

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 931 - L.D. 1435

An Act to Reduce Commercial Sexual Exploitation

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

Sec. 1. 5 MRSA §3360-I, first ¶, as amended by PL 2013, c. 607, §1, is further amended to read:

As part of the sentence or fine imposed, the court shall impose an assessment of \$35 on any person convicted of murder, a Class A crime, a Class B crime or a Class C crime and \$20 on any person convicted of a Class D crime or a Class E crime, except that the court shall impose an assessment of \$1,000 on any person convicted of aggravated sex trafficking as described in Title 17-A, section 852, an assessment of \$500 on any person convicted of sex trafficking as described in Title 17-A, section 853, an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of engaging a ~~prostitute~~ person for prostitution as described in Title 17-A, section 853-B and an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of ~~patronizing prostitution~~ commercial sexual exploitation of a minor or ~~patronizing prostitution~~ commercial sexual exploitation of a ~~mentally disabled~~ person with a mental disability as described in Title 17-A, section 855. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this section. For purposes of collection and collection procedures, this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any unpaid balances on assessments owed by the offender to the Victims' Compensation Fund. All funds collected as a result of these assessments accrue to the Victims' Compensation Fund.

Sec. 2. 17-A MRSA §151, sub-§10 is enacted to read:

10. It is a defense to prosecution under this section that the objective of the conspiracy is a violation of section 853-B and the actor's participation was engaging or agreeing to personally engage in a sexual act or sexual contact for pecuniary benefit.

Sec. 3. 17-A MRSA §259-B, as enacted by PL 2017, c. 135, §1, is amended to read:
§259-B. Solicitation of a child ~~to engage in prostitution~~ for commercial sexual exploitation

1. A person is guilty of soliciting a child to ~~engage in prostitution~~ for commercial sexual exploitation if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in an act of prostitution, as defined in section 851.

2. Violation of this section is a Class ~~D~~ C crime.

Sec. 4. 17-A MRSA §851, sub-§1, as amended by PL 1995, c. 638, §1, is further amended to read:

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person ~~engaging in prostitution~~ being prostituted or a 3rd person;

Sec. 5. 17-A MRSA §851, sub-§1-A, as amended by PL 1995, c. 638, §2, is further amended to read:

1-A. "Engages a ~~prostitute~~ person for prostitution" means providing, offering to provide or agreeing to provide, either to the person ~~whose prostitution~~ who is sought for an act of prostitution or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251;

Sec. 6. 17-A MRSA §853, sub-§1, ¶B, as amended by PL 2015, c. 360, §1, is further amended to read:

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are any violation of this section or section 852, ~~853-A~~, 853-B or 855 or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

Sec. 7. 17-A MRSA §853, sub-§4 is enacted to read:

4. It is a defense to prosecution under this section that the act alleged to constitute sex trafficking consisted of the person publicly soliciting a patron to engage in prostitution only with the person.

Sec. 8. 17-A MRSA §853-A, as amended by PL 2021, c. 315, §§1 and 2, is repealed.

Sec. 9. 17-A MRSA §853-B, as amended by PL 2013, c. 407, §4, is further amended to read:

§853-B. Engaging a ~~prostitute~~ person for prostitution

1. A person is guilty of engaging a ~~prostitute~~ person for prostitution if:

A. The person engages a ~~prostitute~~ person for prostitution within the meaning of section 851, subsection 1-A. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes

of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime.

Sec. 10. 17-A MRSA §855, as amended by PL 2021, c. 447, §§2 and 3, is further amended to read:

§855. ~~Patronizing prostitution~~ Commercial sexual exploitation of minor or person with mental disability

1. A person is guilty of ~~patronizing prostitution~~ commercial sexual exploitation of a minor if:

A. The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person ~~whose prostitution is sought~~ being prostituted or to a 3rd person and the person ~~whose prostitution is sought~~ being prostituted has not in fact attained 18 years of age or the person knows or believes that the person ~~whose prostitution is sought~~ being prostituted has not attained 18 years of age. Violation of this paragraph is a Class C crime; or

3. A person is guilty of ~~patronizing prostitution~~ commercial sexual exploitation of a ~~mentally disabled~~ person with a mental disability if:

A. The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person ~~whose prostitution is sought~~ being prostituted or to a 3rd person and the person ~~whose prostitution is sought~~ being prostituted suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the ~~other~~ person with a mental disability substantially incapable of appraising the nature of the conduct or conduct involved. Violation of this paragraph is a Class C crime.

Sec. 11. 17-A MRSA §1111-B, sub-§1, ¶A, as enacted by PL 2021, c. 724, §1, is amended by amending subparagraph (16) to read:

(16) ~~Patronizing prostitution~~ Commercial sexual exploitation of a minor or person with a mental disability as described in section 855;

Sec. 12. 17-A MRSA §1604, sub-§5, ¶B, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

B. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 12, 13, 27 or 35, ~~excluding section 853-A~~; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, or an attempt of any such crime was committed, the individual had 2 or more prior convictions under chapter 9, 11, 12, 13, 27 or 35, ~~excluding section 853-A~~; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C, or for an attempt of any such crime, or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be.

(1) In the case of a Class A crime, the sentencing class is not elevated, but the prior record must be assigned special weight by the court when imposing a sentence.

(2) Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, for violations under chapter 11, the dates of prior convictions may have occurred at any time.

This paragraph does not apply to section 210-A if the prior convictions have already served to elevate the sentencing class under section 210-A, subsection 1, paragraph C or E or any other offense in which prior convictions have already served to elevate the sentencing class.

Sec. 13. 17-A MRSA §1902, sub-§6, as corrected by RR 2019, c. 2, Pt. A, §21, is repealed.

Sec. 14. 18-C MRSA §9-401, sub-§4, ¶F, as amended by PL 2019, c. 417, Pt. A, §106, is further amended to read:

F. Has in that child's family background factors such as severe mental illness, substance use disorder, prostitution, commercial sexual exploitation, genetic or medical conditions or illnesses that place the child at risk for future problems.