

MAINE STATE LEGISLATURE

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Date: 2/25/16

(Filing No. S-369)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 386, L.D. 1114, Bill, "An Act To Protect Maine's Children from Sexual Abuse and Exploitation"

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

'An Act Regarding Sexual Exploitation of Children'

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

'Sec. 1. 17-A MRSA §282, sub-§1, as amended by PL 2007, c. 476, §§4 and 5, is further amended to read:

1. A person is guilty of sexual exploitation of a minor if:

A. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades, or uses or ~~compels~~ another person, not that person's spouse, who ~~is in fact a minor~~ has not in fact attained 16 years of age, to engage in sexually explicit conduct, except that it is not a violation of this paragraph if the other person is 14 or 15 years of age and the person is less than 5 years older than the other person. Violation of this paragraph is a Class B crime;

A-1. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly compels or induces by any threat another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct. Violation of this paragraph is a Class B crime;

B. The person violates paragraph A or A-1 and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime;

C. The person violates paragraph A or A-1 and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime;

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1 D. Being a parent, legal guardian or other person having care or custody of another
2 person who ~~is in fact a minor~~ has not in fact attained 16 years of age, that person
3 knowingly or intentionally permits that ~~minor~~ person who has not in fact attained 16
4 years of age to engage in sexually explicit conduct, knowing or intending that the
5 conduct will be photographed. Violation of this paragraph is a Class B crime;

6 E. The person violates paragraph D and, at the time of the offense, the person has
7 one or more prior convictions under this section or for engaging in substantially
8 similar conduct to that contained in this section in another jurisdiction. Violation of
9 this paragraph is a Class A crime; or

10 F. The person violates paragraph D and the minor has not in fact attained 12 years of
11 age. Violation of this paragraph is a Class A crime.

12 **Sec. 2. 17-A MRSA §282, sub-§2, ¶A**, as enacted by PL 2003, c. 711, Pt. B,
13 §12, is amended to read:

14 A. A court shall impose upon a person convicted under subsection 1, paragraph A,
15 A-1 or D a sentencing alternative involving a term of imprisonment of at least 5
16 years.

17 **Sec. 3. 17-A MRSA §283, sub-§1, ¶A**, as enacted by PL 2003, c. 711, Pt. B,
18 §12, is amended to read:

19 A. The person intentionally or knowingly disseminates or possesses with intent to
20 disseminate any book, magazine, newspaper, print, negative, slide, motion picture,
21 videotape, computer data file or other mechanically, electronically or chemically
22 reproduced visual image or material that depicts any ~~minor~~ person who has not in fact
23 attained 16 years of age who the person knows or has reason to know is a ~~minor~~
24 person under 16 years of age engaging in sexually explicit conduct, except that it is
25 not a violation of this paragraph if the person depicted is 14 or 15 years of age and
26 the person is less than 5 years older than the person depicted. Violation of this
27 paragraph is a Class C crime;

28 **Sec. 4. 17-A MRSA §284, sub-§1, ¶A**, as amended by PL 2011, c. 50, §1, is
29 further amended to read:

30 A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses
31 with intent to view any book, magazine, newspaper, print, negative, slide, motion
32 picture, computer data file, videotape or other mechanically, electronically or
33 chemically reproduced visual image or material that the person knows or should
34 know depicts another person engaging in sexually explicit conduct, and:

- 35 (1) The other person has not in fact attained 16 years of age; or
- 36 (2) The person knows or has reason to know that the other person has not
37 attained 16 years of age.

38 It is not a violation of this paragraph if the person depicted is 14 or 15 years of age
39 and the person is less than 5 years older than the person depicted.

40 Violation of this paragraph is a Class D crime;

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Sec. 5. 17-A MRSA §511-A, sub-§1, ¶A, as enacted by PL 2015, c. 339, §1, is repealed.'

SUMMARY

This amendment replaces the bill and changes the title. This amendment does the following.

1. It amends the law on sexual exploitation of a minor by changing the applicable age of protected minors from under 18 years of age to under 16 years of age, except in cases of compulsion. It also provides that the law does not apply with respect to a minor who is 14 or 15 years old who is employed, solicited, enticed, persuaded or used to engage in sexually explicit conduct by a person who is less than 5 years older than the minor, unless the person is the minor's parent or legal guardian or has care or custody of the minor.

2. It amends the law on dissemination of sexually explicit material by changing the applicable age of protected persons from under 18 years of age to under 16 years of age. It also provides that the law does not apply with respect to a person depicted in such material if the person is 14 or 15 years old and the person disseminating the material is less than 5 years older than the depicted person.

3. It amends the law on possession of sexually explicit material to exempt from the law possession of material in which the depicted person is 14 or 15 years of age and the actor is less than 5 years older than the depicted person.

4. It amends the law on unauthorized dissemination of certain private images to remove the requirement that the depicted person be 18 years of age or older for the law to apply.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



127th MAINE LEGISLATURE

LD 1114

LR 505(02)

An Act To Protect Maine's Children from Sexual Abuse and Exploitation

Fiscal Note for Bill as Amended by Committee Amendment 'A' (S-36A)
Committee: Criminal Justice and Public Safety
Fiscal Note Required: Yes

Fiscal Note

Current biennium savings - General Fund
Minor revenue decrease - General Fund

Correctional and Judicial Impact Statements

Eliminates Class B, C and D crimes; decreases correctional and judicial costs.
A reduction in fines will decrease General Fund revenue by minor amounts.