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An Act Regarding the Sentencing of Persons Convicted of Gross Sexual Assault against Victims under 12 Years of Age

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

Sec. 1. 17-A MRSA §1202, sub-§1-A, ¶C, as enacted by PL 2003, c. 711, Pt. B, §16, is amended to read:

C. In the case of a crime of gross sexual assault, if the State pleads and proves that at the time of the crime the victim had not attained 12 years of age ~~and that the defendant has previously been convicted and sentenced for committing gross sexual assault, rape or gross sexual misconduct against a victim who had not attained 12 years of age, the period of probation may be~~ life or any term of years following a term of imprisonment under section 1252, unless there is no term of imprisonment imposed, in which case the period of probation begins following conviction. In addition to any conditions imposed under section 1204, the court shall attach as a condition of probation that the convicted person participate in counseling or treatment to the satisfaction of the probation officer and that the person be subject to supervision by a probation officer that includes the best available monitoring technology for the duration of the term of probation.

Sec. 2. 17-A MRSA §1252, sub-§4-D, as enacted by PL 2003, c. 711, Pt. B, §20, is amended to read:

4-D. If the State pleads and proves that a crime under ~~section 253, subsection 1, paragraph C or~~ section 282, subsection 1, paragraph C or F was committed against a person who had not attained 12 years of age at the time of the offense, the age of the victim must be given serious consideration by the court in exercising its sentencing discretion.

Sec. 3. 17-A MRSA §1252, sub-§4-E is enacted to read:

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite period of imprisonment for any term of years. In determining the basic term of imprisonment pursuant to section 1252-C, the court shall select a period of 20 years.

SUMMARY

This bill requires a court, in a case involving gross sexual assault against a victim who has not yet attained 12 years of age, to specify a term of imprisonment for any term of years, including a term that exceeds 30 years, which is the maximum allowed for a Class A crime. In making its determination, the court is required to start with a basic period of imprisonment of 20 years; using that term as a starting point, the court may then increase or decrease the term of imprisonment based upon all other relevant sentencing factors, both aggravating and mitigating, appropriate to that case. These sentencing factors include, but are not limited to, the character of the offender and the offender's criminal history, the effect of the offense on the victim and the protection of the public interest.

This bill also imposes probation for life for persons convicted of gross sexual assault against persons who have not attained 12 years of age and requires that these persons, when released from prison, be subject to supervision by the Department of Corrections that includes electronic monitoring for the duration of the probation.