



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 936

S.P. 327

In Senate, March 17, 2015

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**An Act To Protect Children from Sexual Predators, Sexual Abuse  
and Sexual Assault**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.  
Cosponsored by Representative MAREAN of Hollis and  
Senators: GERZOFSKY of Cumberland, LIBBY of Androscoggin, Representatives:  
PETERSON of Rumford, SHAW of Standish.

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

2 **Sec. 1. 17-A MRSA §254, sub-§1, ¶A**, as amended by PL 2001, c. 383, §21 and  
3 affected by §156, is further amended to read:

4 A. The person engages in a sexual act with another person, not the actor's spouse,  
5 who is either 14 or 15 years of age and the actor is at least 5 years older than the other  
6 person. Violation of this paragraph is a Class ~~D~~ C crime;

7 **Sec. 2. 17-A MRSA §256, sub-§1, ¶A**, as amended by PL 2005, c. 655, §1, is  
8 further amended to read:

9 A. For the purpose of arousing or gratifying sexual desire or for the purpose of  
10 causing affront or alarm, the actor, having in fact attained 18 years of age, exposes  
11 the actor's genitals to another person or causes the other person to expose that  
12 person's genitals to the actor and the other person, not the actor's spouse, has not in  
13 fact attained 14 years of age. Violation of this paragraph is a Class ~~D~~ C crime;

14 **Sec. 3. 17-A MRSA §258, sub-§1**, as amended by PL 2003, c. 711, Pt. B, §5, is  
15 further amended to read:

16 **1.** A person is guilty of sexual misconduct with a child ~~under~~ 14 years of age or  
17 younger if that person, having in fact attained 18 years of age, knowingly displays any  
18 sexually explicit materials to another person, not the actor's spouse, who has not in fact  
19 attained the age of 14 years, with the intent to encourage the other person to engage in a  
20 sexual act or sexual contact. Violation of this subsection is a Class ~~D~~ C crime.

21 **Sec. 4. 17-A MRSA §259-A, sub-§1, ¶A**, as enacted by PL 2011, c. 597, §3, is  
22 amended to read:

23 A. The actor, with the intent to engage in a prohibited act with the other person,  
24 knowingly solicits directly or indirectly that person by any means to engage in a  
25 prohibited act and the actor:

26 (1) Is at least 16 years of age;

27 (2) Knows or believes that the other person is ~~less than~~ 14 years of age or  
28 younger; and

29 (3) Is at least 3 years older than the age expressed by the other person.

30 Violation of this paragraph is a Class ~~D~~ C crime; or

31 **Sec. 5. 17-A MRSA §262** is enacted to read:

32 **§262. Illegal traveling for the purpose of committing a sex offense**

33 **1.** A person is guilty of illegal traveling for the purpose of committing a sex offense  
34 if the person travels, attempts to travel, transports a minor, attempts to transport a minor  
35 or solicits or entices a minor to travel into, out of or within the State for any of the  
36 following purposes:

- 1           A. Engaging in a sexual act with a minor that is prohibited under this chapter;  
2           B. Engaging in sexual exploitation of a minor that is prohibited under chapter 12; or  
3           C. Engaging in sex trafficking or prostitution that is prohibited under chapter 35.  
4           2. Illegal traveling is a Class B crime.  
5           3. For the purposes of this section, "minor" means a person who has not in fact  
6           attained 18 years of age.

7           **Sec. 6. 17-A MRSA §281, sub-§4, ¶¶E and F**, as enacted by PL 2003, c. 711,  
8           Pt. B, §12, are amended to read:

- 9           E. Lewd exhibition of the genitals, anus, breasts, buttocks or pubic area of a person.  
10          An exhibition is considered lewd if the exhibition is designed for the purpose of  
11          eliciting or attempting to elicit a sexual response in the intended viewer; or  
12          F. Conduct that creates the appearance of the acts in paragraphs A to D and also  
13          exhibits any uncovered or covered portions of the genitals, anus, breasts, buttocks or  
14          pubic area.

15          **Sec. 7. 17-A MRSA §284, sub-§1, ¶A**, as amended by PL 2011, c. 50, §1, is  
16          further amended to read:

17          A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses  
18          with intent to view any book, magazine, newspaper, print, negative, slide, motion  
19          picture, computer data file, videotape or other mechanically, electronically or  
20          chemically reproduced visual image or material that the person knows or should  
21          know depicts another person engaging in sexually explicit conduct, and:

- 22                  (1) The other person has not in fact attained 16 years of age; or  
23                  (2) The person knows or has reason to know that the other person has not  
24                  attained 16 years of age.

25          Violation of this paragraph is a Class ~~D~~ C crime;

26          **Sec. 8. 17-A MRSA §285**, as enacted by PL 2003, c. 711, Pt. B, §12, is amended  
27          to read:

28          **§285. Forfeiture of equipment used to facilitate violations and assets that are**  
29          **proceeds of the violations**

30          **1.** Upon a finding of guilt of any violation of this chapter, but prior to sentencing,  
31          an attorney for the State may, in writing, move the court for an order requiring the  
32          forfeiture to the State of any equipment, including computers, that may have facilitated  
33          the commission of the offense or of any assets that are directly or indirectly proceeds of  
34          the violation. Notice of the motion must be made by the State to the defendant and any  
35          party of interest; this notice must be done by registered mail. For the purposes of this  
36          section, "assets" means all money, negotiable instruments, securities, personal property  
37          and accounts held in a financial institution or held in any other manner in the name of the  
38          defendant or in which the defendant has an ownership interest.

1           2. If contesting the forfeiture, the defendant or other party-in-interest in the in rem  
2 civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding  
3 must be before the court.

4           3. At the jury trial or court hearing, the State has the burden of proving to the fact  
5 finder by a preponderance of the evidence that the equipment was used in violation of this  
6 chapter or that the assets are proceeds of the violation.

7           4. Upon a finding by a preponderance of the evidence that the equipment was used  
8 to facilitate the commission of a violation of this chapter or that the assets are proceeds of  
9 the violation, the court shall order the equipment or assets forfeited and may, upon the  
10 written recommendation of the attorney for the State, provide in its order for the  
11 disposition or use of the equipment or assets by any state, county or municipal law  
12 enforcement agency that made a substantial contribution to the investigation or  
13 prosecution of the case. Any equipment or assets forfeited that ~~is~~ are not transferred to an  
14 investigating or prosecuting agency must be sold and the proceeds deposited in the  
15 General Fund.

16           5. The Attorney General may adopt by rule guidelines regulating the disposition  
17 and use of property forfeited or sought for forfeiture under this section. Rules adopted  
18 under this ~~section~~ subsection are routine technical rules as defined in Title 5, chapter 375,  
19 subchapter 2-A.

20   **SUMMARY**

21           This bill does the following:

- 22           1. Raises to Class C the crime of sexual abuse of a minor who is either 14 or 15 years  
23 of age;
- 24           2. Raises to Class C the crime of visual sexual aggression against a child under 14  
25 years of age;
- 26           3. Raises to Class C the crime of sexual misconduct with a child and changes the age  
27 of the victim to include children 14 years of age or younger. Current law applies only to  
28 children under 14 years of age;
- 29           4. Raises to Class C the crime of solicitation of a child to commit a prohibited act  
30 and changes the age of the victim to include children 14 years of age or younger. Current  
31 law applies only to children under 14 years of age;
- 32           5. Enacts a prohibition on traveling into, out of or within this State or attempting to  
33 travel for the purposes of illegal sexual acts involving a minor. The bill also prohibits  
34 transporting a minor, attempting to transport a minor or soliciting or enticing a minor to  
35 travel into, out of or within the State for illegal sexual purposes. Illegal sexual purposes  
36 include engaging in a sexual act with a minor, prohibited under the Maine Revised  
37 Statutes, Title 17-A, chapter 11; engaging in sexual exploitation of a minor, prohibited  
38 under Title 17-A, chapter 12; or engaging in sex trafficking or prostitution, prohibited  
39 under Title 17-A, chapter 35. The bill makes illegal traveling a Class B crime;

1           6. Expands current law on sexual exploitation of a minor that prohibits exhibiting  
2 uncovered or covered portions of the genitals, anus or pubic area to include uncovered or  
3 covered breasts or buttocks;

4           7. Raises to Class C the crime of possession of sexually explicit material showing a  
5 child under 16 years of age engaging in sexually explicit conduct; and

6           8. Expands forfeiture of assets for a violation of the Maine Revised Statutes, Title  
7 17-A , chapter 12, sexual exploitation of a minor, to provide for forfeiture of all money,  
8 negotiable instruments, securities, personal property and accounts held in a financial  
9 institution or held in any other manner in the name of the defendant or in which the  
10 defendant has an ownership interest that are directly or indirectly proceeds of the  
11 violation.