

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1715

S.P. 549

In Senate, May 19, 2021

An Act To Amend the Laws Prohibiting Teachers, Employees and Other Officials from Engaging in Sexual Activity with Students

(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 black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator STEWART of Aroostook.

Cosponsored by Senator: KEIM of Oxford, Representative: POIRIER of Skowhegan.

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 2015, c. 509, §1, is
3 further amended to read:

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

9 **Sec. 2. 17-A MRSA §253, sub-§2, ¶G**, as amended by PL 2013, c. 179, §2, is
10 further amended to read:

11 G. The other person, not the actor's spouse, has not attained the age of 18 years and is
12 a resident in or attending a children's home, child care facility, facility operated by a
13 family child care provider, children's residential care facility, drug treatment center,
14 youth camp licensed under Title 22, section 2495 or similar school, facility or
15 institution regularly providing care or services for children, and the actor is a teacher,
16 employee or other person having or having had instructional, supervisory or
17 disciplinary authority over the other person. Violation of this paragraph is a Class C
18 crime;

19 **Sec. 3. 17-A MRSA §255-A, sub-§1, ¶K**, as amended by PL 2015, c. 509, §2, is
20 further amended to read:

21 K. The other person, not the actor's spouse, is a student enrolled in a private or public
22 elementary, secondary or special education school, facility or institution and the actor
23 is a teacher, employee or other official having or having had instructional, supervisory
24 or disciplinary authority over the student. Violation of this paragraph is a Class D
25 crime;

26 **Sec. 4. 17-A MRSA §255-A, sub-§1, ¶L**, as amended by PL 2015, c. 509, §2, is
27 further amended to read:

28 L. The other person, not the actor's spouse, is a student enrolled in a private or public
29 elementary, secondary or special education school, facility or institution and the actor
30 is a teacher, employee or other official having or having had instructional, supervisory
31 or disciplinary authority over the student and the sexual contact includes penetration.
32 Violation of this paragraph is a Class C crime;

33 **Sec. 5. 17-A MRSA §260, sub-§1, ¶F**, as amended by PL 2015, c. 509, §3, is
34 further amended to read:

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

40 **Sec. 6. 19-A MRSA §1653, sub-§6-A, ¶A**, as amended by PL 2015, c. 509, §4, is
41 further amended to read:

1 A. For the purposes of this section, "child-related sexual offense" means the following
2 sexual offenses if, at the time of the commission of the offense, the victim was under
3 18 years of age or the victim was a student enrolled in a private or public elementary,
4 secondary or special education school, facility or institution and the person was a
5 teacher, employee or other official having or having had instructional, supervisory or
6 disciplinary authority over the student:

7 (1) Sexual exploitation of a minor, under Title 17-A, section 282;

8 (2) Gross sexual assault, under Title 17-A, section 253;

9 (3) Sexual abuse of a minor, under Title 17-A, section 254;

10 (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section
11 255;

12 (5) Visual sexual aggression against a child, under Title 17-A, section 256;

13 (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section
14 258;

15 (6-A) Solicitation of a child to commit a prohibited act, under Title 17-A, section
16 259-A; or

17 (7) An offense in another jurisdiction that involves conduct that is substantially
18 similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For
19 purposes of this subparagraph, "another jurisdiction" means the Federal
20 Government, the United States military, the District of Columbia, the
21 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana
22 Islands, the United States Virgin Islands, Guam, American Samoa and each of the
23 several states except Maine. "Another jurisdiction" also means the Passamaquoddy
24 Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1,
25 paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to
26 Title 30, section 6209-B, subsection 1, paragraph A or B.

27 SUMMARY

28 This bill amends the laws governing gross sexual assault, unlawful sexual contact and
29 unlawful sexual touching to provide that when the actor is a teacher, employee or other
30 official with instructional, supervisory or disciplinary authority over a student, such
31 authority does not need to be possessed by the teacher, employee or other official at the
32 time the act is committed. These laws apply to actors that are substitute teachers. The Maine
33 Supreme Judicial Court held in *State of Maine v. Conroy*, 2020 ME 22, that such crimes,
34 as defined by the Legislature, require that at the time of the sexual act or sexual contact the
35 actor has instructional, supervisory or disciplinary authority over the student.