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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 205, L.D. 624, Bill, “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”

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

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:

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

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

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

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

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

27 **Sec. 5. 17-A MRSA §255-A, sub-§1, ¶¶U and V**, as enacted by PL 2005, c.
28 450, §2, are amended to read:

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

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

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

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

9 X. The actor is employed to provide care to a dependent person, who is not the
10 actor's spouse or domestic partner and who is unable to perform self-care because of
11 advanced age or physical or mental disease, disorder or defect and the sexual contact
12 includes penetration. For the purposes of this paragraph, "domestic partners" means
13 2 unmarried adults who are domiciled together under a long-term arrangement that
14 evidences a commitment to remain responsible indefinitely for each other's welfare.
15 Violation of this paragraph is a Class C crime.

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

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

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

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

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

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

41 M. The actor is employed to provide care to a dependent person, who is not the
42 actor's spouse or domestic partner and who is unable to perform self-care because of
43 advanced age or physical or mental disease, disorder or defect. For the purposes of

