

MAINE STATE LEGISLATURE

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Date: 6/15/15

(Filing No. H-430)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 460, L.D. 679, Bill, "An Act To Prohibit the Unauthorized Distribution of Certain Private Images"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit the Unauthorized Dissemination of Certain Private Images'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 17-A MRSA §511-A is enacted to read:

§511-A. Unauthorized dissemination of certain private images

1. A person is guilty of unauthorized dissemination of certain private images if the person, with the intent to harass, torment or threaten the depicted person or another person, knowingly disseminates, displays or publishes a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in a sexual act or engaged in sexual contact in a manner in which there is no public or newsworthy purpose when the person knows or should have known that the depicted person:

A. Is 18 years of age or older;

B. Is identifiable from the image itself or information displayed in connection with the image; and

C. Has not consented to the dissemination, display or publication of the private image.

2. This section does not apply to the following:

A. Lawful and common practices of medical treatment;

B. Images involving voluntary exposure in a public or commercial setting; or

C. An interactive computer service, as defined in 47 United States Code, Section 230(f)(2), or an information service, as defined in 47 United States Code, Section 153, with regard to content provided by another person.

1 3. As used in this section, unless the context otherwise indicates, the following terms
2 have the following meanings.

3 A. "Sexual act" has the same meaning as in section 251, subsection 1, paragraph C
4 and also includes:

5 (1) The transfer or transmission of semen upon any part of the clothed or
6 unclothed body of the depicted person;

7 (2) Urination within a sexual context;

8 (3) Bondage or sadomasochism in any sexual context;

9 (4) Simulated sexual acts; and

10 (5) Masturbation.

11 B. "Sexual contact" has the same meaning as in section 251, subsection 1, paragraph
12 D and includes simulated sexual contact.

13 C. "State of nudity" means the condition of displaying fully unclothed, partially
14 unclothed or transparently clothed genitals, pubic area or anus or, if the person is
15 female, a partially or fully exposed breast below a point immediately above the top of
16 the areola.

17 4. Unauthorized dissemination of certain private images is a Class D crime.

18 **Sec. 2. 19-A MRSA §4005, sub-§1**, as amended by PL 2011, c. 201, §1, is
19 further amended to read:

20 **1. Filing.** An adult who has been abused by a family or household member or a
21 dating partner may seek relief by filing a complaint alleging that abuse.

22 When a minor child in the care or custody of a family or household member or a dating
23 partner has been abused by a family or household member or a dating partner, a person
24 responsible for the child, as defined in Title 22, section 4002, subsection 9, or a
25 representative of the department may seek relief by filing a petition alleging that abuse.

26 An adult who has been a victim of conduct defined as stalking in Title 17-A, section
27 210-A or described as sexual assault in Title 17-A, chapter 11 or described as
28 unauthorized dissemination of certain private images in Title 17-A, section 511-A,
29 whether or not the conduct was perpetrated by a family or household member or dating
30 partner, may seek relief by filing a complaint alleging that conduct without regard to
31 whether criminal prosecution has occurred. When a minor has been a victim of such
32 conduct, the minor's parent, other person responsible for the child or a representative of
33 the department may seek relief by filing a petition alleging that conduct.

34 When an adult who is 60 years of age or older or a dependent adult, as defined in Title
35 22, section 3472, subsection 6, or an incapacitated adult, as defined in Title 22, section
36 3472, subsection 10, has been the victim of abuse as defined in section 4002, subsection 1
37 or Title 22, section 3472, subsection 1 by an extended family member or an unpaid care
38 provider, the adult victim, the adult victim's legal guardian or a representative of the
39 department may seek relief by filing a complaint alleging the abusive conduct. For the
40 purposes of this subsection, "extended family member" includes, but is not limited to: a

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1 person who is related to the victim by blood, marriage or adoption, whether or not the
2 person resides or has ever resided with the victim. "Unpaid care provider" includes, but
3 is not limited to, a caretaker who voluntarily provides full, intermittent or occasional
4 personal care to the adult victim in the victim's home similar to the way a family member
5 would provide personal care.'

6 SUMMARY

7 This amendment provides a new title and replaces the bill. Like the bill, the
8 amendment prohibits unauthorized distribution of certain private images, but changes the
9 term "distribution" to "dissemination," adds as elements of the crime the dissemination's
10 being done with the intent to harass, torment or threaten the depicted person or another
11 person, knowingly instead of intentionally and in a manner in which there is no public or
12 newsworthy purpose and adds masturbation to the definition of "sexual act." The
13 amendment amends the law on protection from abuse procedure to allow a complaint to
14 be filed by a victim of unauthorized dissemination of certain private images without
15 regard to whether a criminal prosecution has occurred. The amendment removes from
16 the exceptions proposed in the bill the lawful and common practices of law enforcement,
17 reporting unlawful activity and dissemination when permitted or required by law or rule
18 in legal proceedings.

FISCAL NOTE REQUIRED
(See Attached)

COMMITTEE AMENDMENT

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Approved: 06/13/15 *MAC*



127th MAINE LEGISLATURE

LD 679

LR 326(02)

An Act To Prohibit the Unauthorized Distribution of Certain Private Images

Fiscal Note for Bill as Amended by Committee Amendment *A(H-430)*

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class D crimes, increases county correctional costs and judicial costs.

The collection of additional fines may also increase General Fund revenue by minor amounts.

The additional General Fund cost to the Maine Commission on Indigent Legal Services is estimated to be \$7,900 annually.