

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1540

S.P. 601

In Senate, January 7, 2016

**An Act To Protect All Students in Elementary or Secondary Schools
from Sexual Assault by School Officials**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Criminal Justice and Public Safety 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 CYRWAY of Kennebec.
Cosponsored by Representative NADEAU of Winslow and
Senators: BREEN of Cumberland, DIAMOND of Cumberland, KATZ of Kennebec,
LANGLEY of Hancock, McCORMICK of Kennebec, President THIBODEAU of Waldo,
Representatives: GERRISH of Lebanon, LUCHINI of Ellsworth.

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

2 **Sec. 1. 17-A MRSA §253, sub-§2, ¶F**, as amended by PL 2001, c. 383, §15 and
3 affected by §156, is amended to read:

4 F. The other person, not the actor's spouse, ~~has not in fact attained the age of 18~~
5 ~~years and~~ is a student enrolled in a private or public elementary, secondary or special
6 education school, facility or institution and the actor is a teacher, employee or other
7 official having instructional, supervisory or disciplinary authority over the student.
8 Violation of this paragraph is a Class C crime;

9 **Sec. 2. 17-A MRSA §255-A, sub-§1, ¶¶K and L**, as enacted by PL 2001, c.
10 383, §23 and affected by §156, are amended to read:

11 K. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and is~~
12 a student enrolled in a private or public elementary, secondary or special education
13 school, facility or institution and the actor is a teacher, employee or other official
14 having instructional, supervisory or disciplinary authority over the student. Violation
15 of this paragraph is a Class D crime;

16 L. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and is~~
17 a student enrolled in a private or public elementary, secondary or special education
18 school, facility or institution and the actor is a teacher, employee or other official
19 having instructional, supervisory or disciplinary authority over the student and the
20 sexual contact includes penetration. Violation of this paragraph is a Class C crime;

21 **Sec. 3. 17-A MRSA §255-A, sub-§1, ¶¶S and T**, as amended by PL 2005, c.
22 450, §1, are further amended to read:

23 S. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and is~~
24 a student enrolled in a private or public elementary, secondary or special education
25 school, facility or institution and the actor, who is at least 21 years of age, is a
26 teacher, employee or other official in the school district, school union, educational
27 unit, school, facility or institution in which the student is enrolled. Violation of this
28 paragraph is a Class E crime;

29 T. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and is~~
30 a student enrolled in a private or public elementary, secondary or special education
31 school, facility or institution and the actor, who is at least 21 years of age, is a
32 teacher, employee or other official in the school district, school union, educational
33 unit, school, facility or institution in which the student is enrolled and the sexual
34 contact includes penetration. Violation of this paragraph is a Class D crime;

35 **Sec. 4. 17-A MRSA §260, sub-§1, ¶F**, as enacted by PL 2003, c. 138, §5, is
36 amended to read:

37 F. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and is~~
38 a student enrolled in a private or public elementary, secondary or special education
39 school, facility or institution and the actor is a teacher, employee or other official
40 having instructional, supervisory or disciplinary authority over the student. Violation
41 of this paragraph is a Class D crime;

1 **Sec. 5. 17-A MRSA §260, sub-§1, ¶J**, as amended by PL 2011, c. 423, §7, is
2 further amended to read:

3 J. The other person, not the actor's spouse, is ~~in fact less than 18 years of age and~~ is a
4 student enrolled in a private or public elementary, secondary or special education
5 school, facility or institution and the actor, who is at least 21 years of age, is a
6 teacher, employee or other official in the school district, school union, educational
7 unit, school, facility or institution in which the student is enrolled. Violation of this
8 paragraph is a Class E crime;

9 **Sec. 6. 19-A MRSA §1653, sub-§6-A**, as amended by PL 2011, c. 597, §4, is
10 further amended to read:

11 **6-A. Custody and contact limited; convictions for sexual offenses.** The award of
12 primary residence and parent-child contact with a person who has been convicted of a
13 child-related sexual offense is governed by this subsection.

14 A. For the purposes of this section, "child-related sexual offense" means the
15 following sexual offenses if, at the time of the commission of the offense, the victim
16 was under 18 years of age or the victim was a student enrolled in a private or public
17 elementary, secondary or special education school, facility or institution and the
18 person was a teacher, employee or other official having instructional, supervisory or
19 disciplinary authority over the student:

- 20 (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- 21 (2) Gross sexual assault, under Title 17-A, section 253;
- 22 (3) Sexual abuse of a minor, under Title 17-A, section 254;
- 23 (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section
24 255;
- 25 (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- 26 (6) Sexual misconduct with a child under 14 years of age, under Title 17-A,
27 section 258;
- 28 (6-A) Solicitation of a child to commit a prohibited act, under Title 17-A, section
29 259-A; or
- 30 (7) An offense in another jurisdiction that involves conduct that is substantially
31 similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For
32 purposes of this subparagraph, "another jurisdiction" means the Federal
33 Government, the United States military, the District of Columbia, the
34 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana
35 Islands, the United States Virgin Islands, Guam, American Samoa and each of
36 the several states except Maine. "Another jurisdiction" also means the
37 Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section
38 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe
39 has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

1 B. A court may award primary residence of a minor child or parent-child contact
2 with a minor child to a parent who has been convicted of a child-related sexual
3 offense only if the court finds that contact between the parent and child is in the best
4 interest of the child and that adequate provision for the safety of the child can be
5 made.

6 C. In an order of parental rights and responsibilities, a court may require that parent-
7 child contact between a minor child and a person convicted of a child-related sexual
8 offense may occur only if there is another person or agency present to supervise the
9 contact. If the court allows a family or household member to supervise parent-child
10 contact, the court shall establish conditions to be followed during that contact.
11 Conditions include, but are not limited to, those that:

- 12 (1) Minimize circumstances when the family of the parent who is a sex offender
13 or sexually violent predator would be supervising visits;
- 14 (2) Ensure that contact does not damage the relationship with the parent with
15 whom the child has primary physical residence;
- 16 (3) Ensure the safety and well-being of the child; and
- 17 (4) Require that supervision be provided by a person who is physically and
18 mentally capable of supervising a visit and who does not have a criminal history
19 or history of abuse or neglect.

20 **SUMMARY**

21 This bill removes the age limit on the victim of the crime of unlawful sexual contact,
22 unlawful sexual touching or gross sexual assault when the victim is a student at an
23 elementary, secondary or special education school and the actor is a person at the school
24 who has authority over the student.

25 The bill also specifies that a parent convicted of the crime of unlawful sexual contact,
26 unlawful sexual touching or gross sexual assault is subject to stricter scrutiny by the court
27 when it determines residence for and contact with a child of the parent when the victim
28 was a student at an elementary, secondary or special education school and the parent was
29 a person at the school who had authority over the student.