399, Bill, "An Act To Implement the Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code and Related Statutes"

Amend the bill in section 5 in paragraph I in the 3rd line (page 4, line 1 in L.D.) by inserting after the following: "is a" the following: 'current'

Amend the bill by striking out all of section 6.

Amend the bill by striking out all of section 10 and inserting the following:

**'Sec. 10. 17-A MRSA §255-A, sub-§1, ¶F-2** is enacted to read:

F-2. The other person, not the actor's spouse, is in fact either 14 or 15 years of age and the actor is at least 10 years older than the other person. Violation of this paragraph is a Class D crime.'

Amend the bill in section 11 in paragraph U in the 3rd line (page 4, line 30 in L.D.) by inserting after the following: "is a" the following: 'current'

Amend the bill in section 12 in paragraph V in the 3rd line (page 5, line 3 in L.D.) by inserting after the following: "is a" the following: 'current'

Amend the bill in section 13 in paragraph K in the 3rd line (page 5, line 13 in L.D.) by inserting after the following: "is a" the following: 'current'

Amend the bill by striking out all of section 14 and inserting the following:

**'Sec. 14. 17-A MRSA §284, sub-§5,** as amended by PL 2011, c. 50, §3, is further amended to read:

**5.** For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of ~~dissemination~~ the transporting, exhibiting, purchasing, possession or accessing of the sexually explicit visual image or material.'

Amend the bill by striking out all of section 19 and inserting the following:

**COMMITTEE AMENDMENT**

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1           **Sec. 19. 17-A MRSA §1055**, as amended by PL 2011, c. 31, §1, is further  
2 amended to read:

3           **§1055. Possession or distribution of dangerous knives**

4           1. A person is guilty of ~~trafficking in~~ possession or distribution of dangerous  
5 knives, if ~~providing he, when the person~~ has no right to do so, ~~he~~ the person knowingly  
6 manufactures or causes to be manufactured, or knowingly possesses, displays, offers,  
7 sells, lends, gives away or purchases any knife ~~which that~~ has a blade ~~which that~~ opens  
8 automatically by hand pressure applied to a button, spring or other device in the handle of  
9 the knife, or any knife having a blade ~~which that~~ opens or falls or is ejected into position  
10 by the force of gravity, or by an outward, downward or centrifugal thrust or movement.

11           2. ~~Trafficking in~~ Possession or distribution of dangerous knives is a Class D crime.

12           3. Notwithstanding subsection 1, a person who has only one arm may possess and  
13 transport a knife described under subsection 1 that has a blade 3 inches or less in length.'

14           Amend the bill by inserting after section 24 the following:

15           **Sec. 25. 17-A MRSA §1326-B, sub-§2**, as enacted by PL 1999, c. 469, §1, is  
16 amended to read:

17           2. The income withholding order is effective as long as the order for restitution  
18 upon which it is based is effective, including after a defendant is no longer in the custody  
19 or under the supervision of the Department of Corrections and has not paid the restitution  
20 in full as described in section 1326-F, or until further order of the court.

21           **Sec. 26. 17-A MRSA §1326-F**, as enacted by PL 2009, c. 608, §14, is amended to  
22 read:

23           **§1326-F. Former Department of Corrections' clients owing restitution**

24           An offender is responsible for paying any restitution outstanding at the time the term  
25 of commitment to the Department of Corrections or period of probation is completed. An  
26 offender who has complied with the time and method of payment of monetary  
27 compensation determined by the Department of Corrections during the period of  
28 probation shall continue to make payments to the Department of Corrections in  
29 accordance with that payment schedule unless modified by the court pursuant to section  
30 1328-A or 1329. An offender who has not complied with the time and method of  
31 payment of monetary compensation determined by the Department of Corrections during  
32 the period of probation must be returned to the court for further disposition pursuant to  
33 section 1329. An offender who is unconditionally released and discharged from  
34 institutional confinement with the Department of Corrections upon the expiration of the  
35 sentence must, upon application of the office of the attorney for the State, be returned to  
36 the court for specification by the court of the time and method of payment of monetary  
37 compensation, which may be ordered paid to the office of the attorney for the State who  
38 prosecuted the case or to the clerk of the court. Prior to the offender's release and  
39 discharge, the Department of Corrections shall provide the office of the attorney for the  
40 State who prosecuted the case written notice as to the amount of restitution outstanding.  
41 An income withholding order issued pursuant to section 1326-B remains effective and

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1 enforceable until the restitution is paid in full, even after an offender is no longer in the  
2 custody or under the supervision of the Department of Corrections.'

3 Amend the bill by adding after section 27 the following:

4 'Sec. 28. Appropriations and allocations. The following appropriations and  
5 allocations are made.

6 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**  
7 **Maine Commission on Indigent Legal Services Z112**

8 Initiative: Provides funds for an anticipated increase in indigent legal service costs.

9	<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
10	All Other	\$5,710	\$7,614
11			
12	<b>GENERAL FUND TOTAL</b>	<u>\$5,710</u>	<u>\$7,614</u>
13			

14 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
15 section number to read consecutively.

16 **SUMMARY**

17 This amendment clarifies that for purposes of relationships between patients and  
18 providers, the relationship must be current, therefore not criminalizing conduct after the  
19 patient-provider relationship has concluded.

20 The amendment also properly places the violation dealing with sexual contact, the  
21 Maine Revised Statutes, Title 17-A, section 254, subsection 1, paragraph A-3 proposed in  
22 the bill in Title 17-A, section 255-A, which deals with unlawful sexual contact offenses,  
23 not sexual acts.

24 The amendment adds language to Title 17-A, section 284 to be consistent with  
25 recently enacted Public Law 2011, chapter 50.

26 The amendment adds language to specify that income withholding orders remain  
27 effective and enforceable until restitution is paid in full, even after an offender is no  
28 longer in the custody or under the supervision of the Department of Corrections.

29 The amendment adds an appropriations and allocations section.

30 **FISCAL NOTE REQUIRED**  
31 **(See attached)**



# 125th MAINE LEGISLATURE

LD 1399

LR 2006(02)

## An Act To Implement the Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code and Related Statutes

Fiscal Note for Bill as Amended by Committee Amendment "A"  
Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

### Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
<b>Net Cost (Savings)</b>				
General Fund	\$5,710	\$7,614	\$7,614	\$7,614
<b>Appropriations/Allocations</b>				
General Fund	\$5,710	\$7,614	\$7,614	\$7,614

#### Fiscal Detail and Notes

The provision expanding harassment by telephone to include harassment by electronic device will increase the number of Class E offenses. The above estimate of fiscal impact does not reflect the costs to the State Board of Corrections. The Department of Corrections has not estimated the number of convictions that will result. The average cost for one Class E crime is \$3,132 based on an average length of stay of 27 days. The total cost will depend on the actual number and terms of sentences. This estimate does reflect the cost to the Maine Commission on Indigent Legal Services, which is estimated to be \$5,710 in fiscal year 2011-12 and \$7,614 in fiscal year 2012-13 based on an average annual increase of 23.5 cases, a 50% increase over the current number of vouchers for harassment by telephone.