

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

S.P. 205 - L.D. 624

**An Act To Require a Person Who Commits a Sex Offense against a  
Dependent or Incapacitated Adult To Register under the Sex Offender  
Registration and Notification Act of 1999**

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

**Sec. 1. 17-A MRSA §253, sub-§2, ¶I**, as amended by PL 2001, c. 383, §16 and affected by §156, is further amended to read:

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client for mental health therapy of the actor. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes, which therapy is based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime; ~~or~~

**Sec. 2. 17-A MRSA §253, sub-§2, ¶J**, as corrected by RR 2003, c. 2, §25, is amended to read:

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime; ~~;~~

**Sec. 3. 17-A MRSA §253, sub-§2, ¶¶K and L** are enacted to read:

K. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental

disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class C crime; or

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime.

**Sec. 4. 17-A MRSA §255-A, sub-§1, ¶¶R-1 and R-2** are enacted to read:

R-1. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class D crime;

R-2. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

**Sec. 5. 17-A MRSA §255-A, sub-§1, ¶¶U and V**, as enacted by PL 2005, c. 450, §2, are amended to read:

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime; øf

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy and the sexual contact includes penetration. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime;;

**Sec. 6. 17-A MRSA §255-A, sub-§1, ¶¶W and X** are enacted to read:

W. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class D crime; or

X. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect and the sexual contact includes penetration. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime.

**Sec. 7. 17-A MRSA §260, sub-§1, ¶J**, as amended by PL 2005, c. 450, §4, is further amended to read:

J. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; or

**Sec. 8. 17-A MRSA §260, sub-§1, ¶K**, as enacted by PL 2005, c. 450, §5, is amended to read:

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime; or

**Sec. 9. 17-A MRSA §260, sub-§1, ¶¶L and M** are enacted to read:

L. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class D crime; or

M. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled

together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class D crime.

**Sec. 10. 34-A MRSA §11203, sub-§6-A** is enacted to read:

**6-A. Sex offense; after October 1, 2011.** For persons convicted and sentenced on or after October 1, 2011, "sex offense" means, in addition to the offenses listed in subsection 6, a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses, without regard to the age of the victim:

A. Title 17-A, section 253, subsection 2, paragraphs J, K and L and Title 17-A, section 255-A, subsection 1, paragraphs C, G, Q, R, R-1, R-2, W and X;

B. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor