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Date: (Filing No. H- )

**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 931, L.D. 1435, “An Act to Reduce Commercial Sexual Exploitation”

Amend the bill in section 1 in the first indented paragraph in the 8th line (page 1, line 11 in L.D.) by striking out the following: "~~engaging a prostitute commercial sexual exploitation~~" and inserting the following: '~~engaging a prostitute~~ person for prostitution'

Amend the bill by striking out all of section 2.

Amend the bill by striking out all of section 4 and inserting the following:

'**Sec. 4. 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.'

Amend the bill by striking out all of section 5.

Amend the bill by striking out all of section 6 and inserting the following:

'**Sec. 6. 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;

Amend the bill by striking out all of section 7 and inserting the following:

**COMMITTEE AMENDMENT**

1           **'Sec. 7. 17-A MRSA §851, sub-§1-A,** as amended by PL 1995, c. 638, §2, is further  
2 amended to read:

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

7           Amend the bill by striking out all of sections 8, 9, 10 and 11.

8           Amend the bill by striking out all of section 15 and inserting the following:

9           **'Sec. 15. 17-A MRSA §853-B,** as amended by PL 2013, c. 407, §4, is further  
10 amended to read:

11           **§853-B. Engaging a prostitute person for prostitution**

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

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

15           B. The person violates paragraph A and, at the time of the offense, the person has one  
16 or more prior convictions under this section or for engaging in substantially similar  
17 conduct to that contained in this section in another jurisdiction. Section 9-A governs  
18 the use of prior convictions when determining a sentence, except that, for the purposes  
19 of this paragraph, the date of the prior conviction may not precede the commission of  
20 the offense by more than 2 years. Violation of this paragraph is a Class D crime.'

21           Amend the bill by striking out all of section 16 and inserting the following:

22           **'Sec. 16. 17-A MRSA §855,** as amended by PL 2021, c. 447, §§2 and 3, is further  
23 amended to read:

24           **§855. Patronizing prostitution Commercial sexual exploitation of minor or person**  
25 **with mental disability**

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

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

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

36           A. The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or  
37 agrees to give a pecuniary benefit either to the person ~~whose prostitution is sought~~  
38 being prostituted or to a 3rd person and the person ~~whose prostitution is sought~~ being  
39 prostituted suffers from a mental disability that is reasonably apparent or known to the  
40 actor and that in fact renders the ~~other~~ person with a mental disability substantially

1 incapable of appraising the nature of the conduct or conduct involved. Violation of  
2 this paragraph is a Class C crime.'

3 Amend the bill by striking out all of section 20 and inserting the following:

4 '**Sec. 20. 18-C MRSA §9-401, sub-§4, ¶F**, as amended by PL 2019, c. 417, Pt. A,  
5 §106, is further amended to read:

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

9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
10 number to read consecutively.

### 11 SUMMARY

12 This amendment, which is the majority report of the committee, retains the provisions  
13 of the bill:

14 1. Eliminating the crime of engaging in prostitution;

15 2. Renaming the crime of patronizing prostitution of a minor or a person with a mental  
16 disability to commercial sexual exploitation of a minor or a person with a mental disability  
17 and renaming the crime of solicitation of a child to engage in prostitution to solicitation of  
18 a child for commercial sexual exploitation;

19 3. Changing from a Class D crime to a Class C crime the crime of solicitation of a  
20 child for commercial sexual exploitation;

21 4. Establishing a defense to prosecution for conspiracy to commit the crime of  
22 engaging a person for prostitution if the defendant's participation was engaging or agreeing  
23 to personally engage in a sexual act with a patron; and

24 5. Establishing a defense to prosecution for sex trafficking if the defendant's actions  
25 consisted of publicly soliciting a patron to engage in prostitution only with the defendant.

26 In addition, the amendment:

27 1. Strikes the provision of the bill directing the Department of Public Safety to adopt  
28 a model anti-sex-trafficking and commercial sexual exploitation protocol;

29 2. Removes the provisions of the bill changing to "commercial sexual exploitation"  
30 the language used within the Maine Criminal Code to refer to engaging a prostitute who is  
31 not a minor or a person with a mental disability. The amendment instead employs the  
32 phrase "engaging a person for prostitution" in these circumstances; and

33 3. Adding commercial sexual exploitation to the list of circumstances in a child's  
34 family background that would qualify the child as a special needs child under the adoption  
35 assistance program.

### 36 FISCAL NOTE REQUIRED

37 (See attached)