

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

**'An Act To Include in the Crime of Harassment by
Telephone or by Electronic Communication Device the
Distribution of Certain Photographic Images and Videos'**

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

'**Sec. 1. 17-A MRSA §506**, as amended by PL 2011, c. 464, §14 and affected by §30, is further amended to read:

§ 506. Harassment by telephone or by electronic communication device

1. A person is guilty of harassment by telephone or by electronic communication device if:

A. By means of telephone or electronic communication device the person makes any comment, request, suggestion or proposal that is, in fact, offensively coarse or obscene, without the consent of the person called or contacted. Violation of this paragraph is a Class E crime;

A-1. By means of telephone or electronic communication device the person, with the intent to cause affront or alarm or for the purpose of arousing or gratifying sexual desire, sends an image or video of a sexual act as defined in section 251, subsection 1, paragraph C or of the actor's or another person's genitals and:

(1) The person called or contacted is in fact under 14 years of age;

(2) The person called or contacted is in fact 14 or 15 years of age and the actor is at least 5 years older than the person called or contacted; or

(3) The person called or contacted suffers from a mental disability that is reasonably apparent or known to the actor.

Violation of this paragraph is a Class D crime;

A-2. By means of telephone or electronic communication device the person sends an image or a video of a sexual act as defined in section 251, subsection 1, paragraph C or of the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. Violation of this paragraph is a Class E crime;

B. The person makes a telephone call or makes a call or contact by means of an electronic communication device, whether or not oral or written conversation ensues, without disclosing the person's identity and with the intent to annoy, abuse, threaten or harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime;

C. The person makes or causes the telephone or electronic communication device of another repeatedly or continuously to ring or activate or receive data, with the intent to harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime;

D. The person makes repeated telephone calls or repeated calls or contacts by means of an electronic communication device, during which oral or written conversation ensues, with the intent to harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime; or

E. The person knowingly permits any telephone or electronic communication device under the person's control to be used for any purpose prohibited by this section. Violation of this paragraph is a Class E crime.

2. The crime defined in this section may be prosecuted and punished in the county in which the defendant was located when the defendant used the telephone or electronic communication device, or in the county in which the telephone called or made to ring or the electronic communication device called or made to ring or be activated or receive data by the defendant was located.

2-A. As used in this section, "electronic communication device" means any electronic or digital product that communicates at a distance by electronic transmission impulses or by fiber optics, including any software capable of sending and receiving communication, allowing a person to electronically engage in the conduct prohibited under this section.

3. ~~Harassment by telephone or by electronic communication device is a Class E crime.'~~

SUMMARY

This amendment establishes new variants of the crime of harassment by telephone or by electronic communication device. The amendment prohibits using a telephone or electronic communication device, with the intent to cause affront or alarm or for the purpose of arousing or gratifying sexual desire, to send an image or video of a sexual act or of the actor's or another person's genitals if the person called or contacted is under 14 years of age, is 14 or 15 years of age when the actor is at least 5 years older or suffers from a mental disability that is reasonably apparent or known to the actor. The amendment designates these new variants of harassment by telephone or electronic communication device as Class D crimes. The amendment also prohibits using a telephone or by electronic communication device to send an image or video of a sexual act or the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. The amendment designates this new variant of harassment by telephone or by electronic communication device as a Class E crime.

SP0690, LD 1838, item 2, 128th Maine State Legislature , Amendment C "A", Filing Number S-419, Sponsored by
'An Act To Include in the Crime of Harassment by Telephone or by Electronic
Communication Device the Distribution of Certain Photographic Images and Videos'

FISCAL NOTE REQUIRED
(See attached)