

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2008

A. A person who violates this subsection commits a civil violation for which a fine of not more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed one or more violations under this subsection commits a Class D crime.

3. It is an affirmative defense to a prosecution under subsection 2 that:

A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief ~~can not~~ cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The transfer of the firearm to the ~~minor person~~ under 16 years of age was approved by the parent, foster parent or guardian of the ~~minor person~~ under 16 years of age.

3-A. It is an affirmative defense to a prosecution under subsection 2-A that:

A. The actor reasonably believed the person receiving the firearm had attained 18 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The sale of the firearm to the person 16 years of age or older and under 18 years of age was approved by the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age.

~~4. Unlawful transfer of a firearm to a minor is a Class D crime.~~

See title page for effective date.

CHAPTER 513

H.P. 1397 - L.D. 2013

An Act To Extend the Application of Certain Rebuttable Presumptions in the Child Protection Laws

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

Sec. 1. 18-A MRSA §9-304, sub-§(b-1), ¶(1), as enacted by PL 2005, c. 366, §1, is amended to read:

(1). Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the

time of the offense and the petitioner was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the petitioner and the minor victim at the time of the offense; or

Sec. 2. 19-A MRSA §1653, sub-§6-A, ¶A, as amended by PL 2005, c. 366, §2, is further amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

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

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

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

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

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

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

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

(7) An offense in another jurisdiction, ~~including, but not limited to, that of a state, federal, military or tribal court, that includes the essential elements of an offense listed that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A).~~ For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has

acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

Sec. 3. 19-A MRSA §1653, sub-§6-B, ¶A, as enacted by PL 2005, c. 366, §3, is amended to read:

A. Has been convicted of an offense listed in ~~Tit~~le 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

Sec. 4. 19-A MRSA §1803, sub-§8, ¶A, as enacted by PL 2005, c. 366, §4, is amended to read:

A. Has been convicted of an offense listed in ~~Tit~~le 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparent was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the grandparent and the minor victim at the time of the offense; or

Sec. 5. 22 MRSA §4005-E, sub-§3, ¶A, as amended by PL 2007, c. 371, §2, is further amended to read:

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the relative was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the relative and the minor victim at the time of the offense; or

Sec. 6. 22 MRSA §4035, sub-§2-A, ¶A, as enacted by PL 2005, c. 366, §7, is amended to read:

A. That the person seeking custody or contact with the child would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the person:

(1) Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

(2) Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The person seeking custody or contact with the child may produce evidence to rebut the presumption; and

See title page for effective date.

CHAPTER 514

H.P. 1450 - L.D. 2066

An Act To Clarify the Laws Governing the Extension of Health Care Coverage to Dependents

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

Sec. 1. 24-A MRSA §2742-B, sub-§1, ¶B, as enacted by PL 2007, c. 115, §1 and affected by §5, is amended to read:

B. Has no dependent of the child's own; and

Sec. 2. 24-A MRSA §2742-B, sub-§1, ¶C, as enacted by PL 2007, c. 115, §1 and affected by §5, is amended to read:

C. Is a resident of this State or is enrolled as a full-time student at an accredited public or private institution of higher education; and.

Sec. 3. 24-A MRSA §2742-B, sub-§1, ¶D, as enacted by PL 2007, c. 115, §1 and affected by §5, is repealed.