

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 908

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H.P. 636

House of Representatives, March 7, 2017

### **An Act Establishing the Crime of Child Abuse in the Maine Criminal Code**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STEWART of Presque Isle.  
Cosponsored by Senator MAKER of Washington and  
Representatives: ESPLING of New Gloucester, GERRISH of Lebanon, GUERIN of Glenburn,  
SIROCKI of Scarborough, Senators: KEIM of Oxford, ROSEN of Hancock, VOLK of  
Cumberland.

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

2 **Sec. 1. 17-A MRSA §214** is enacted to read:

3 **§214. Child abuse**

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

6 A. "Abuse" means:

7 (1) Offensive physical contact or the infliction of physical or mental injury;

8 (2) An act that could reasonably be expected to result in physical or mental  
9 injury; or

10 (3) Active encouragement of a person to commit an act described in  
11 subparagraph (1) or (2).

12 B. "Expert testimony" means testimony provided by a person who is a licensed  
13 physician under Title 32, chapter 48 or who has an equivalent license from another  
14 jurisdiction who has completed an accredited residency in psychiatry or who is a  
15 licensed psychologist under Title 32, chapter 56 or has an equivalent license from  
16 another jurisdiction.

17 C. "Maliciously" means intentionally acting wrongfully and without legal  
18 justification or excuse.

19 D. "Mental injury" means injury to the intellectual or psychological capacity of a  
20 child evidenced by a discernible and substantial impairment in the ability of the child  
21 to function within that child's normal range of performance and behavior as supported  
22 by expert testimony.

23 E. "Neglect" means:

24 (1) When responsible for providing care for a child, to fail to provide the child  
25 with the care, supervision and services necessary to maintain the child's physical  
26 or mental health, including food, nutrition, clothing, shelter, medicine or medical  
27 services considered essential for the well-being of the child; or

28 (2) When responsible for providing care for a child, to fail to make a reasonable  
29 effort to protect the child from abuse, neglect or exploitation by another person.

30 F. "Serious bodily injury" means bodily injury to another that creates a substantial  
31 risk of death or extended convalescence necessary for recovery of physical health.

32 2. A person is guilty of child abuse if:

33 A. The person intentionally, knowingly or recklessly neglects or abuses a child  
34 without causing serious bodily injury, permanent disability or permanent  
35 disfigurement to the child, except when a parent, guardian or other person responsible  
36 for the long-term general care and welfare of a child administers corporal punishment  
37 as reasonable discipline on the child. Violation of this paragraph is a Class C crime;

1 B. The person intentionally, knowingly or recklessly neglects a child causing serious  
2 bodily injury, permanent disability or permanent disfigurement to the child.  
3 Violation of this paragraph is a Class B crime; or

4 C. The person intentionally or knowingly:

5 (1) Commits aggravated assault under section 208 on a child;

6 (2) Tortures, maliciously punishes or unlawfully cages a child; or

7 (3) Abuses a child causing serious bodily injury, permanent disability or  
8 permanent disfigurement to the child. Violation of this paragraph is a Class A  
9 crime.

10 **Sec. 2. 17-A MRSA §554, sub-§1**, as amended by PL 2015, c. 358, §3, is further  
11 amended to read:

12 **1.** A person is guilty of endangering the welfare of a child if that person:

13 **A.** Knowingly permits a child to enter or remain in a house of prostitution. Violation  
14 of this paragraph is a Class D crime; or

15 **B.** Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a  
16 child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles,  
17 gunpowder, smokeless powder or ammunition for firearms. Violation of this  
18 paragraph is a Class D crime; ;

19 ~~**B-2.** Being a parent, foster parent, guardian or other person responsible for the long-~~  
20 ~~term general care and welfare of a child, recklessly fails to take reasonable measures~~  
21 ~~to protect the child from the risk of further bodily injury after knowing:~~

22 ~~(1) That the child had, in fact, sustained serious bodily injury or bodily injury~~  
23 ~~under circumstances posing a substantial risk of serious bodily injury; and~~

24 ~~(2) That such bodily injury was, in fact, caused by the unlawful use of physical~~  
25 ~~force by another person.~~

26 ~~Violation of this paragraph is a Class C crime;~~

27 ~~**B-3.** Being the parent, foster parent, guardian or other person having the care and~~  
28 ~~eustody of a child, knowingly deprives the child of necessary health care, with a~~  
29 ~~result that the child is placed in danger of serious harm. Violation of this paragraph is~~  
30 ~~a Class D crime; or~~

31 ~~**C.** Otherwise recklessly endangers the health, safety or welfare of the child by~~  
32 ~~violating a duty of care or protection. Violation of this paragraph is a Class D crime.~~

### 33 **SUMMARY**

34 This bill creates the crime of child abuse. Child abuse occurs when a person  
35 intentionally, knowingly or recklessly neglects or abuses a child. The sentencing classes  
36 for the crime of child abuse range from a Class C crime to a Class A crime, depending on  
37 the severity of the abuse and the level of intentionality of the person inflicting the abuse.  
38 The bill repeals several provisions regarding endangering the welfare of a child that have

1        been incorporated into the crime of child abuse. It also requires expert testimony from a  
2        licensed physician who has completed an accredited residency in psychiatry or a licensed  
3        psychologist to establish mental injury in a child abuse case.