

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1272

S.P. 454

In Senate, April 7, 2015

An Act To Strengthen the Protections for Senior Citizens in the State

(EMERGENCY)

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BURNS of Washington.
Cosponsored by Speaker EVES of North Berwick and
Senators: CUSHING of Penobscot, SAVIELLO of Franklin, Representatives: BABBIDGE of
Kennebunk, DOORE of Augusta, HYMANSON of York, MALABY of Hancock,
McCREIGHT of Harpswell, McELWEE of Caribou.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation needs to take effect before the expiration of the 90-day
4 period in order for the protections it provides for senior citizens to be in place as soon as
5 possible; and

6 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
7 the meaning of the Constitution of Maine and require the following legislation as
8 immediately necessary for the preservation of the public peace, health and safety; now,
9 therefore,

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

11 **Sec. 1. 17-A MRSA §555, sub-§1,** as repealed and replaced by PL 2005, c. 431,
12 §1, is amended to read:

13 1. A person is guilty of endangering the welfare of a dependent person if:

14 A. The person recklessly endangers the health, safety or mental welfare of a
15 dependent person ~~who is unable to perform self care because of advanced age or~~
16 ~~physical or mental disease, disorder or defect.~~ Violation of this paragraph is a Class
17 D crime; or

18 B. The person intentionally or knowingly endangers the health, safety or mental
19 welfare of a dependent person ~~who is unable to perform self care because of~~
20 ~~advanced age or physical or mental disease, disorder or defect.~~ Violation of this
21 paragraph is a Class C crime.

22 **Sec. 2. 17-A MRSA §555, sub-§2,** as repealed and replaced by PL 2005, c. 431,
23 §1, is repealed and the following enacted in its place:

24 **2. Definitions.** As used in this section, unless the context otherwise indicates, the
25 following terms have the following meanings.

26 A. "Endanger" includes a failure to act only when the defendant has a legal duty to
27 protect the health, safety or mental welfare of the dependent person. For purposes of
28 this paragraph, a legal duty may be inferred if the defendant has assumed
29 responsibility in whole or in part for the care of the dependent person.

30 B. "Dependent person" means a person, regardless of where that person resides, who
31 is wholly or partially dependent upon one or more other persons for care or support
32 because the person suffers from a significant limitation in mobility, vision, hearing or
33 mental functioning or is unable to perform self-care because of advanced age or
34 physical or mental disease, disorder or defect.

35 **Sec. 3. 17-A MRSA §1151, sub-§8, ¶A,** as enacted by PL 1995, c. 149, §1, is
36 amended to read:

1 A. The age of the victim, particularly of a victim of an advanced age or of a young
2 age who has a reduced ability to self-protect or who suffers more significant harm
3 due to age; and

4 **Sec. 4. 22 MRSA §3472, sub-§1**, as amended by PL 2003, c. 653, §2, is further
5 amended to read:

6 **1. Abuse.** "Abuse" means the infliction of injury, unreasonable confinement,
7 intimidation or cruel punishment that causes or is likely to cause physical harm or pain or
8 mental anguish; sexual abuse or sexual exploitation; financial exploitation; or the
9 intentional, knowing or reckless deprivation of essential needs. "Abuse" includes acts
10 and omissions.

11 **Sec. 5. 22 MRSA §3472, sub-§9-A** is enacted to read:

12 **9-A. Financial exploitation.** "Financial exploitation" means the use of deception,
13 intimidation, undue influence, force or other unlawful means to obtain control over the
14 property of a dependent adult for another's profit or advantage.

15 **Sec. 6. 22 MRSA §3472, sub-§16** is enacted to read:

16 **16. Undue influence.** "Undue influence" means the misuse of real or apparent
17 authority or the use of manipulation by a person in a trusting, confidential or fiduciary
18 relationship with a person who is a dependent adult or an incapacitated adult.

19 **Sec. 7. Appropriations and allocations.** The following appropriations and
20 allocations are made.

21 **ATTORNEY GENERAL, DEPARTMENT OF**

22 Initiative: Provides funding for one Detective position and one Assistant Attorney
23 General position.

24

25 GENERAL FUND	2015-16	2016-17
26 POSITIONS - LEGISLATIVE COUNT	2.000	2.000
27 Personal Services	\$186,561	\$187,566
28 All Other	\$19,408	\$15,033
29		
30 GENERAL FUND TOTAL	<u>\$205,969</u>	<u>\$202,599</u>

31 **Sec. 8. Funding.** The Attorney General may accept any funds available to fund
32 positions within the Department of the Attorney General to investigate and prosecute the
33 financial exploitation of dependent adults in accordance with this Act.

34 **Emergency clause.** In view of the emergency cited in the preamble, this
35 legislation takes effect when approved.

1 **SUMMARY**

2 This bill strengthens the protections for senior citizens in the State.

3 1. It amends the purposes of the criminal sentencing provisions to specifically
4 reference the factor of a victim's ability to self-protect due to age.

5 2. It defines "dependent person."

6 3. It specifically includes financial exploitation in the definition of "abuse."

7 4. It provides funds for one Detective position and one Assistant Attorney General
8 position.

9 5. It authorizes the Attorney General to accept funds to fund those positions.