

1		L.D. 1838
2	Date: 3/26/2018	(Filing No. S- 419)
3	CRIMINAL JUSTICE AND PUBLIC SAFETY	
4	Reproduced and distributed under the direction of the Secretary of the Senate.	
5	STATE OF MAINE	
6	SENATE	
7	128TH LEGISLATURE	
8	SECOND REGULAR SESSION	
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9 10	COMMITTEE AMENDMENT "A" to S.P. 690, L.D. Amend the Laws Governing Indecent Conduct To Include Dist	1838, Bill, "An Act To
11	Images"	
12	Amend the bill by striking out the title and substituting the fo	llowing:
13	'An Act To Include in the Crime of Harassment by Telephone or by Electronic	
14 15	Communication Device the Distribution of Certain Photograp Videos'	blic Images and
16 17	Amend the bill by striking out everything after the enactin summary and inserting the following:	g clause and before the
18 19	'Sec. 1. 17-A MRSA §506, as amended by PL 2011, c. 4 §30, is further amended to read:	64, §14 and affected by
20	§506. Harassment by telephone or by electronic communication	on device
21 22	1. A person is guilty of harassment by telephone or by el device if:	ectronic communication
23	A. By means of telephone or electronic communication devi	- · ·
24	comment, request, suggestion or proposal that is, in fact	
25 26	obscene, without the consent of the person called or conta paragraph is a Class E crime;	cted. <u>violation of this</u>
27	A-1. By means of telephone or electronic communication	device the person, with
28	the intent to cause affront or alarm or for the purpose of arou	
29 30	desire, sends an image or video of a sexual act as defined in 1, paragraph C or of the actor's or another person's genitals an	
31	(1) The person called or contacted is in fact under 14 year	
32	(2) The person called or contacted is in fact 14 or 15 year	
33	at least 5 years older than the person called or contacted; of	··· · · · · · · · · · · · · · · · · ·

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(3) The person called or contacted suffers from a mental disability that is reasonably apparent or known to the actor.

Violation of this paragraph is a Class D crime;

A-2. By means of telephone or electronic communication device the person sends an image or a video of a sexual act as defined in section 251, subsection 1, paragraph C or of the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. Violation of this paragraph is a Class E crime;

10B. The person makes a telephone call or makes a call or contact by means of an11electronic communication device, whether or not oral or written conversation ensues,12without disclosing the person's identity and with the intent to annoy, abuse, threaten13or harass any person at the called or contacted number or account. Violation of this14paragraph is a Class E crime;

15 C. The person makes or causes the telephone or electronic communication device of 16 another repeatedly or continuously to ring or activate or receive data, with the intent 17 to harass any person at the called or contacted number or account. Violation of this 18 paragraph is a Class E crime;

- D. The person makes repeated telephone calls or repeated calls or contacts by means of an electronic communication device, during which oral or written conversation ensues, with the intent to harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime; or
- E. The person knowingly permits any telephone or electronic communication device
 under the person's control to be used for any purpose prohibited by this section.
 <u>Violation of this paragraph is a Class E crime.</u>

26 **2.** The crime defined in this section may be prosecuted and punished in the county 27 in which the defendant was located when the defendant used the telephone or electronic 28 communication device, or in the county in which the telephone called or made to ring or 29 the electronic communication device called or made to ring or be activated or receive data 30 by the defendant was located.

31 2-A. As used in this section, "electronic communication device" means any 32 electronic or digital product that communicates at a distance by electronic transmission 33 impulses or by fiber optics, including any software capable of sending and receiving 34 communication, allowing a person to electronically engage in the conduct prohibited 35 under this section.

36 3. Harassment by telephone or by electronic communication device is a Class-E
 37 crime.'

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SUMMARY

This amendment establishes new variants of the crime of harassment by telephone or by electronic communication device. The amendment prohibits using a telephone or electronic communication device, with the intent to cause affront or alarm or for the

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purpose of arousing or gratifying sexual desire, to send an image or video of a sexual act or of the actor's or another person's genitals if the person called or contacted is under 14 years of age, is 14 or 15 years of age when the actor is at least 5 years older or suffers from a mental disability that is reasonably apparent or known to the actor. The amendment designates these new variants of harassment by telephone or electronic communication device as Class D crimes. The amendment also prohibits using a telephone or by electronic communication device to send an image or video of a sexual act or the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. The amendment designates this new variant of harassment by telephone or by electronic communication device as a Class E crime.

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FISCAL NOTE REQUIRED

(See attached)

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128th MAINE LEGISLATURE

LD 1838

LR 2797(02)

An Act To Amend the Laws Governing Indecent Conduct To Include Distribution of Photographic Images

Fiscal Note for Bill as Amended by Committee Amendment ''A'' (5-419) Committee: Criminal Justice and Public Safety Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class D and Class E crimes.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

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

Fiscal Detail and Notes

Any additional costs to the Maine Commission on Indigent Legal Services is expected to be minimal and can be managed within current resources.