

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

—
S.P. 572 - L.D. 1673

An Act To Prohibit the Sexual Solicitation of a Child by any Means

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation closes a loophole in the law prohibiting sexual solicitation of a child; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 15 MRSA §5821, sub-§7-A, as enacted by PL 1999, c. 349, §2, is amended to read:

7-A. Computers. Except as provided in paragraph A, all computers, as defined in Title 17-A, section 431, subsection 2, and computer equipment, including, but not limited to, printers and scanners, that are used or are attempted to be used in violation of Title 17-A, section ~~259~~ 259-A.

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; and

Sec. 2. 17-A MRSA §259, as amended by PL 2003, c. 711, Pt. B, §§9 to 11, is repealed.

Sec. 3. 17-A MRSA §259-A is enacted to read:

§259-A. Solicitation of a child to commit a prohibited act

1. A person is guilty of soliciting a child to commit a prohibited act if:

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

- (1) Is at least 16 years of age;
- (2) Knows or believes that the other person is less than 14 years of age; and
- (3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class D crime; or

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

- (1) Is at least 16 years of age;
- (2) Knows or believes that the other person is less than 12 years of age; and
- (3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class C crime.

2. For purposes of this section, "prohibited act" means:

- A. A sexual act;
- B. Sexual contact; or
- C. Sexual exploitation of a minor pursuant to section 282.

Sec. 4. 19-A MRSA §1653, sub-§6-A, ¶A, as amended by PL 2007, c. 513, §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~~ 259-A; or
- (7) An offense in another jurisdiction 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. 5. 25 MRSA §1574, sub-§5, as corrected by RR 2003, c. 1, §23, is amended to read:

5. Applicable offenses for persons convicted on or after October 1, 2001. ~~This~~ Except as provided in paragraph G-1, this section applies to a person convicted on or after October 1, 2001 of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder;
- B. A Class A, B or C crime;
- C. Sexual abuse of a minor;
- D. Unlawful sexual contact;
- E. Visual sexual aggression against a child;
- F. Sexual contact with a child under 14 years of age;
- G. Solicitation of a child by a computer to commit a prohibited act; ~~or~~

G-1. Solicitation of a child to commit a prohibited act on or after October 1, 2012; or

H. Any lesser included offense of any crime identified in paragraphs A to G if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

Sec. 6. 34-A MRSA §11203, sub-§6, ¶B, as amended by PL 2009, c. 365, Pt. B, §10 and affected by §22, is further amended to read:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; ~~former~~ Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

Sec. 7. 34-A MRSA §11203, sub-§6-B is enacted to read:

6-B. Sex offense; after October 1, 2012. For persons convicted and sentenced on or after October 1, 2012, "sex offense" means, in addition to the offenses listed in subsections 6 and 6-A:

A. A conviction for an offense under Title 17-A, section 259-A or for an attempt or conspiracy to commit an offense under Title 17-A, section 259-A;

B. A violation in another jurisdiction that includes the essential elements of an offense listed under Title 17-A, section 259-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.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor