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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 240, L.D. 316, Bill, “An Act To Protect Adults 66 Years of Age and Older from Financial and Other Types of Exploitation through Theft by Deception”

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Vulnerable Persons from Theft'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 17-A MRSA §352, sub-§6 is enacted to read:

6. "Vulnerable person" means a dependent adult as defined in Title 22, section 3472, subsection 6 or an incapacitated adult as defined in Title 22, section 3472, subsection 10.

Sec. 2. 17-A MRSA §353, sub-§1, ¶B, as amended by PL 2007, c. 476, §10, is further amended to read:

B. The person violates paragraph A and:

- (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;
- (3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (4) The value of the property is more than \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (5) The value of the property is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; ø

COMMITTEE AMENDMENT

1 (6) The person has 2 or more prior convictions for any combination of the Maine
2 offenses listed in this subparagraph or for engaging in substantially similar
3 conduct to that of the Maine offenses listed in this subparagraph in another
4 jurisdiction. The Maine offenses are: theft; any violation of section 401 in which
5 the crime intended to be committed inside the structure is theft; any violation of
6 section 405 in which the crime intended to be committed inside the motor vehicle
7 is theft; any violation of section 651; any violation of section 702, 703 or 708; or
8 attempts to commit any of these crimes. Section 9-A governs the use of prior
9 convictions when determining a sentence. Violation of this subparagraph is a
10 Class C crime; or

11 (7) The owner of the property subject to theft is a vulnerable person. Violation
12 of this subparagraph is a Class B crime; or

13 **Sec. 3. 17-A MRSA §354, sub-§1, ¶B,** as amended by PL 2007, c. 476, §11, is
14 further amended to read:

15 B. The person violates paragraph A and:

16 (1) The value of the property is more than \$10,000. Violation of this
17 subparagraph is a Class B crime;

18 (2) The property stolen is a firearm or an explosive device. Violation of this
19 subparagraph is a Class B crime;

20 (3) The person is armed with a dangerous weapon at the time of the offense.
21 Violation of this subparagraph is a Class B crime;

22 (4) The value of the property is more than \$1,000 but not more than \$10,000.
23 Violation of this subparagraph is a Class C crime;

24 (5) The value of the property is more than \$500 but not more than \$1,000.
25 Violation of this subparagraph is a Class D crime; ~~or~~

26 (6) The person has 2 or more prior convictions for any combination of the Maine
27 offenses listed in this subparagraph or for engaging in substantially similar
28 conduct to that of the Maine offenses listed in this subparagraph in another
29 jurisdiction. The Maine offenses are: theft; any violation of section 401 in which
30 the crime intended to be committed inside the structure is theft; any violation of
31 section 405 in which the crime intended to be committed inside the motor vehicle
32 is theft; any violation of section 651; any violation of section 702, 703 or 708; or
33 attempts to commit any of these crimes. Section 9-A governs the use of prior
34 convictions when determining a sentence. Violation of this subparagraph is a
35 Class C crime; or

36 (7) The owner of the property subject to theft is a vulnerable person. Violation
37 of this subparagraph is a Class B crime.

38 **Sec. 4. 17-A MRSA §358, sub-§1, ¶B,** as amended by PL 2007, c. 476, §16, is
39 further amended to read:

40 B. The person violates paragraph A and:

1 (1) The value of the property is more than \$10,000. Violation of this
2 subparagraph is a Class B crime;

3 (2) The property stolen is a firearm or an explosive device. Violation of this
4 subparagraph is a Class B crime;

5 (3) The person is armed with a dangerous weapon at the time of the offense.
6 Violation of this subparagraph is a Class B crime;

7 (4) The value of the property is more than \$2,000 and the person is a payroll
8 processor. Violation of this paragraph is a Class B crime;

9 (5) The value of the property is more than \$1,000 but not more than \$10,000.
10 Violation of this subparagraph is a Class C crime;

11 (6) The value of the property is more than \$500 but not more than \$1,000.
12 Violation of this subparagraph is a Class D crime;

13 (7) The value of the property is more than \$1,000 but not more than \$2,000 and
14 the person is a payroll processor. Violation of this subparagraph is a Class C
15 crime;

16 (8) The person is a payroll processor and has 2 or more prior convictions for any
17 combination of the Maine offenses listed in this subparagraph or for engaging in
18 substantially similar conduct to that of the Maine offenses listed in this
19 subparagraph in another jurisdiction. The Maine offenses are: theft; any
20 violation of section 401 in which the crime intended to be committed inside the
21 structure is theft; any violation of section 405 in which the crime intended to be
22 committed inside the motor vehicle is theft; any violation of section 651; any
23 violation of section 702, 703 or 708; or attempts to commit any of these crimes.
24 Section 9-A governs the use of prior convictions when determining a sentence.
25 Violation of this subparagraph is a Class B crime; ~~or~~

26 (9) The person has 2 or more prior convictions for any combination of the Maine
27 offenses listed in this subparagraph or for engaging in substantially similar
28 conduct to that of the Maine offenses listed in this subparagraph in another
29 jurisdiction. The Maine offenses are: theft; any violation of section 401 in which
30 the crime intended to be committed inside the structure is theft; any violation of
31 section 405 in which the crime intended to be committed inside the motor vehicle
32 is theft; any violation of section 651; any violation of section 702, 703 or 708; or
33 attempts to commit any of these crimes. Section 9-A governs the use of prior
34 convictions when determining a sentence. Violation of this subparagraph is a
35 Class C crime; or

36 (10) The owner of the property subject to theft is a vulnerable person. Violation
37 of this subparagraph is a Class B crime.

38 **Sec. 5. 17-A MRSA §903, sub-§4**, as enacted by PL 2013, c. 414, §5, is amended
39 to read:

40 **4.** If a misuse of entrusted property results in the loss of a vulnerable person's
41 property or the loss of property entrusted to a person for the benefit of a vulnerable

1 person and, at the time of the offense, the owner or the beneficiary of the property is a
2 vulnerable person; the misuse of entrusted property is a Class B crime.

3 ~~A. If the value of the property is more than \$1,000 but not more than \$10,000, the~~
4 ~~misuse of entrusted property is a Class C crime; and~~

5 ~~B. If the value of the property is more than \$10,000, the misuse of entrusted property~~
6 ~~is a Class B crime.~~

7 As used in this subsection, "vulnerable person" means an incapacitated adult as defined in
8 Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section
9 3472, subsection 6.

10 **Sec. 6. Appropriations and allocations.** The following appropriations and
11 allocations are made.

12 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

13 **Maine Commission on Indigent Legal Services Z112**

14 Initiative: Provides funding for increased costs to the Maine Commission on Indigent
15 Legal Services due to elevating the class of certain crimes of theft or fraud if the victim is
16 a vulnerable person.

17	GENERAL FUND	2019-20	2020-21
18	All Other	\$66,938	\$89,250
19			
20	GENERAL FUND TOTAL	<u>\$66,938</u>	<u>\$89,250</u>
21			

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
23 section number to read consecutively.

24 **SUMMARY**

25 This amendment is the majority report of the committee. The amendment replaces
26 the bill and provides a new title. The amendment defines "vulnerable person" by
27 reference to the definitions of "dependent adult" in the Maine Revised Statutes, Title 22,
28 section 3472, subsection 6 and "incapacitated adult" in Title 22, section 3472, subsection
29 10. The amendment designates the following types of theft or fraud as Class B crimes if
30 the owner of the property is a vulnerable person: theft by unauthorized taking or transfer,
31 theft by deception, theft by misapplication of property and misuse of entrusted property.
32 The amendment includes an appropriations and allocations section.

33 **FISCAL NOTE REQUIRED**

34 **(See attached)**