

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SAK
ROS

Date

5/22/23

Majority

L D 1435

(Filing No H- 194)

2

3

JUDICIARY

4

Reproduced and distributed under the direction of the Clerk of the House

5

STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

131ST LEGISLATURE

8

FIRST SPECIAL SESSION

9

COMMITTEE AMENDMENT "A" to HP 931, L D 1435, "An Act to Reduce Commercial Sexual Exploitation"

10

11

Amend the bill in section 1 in the first indented paragraph in the 8th line (page 1, line 11 in L D) by striking out the following "~~engaging a prostitute~~ commercial sexual exploitation" and inserting the following 'engaging a prostitute person for prostitution'

12

13

14

Amend the bill by striking out all of section 2

15

Amend the bill by striking out all of section 4 and inserting the following

16

'Sec. 4. 17-A MRSA §259-B, as enacted by PL 2017, c 135, §1, is amended to read

17

18

§259-B. Solicitation of a child to ~~engage in prostitution~~ for commercial sexual exploitation

19

20

1. A person is guilty of soliciting a child to ~~engage in prostitution~~ for commercial sexual exploitation if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in an act of prostitution, as defined in section 851

21

22

23

24

2. Violation of this section is a Class ~~D~~ C crime '

25

Amend the bill by striking out all of section 5.

26

Amend the bill by striking out all of section 6 and inserting the following

27

'Sec. 6. 17-A MRSA §851, sub-§1, as amended by PL 1995, c 638, §1, is further amended to read

28

29

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person ~~engaging in prostitution~~ being prostituted or a 3rd person.'

30

31

32

33

Amend the bill by striking out all of section 7 and inserting the following

COMMITTEE AMENDMENT

ROS
2

'Sec. 7. 17-A MRSA §851, sub-§1-A, as amended by PL 1995, c 638, §2, is further amended to read

1-A. "Engages a ~~prostitute~~ person for prostitution" means providing, offering to provide or agreeing to provide, either to the person ~~whose prostitution who~~ is sought for an act of prostitution or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251,'

Amend the bill by striking out all of sections 8, 9, 10 and 11

Amend the bill by striking out all of section 15 and inserting the following

'Sec. 15. 17-A MRSA §853-B, as amended by PL 2013, c. 407, §4, is further amended to read

§853-B. Engaging a ~~prostitute~~ person for prostitution

1. A person is guilty of engaging a ~~prostitute~~ person for prostitution if

A The person engages a ~~prostitute~~ person for prostitution within the meaning of section 851, subsection 1-A Violation of this paragraph is a Class E crime, or

B The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years Violation of this paragraph is a Class D crime '

Amend the bill by striking out all of section 16 and inserting the following

'Sec. 16. 17-A MRSA §855, as amended by PL 2021, c 447, §§2 and 3, is further amended to read

§855. ~~Patronizing prostitution~~ Commercial sexual exploitation of minor or person with mental disability

1. A person is guilty of ~~patronizing prostitution~~ commercial sexual exploitation of a mmor if

A The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person ~~whose prostitution is sought being prostituted~~ or to a 3rd person and the person ~~whose prostitution is sought being prostituted~~ has not in fact attained 18 years of age or the person knows or believes that the person ~~whose prostitution is sought being prostituted~~ has not attained 18 years of age Violation of this paragraph is a Class C crime, or

3. A person is guilty of ~~patronizing prostitution~~ commercial sexual exploitation of a ~~mentally disabled~~ person with a mental disability if

A The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person ~~whose prostitution is sought being prostituted~~ or to a 3rd person and the person ~~whose prostitution is sought being prostituted~~ suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the ~~other~~ person with a mental disability substantially

ROS

1 incapable of appraising the nature of the conduct or conduct involved Violation of
2 this paragraph is a Class C crime '

3 Amend the bill by striking out all of section 20 and inserting the following

4 'Sec. 20. 18-C MRSA §9-401, sub-§4, ¶F, as amended by PL 2019, c 417, Pt A,
5 §106, is further amended to read

6 F Has in that child's family background factors such as severe mental illness,
7 substance use disorder, prostitution, commercial sexual exploitation, genetic or
8 medical conditions or illnesses that place the child at risk for future problems '

9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
10 number to read consecutively

11 **SUMMARY**

12 This amendment, which is the majority report of the committee, retains the provisions
13 of the bill.

- 14 1 Eliminating the crime of engaging in prostitution,
- 15 2 Renaming the crime of patronizing prostitution of a minor or a person with a mental
16 disability to commercial sexual exploitation of a minor or a person with a mental disability
17 and renaming the crime of solicitation of a child to engage in prostitution to solicitation of
18 a child for commercial sexual exploitation,
- 19 3 Changing from a Class D crime to a Class C crime the crime of solicitation of a
20 child for commercial sexual exploitation,
- 21 4 Establishing a defense to prosecution for conspiracy to commit the crime of
22 engaging a person for prostitution if the defendant's participation was engaging or agreeing
23 to personally engage in a sexual act with a patron, and
- 24 5 Establishing a defense to prosecution for sex trafficking if the defendant's actions
25 consisted of publicly soliciting a patron to engage in prostitution only with the defendant

26 In addition, the amendment

- 27 1 Strikes the provision of the bill directing the Department of Public Safety to adopt
28 a model anti-sex-trafficking and commercial sexual exploitation protocol,
- 29 2 Removes the provisions of the bill changing to "commercial sexual exploitation"
30 the language used within the Maine Criminal Code to refer to engaging a prostitute who is
31 not a minor or a person with a mental disability The amendment instead employs the
32 phrase "engaging a person for prostitution" in these circumstances, and
- 33 3 Adding commercial sexual exploitation to the list of circumstances in a child's
34 family background that would qualify the child as a special needs child under the adoption
35 assistance program

36 **FISCAL NOTE REQUIRED**
37 (See attached)



131st MAINE LEGISLATURE

LD 1435

LR 1634(02)

An Act to Reduce Commercial Sexual Exploitation

Fiscal Note for Bill as Amended by Committee Amendment *A (H-194)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Changes from a Class D crime to a Class C crime the crime of solicitation of a child for commercial sexual exploitation. The current average cost of incarcerating one individual for a single year is \$55,203.

The additional workload associated with the minimal number of new felony cases filed in the court system does not require additional funding at this time. The collection of additional fines related to those cases where the class of crime is increased may increase General Fund or other dedicated revenue by minor amounts.