

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1249

H.P. 910

House of Representatives, March 14, 2019

**An Act To Prohibit the Abuse and Isolation of Older and Dependent
Adults**

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 VEROW of Brewer.
Cosponsored by Representatives: STANLEY of Medway, WHITE of Waterville, Senator:
CARPENTER of Aroostook.

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. Abuse or isolation of elder person or dependent adult**

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

6 A. "Abuse" means physical abuse, sexual abuse, emotional abuse or financial abuse
7 of an elder person or dependent adult.

8 (1) "Emotional abuse" means a pattern of intentional or knowing infliction of
9 mental or emotional harm upon an elder person or dependent adult by threat,
10 intimidation, isolation or other abusive conduct.

11 (2) "Financial abuse" means the fraudulent or otherwise illegal, unauthorized or
12 improper act or process of an individual, including a caregiver or fiduciary, that
13 uses the resources of an elder person or dependent adult for monetary or personal
14 benefit, profit or gain or that results in depriving an elder person or dependent
15 adult of rightful access to, or use of, benefits, resources, belongings or assets.

16 (3) "Physical abuse" means the intentional or knowing infliction of physical pain
17 or injury, including, but not limited to, slapping, striking or restraining an elder
18 person or dependent adult.

19 (4) "Sexual abuse" means the infliction of nonconsensual sexual contact of any
20 kind upon an elder person or dependent adult. "Sexual abuse" includes, but is not
21 limited to, gross sexual assault, unlawful sexual contact and unlawful sexual
22 touching of an elder person or dependent adult, as well as threats of sexual abuse
23 when the actor has the intent and the capacity to carry out the threatened abuse.

24 B. "Caregiver" means a person who has been entrusted with or has assumed
25 responsibility for the care, custody or control of, or who stands in a position of trust
26 with, an elder person or dependent adult, whether for pecuniary gain, by contract, by
27 court order or on the basis of friendship. "Caregiver" includes, but is not limited to,
28 caretakers, relatives, court-appointed guardians, adult household members,
29 conservators, attorneys-in-fact, neighbors, health care providers and employees and
30 volunteers of facilities dedicated to the care of elder persons.

31 C. "Dependent adult" means any individual who has attained 18 years of age who
32 has a physical or mental impairment that restricts the individual's ability to carry out
33 normal activities of daily living or to protect the individual's rights. "Dependent
34 adult" includes, but is not limited to, individuals who have physical or developmental
35 disabilities or whose physical or mental abilities have diminished.

36 D. "Elder person" means an individual who has attained 60 years of age.

37 E. "Isolate" means to restrict personal rights of association retained by the elder
38 person or dependent adult, including, but not limited to, the right to receive visitors,
39 telephone calls and personal mail, unless the restriction of personal rights is
40 authorized by court order.

1 F. "Neglect" means the willful failure by a caregiver or other person with a duty of
2 care to provide goods or services necessary to avoid physical harm, mental harm or
3 mental illness to an elder person or dependent adult, including, but not limited to,
4 withdrawal of necessary assistance and denial of food or health-related services.

5 G. "Position of trust" means, with regard to a relationship with an elder person or
6 dependent adult:

7 (1) Being the spouse, an adult child or another relative by blood or marriage of
8 the elder person or dependent adult; or

9 (2) Having a legal or fiduciary relationship with the elder person or dependent
10 adult, including, but not limited to, a court-appointed or voluntary guardian,
11 trustee, attorney or conservator.

12 2. An actor, including a caregiver, is guilty of abuse or isolation of an elder person or
13 dependent adult if the actor intentionally or knowingly abuses, isolates or neglects an
14 elder person or a dependent adult.

15 3. Abuse or isolation of an elder person or dependent adult is a Class C crime. When
16 sentencing a defendant convicted of violating this section, the court may require that the
17 defendant participate in appropriate counseling as a part of the sentence, with the costs of
18 counseling to be paid by the defendant.

19 SUMMARY

20 This bill prohibits abuse and isolation of elder persons and dependent adults. Abuse
21 or isolation of an elder person or dependent adult is a Class C crime. A person commits
22 the crime if the person has or has assumed responsibility for the care, custody or control
23 of an elder person or a dependent adult and subjects the elder person or dependent adult
24 to isolation, neglect, physical abuse, sexual abuse, emotional abuse or financial abuse,
25 including threats of abuse. The new crime is allocated to the chapter of the Maine
26 Criminal Code that establishes crimes against the person.

27 The bill defines "elder person" to mean a person who is at least 60 years of age. The
28 bill also defines "isolate" to mean to restrict personal rights of association retained by the
29 elder person or dependent adult, including, but not limited to, the right to receive visitors,
30 telephone calls and personal mail, unless the restriction of personal rights is authorized by
31 court order.

32 When a person is convicted of the crime of abuse or isolation of an elder person or
33 dependent adult, the court may require that the person convicted of the crime participate
34 in appropriate counseling at the convicted person's expense.

35 The bill is based on similar law in Rhode Island.