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H.P. 1303

House of Representatives, May 7, 2025

An Act to Protect Children and Adults from Technology-facilitated Sexual Abuse

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative KUHN of Falmouth.
Cosponsored by Representatives: LEE of Auburn, SATO of Gorham.

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

2 **Sec. 1. 17-A MRSA §281**, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to
3 read:

4 **§281. Definitions**

5 As used in this chapter, unless the context otherwise indicates, the following terms
6 have the following meanings.

7 **1.** "Disseminate" means to manufacture, publish, send, promulgate, distribute, exhibit,
8 issue, furnish, sell or transfer or to offer or agree to do any of these acts.

9 **1-A.** "Child sexual abuse material" means any image or computer-generated image
10 that depicts or appears to depict a minor engaged in, participating in, observing or being
11 used for sexually explicit conduct.

12 **1-B.** "Generative AI or machine learning" means any computer algorithm or model
13 that creates content, including, but not limited to, text, images, audio or video.

14 **1-C.** "Identifiable child" means a person:

15 A. Who was a minor at the time the image was created or whose likeness as a minor
16 was used in creating, adapting or modifying the image; and

17 B. Who is recognizable as an actual person by that person's face, likeness or other
18 distinguishing characteristic, such as a unique birthmark or other recognizable feature.

19 "Identifiable child" does not require proof of the actual identity of the identifiable child.

20 **1-D.** "Image" means something that is made, captured, generated or saved as a print,
21 negative, slide, motion picture, photograph, computer data file, animation, videotape,
22 livestream or other mechanically, electronically or chemically reproduced visual image or
23 material.

24 **2.** "Minor" means a person who has not attained 18 years of age or an identifiable
25 child who has not attained 18 years of age.

26 ~~**3.** "Photograph" means to make, capture, generate or save a print, negative, slide,~~
27 ~~motion picture, computer data file, videotape or other mechanically, electronically or~~
28 ~~chemically reproduced visual image or material.~~

29 **3-A.** "Obscene material" means material that:

30 A. To the average individual, applying contemporary community standards with
31 respect to what is suitable material for minors considered as a whole, appeals to the
32 prurient interest;

33 B. Depicts or describes, in a patently offensive manner, ultimate sexual acts, excretory
34 functions, masturbation or lewd exhibition of the genitals; and

35 C. Considered as a whole, lacks serious literary, artistic, political or scientific value.

36 **4.** "Sexually explicit conduct" means any of the following acts:

37 A. A sexual act;

38 B. Bestiality;

39 C. Masturbation;

1 D. Sadomasochistic abuse for the purpose of sexual stimulation;

2 E. Lewd exhibition of the genitals, anus or pubic area of a person. An exhibition is
3 considered lewd if the exhibition is designed for the purpose of eliciting or attempting
4 to elicit a sexual response in the intended viewer; or

5 F. Conduct that creates the appearance of the acts in paragraphs A to D and also
6 exhibits any uncovered or covered portions of the genitals, anus or pubic area.

7 **Sec. 2. 17-A MRSA §282**, as amended by PL 2019, c. 113, Pt. B, §15, is further
8 amended to read:

9 **§282. Sexual exploitation of minor**

10 1. A person is guilty of sexual exploitation of a minor if:

11 A. Knowing or intending that the conduct will be ~~photographed~~ used to create an image
12 and, for the purpose of arousing or gratifying the sexual desire of that person or another
13 person, the person intentionally or knowingly employs, solicits, entices, persuades or
14 uses another person an identifiable child, not that person's spouse, who has not in fact
15 attained 16 years of age, to engage in sexually explicit conduct or create child sexual
16 abuse material, except that it is not a violation of this paragraph if the other person
17 identifiable child is 14 or 15 years of age and the person is less than 5 years older than
18 the other person identifiable child. Violation of this paragraph is a Class B crime;

19 A-1. Knowing or intending that the conduct will be ~~photographed~~ used to create an
20 image, the person intentionally or knowingly compels or induces by any threat another
21 person, not that person's spouse, who is in fact a minor, to engage in sexually explicit
22 conduct. Violation of this paragraph is a Class B crime;

23 A-2. The person intentionally or knowingly modifies or alters an image to depict child
24 sexual abuse material and the identifiable child depicted is a minor. Violation of this
25 paragraph is a Class B crime;

26 A-3. The person intentionally or knowingly manufactures or creates an image,
27 including using generative AI or machine learning, and the person knows or should
28 know that the material depicts child sexual abuse material and is obscene material.
29 Violation of this paragraph is a Class B crime.

30 This paragraph does not apply to any noncommercial dissemination, distribution or
31 exhibition for purely educational purposes by any library, art gallery, museum, public
32 school, private school or institution of learning, nor to any commercial distribution or
33 exhibition by any art gallery or museum;

34 B. The person violates paragraph A ~~or~~, A-1, A-2 or A-3 and, at the time of the offense,
35 the person has one or more prior convictions under this section or for engaging in
36 substantially similar conduct to that contained in this section in another jurisdiction.
37 Violation of this paragraph is a Class A crime;

38 C. The person violates paragraph A ~~or~~, A-1, A-2 or A-3 and the minor or identifiable
39 child has not in fact attained 12 years of age. Violation of this paragraph is a Class A
40 crime;

41 D. Being a parent, legal guardian or other person having care or custody of another
42 person who has not in fact attained 16 years of age, that person ~~knowingly or~~

1 intentionally or knowingly permits that person who has not in fact attained 16 years of
2 age to ~~engage in sexually explicit conduct, knowing or intending that the conduct will~~
3 ~~be photographed~~ create child sexual abuse material. Violation of this paragraph is a
4 Class B crime;

5 E. The person violates paragraph D and, at the time of the offense, the person has one
6 or more prior convictions under this section or for engaging in substantially similar
7 conduct to that contained in this section in another jurisdiction. Violation of this
8 paragraph is a Class A crime; or

9 F. The person violates paragraph D and the minor has not in fact attained 12 years of
10 age. Violation of this paragraph is a Class A crime.

11 **2.** The following mandatory minimum terms of imprisonment apply to sexual
12 exploitation of a minor.

13 A. A court shall impose upon a person convicted under subsection 1, paragraph A,
14 A-1, ~~A-2~~, ~~A-3~~ or D a sentencing alternative involving a term of imprisonment of at
15 least 5 years.

16 B. A court shall impose upon a person convicted under subsection 1, paragraph B or
17 E a sentencing alternative involving a term of imprisonment of at least 10 years.

18 The court may not suspend a minimum term of imprisonment imposed under this section
19 unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court
20 shall consider the nature and circumstances of the crime, the physical and mental well-
21 being of the minor and the history and character of the defendant and may only suspend
22 the minimum term if the court is of the opinion that the exceptional features of the case
23 justify the imposition of another sentence. Section 9-A governs the use of prior convictions
24 when determining a sentence.

25 **3. Aggravating sentencing factor of ~~victim~~ minor under 12 years of age.** If the
26 State pleads and proves that a crime under this section was committed against an ~~individual~~
27 identifiable child who had not obtained 12 years of age or that depicts a minor who had not
28 attained 12 years of age, the court, in determining the appropriate sentence, shall treat the
29 age of the ~~victim~~ identifiable child or minor as an aggravating sentencing factor.

30 **4.** A person is subject to prosecution in this State if the person or the identifiable child
31 was in the State at the time of the offense.

32 **5.** If it appears from the nature of an image as described in subsection 1 or the
33 circumstances of the image's dissemination, distribution or exhibition that the image is
34 designed for clearly defined deviant sexual groups, the appeal of the image must be judged
35 with reference to its intended recipient group.

36 **6.** In prosecutions under this chapter, if circumstances of production, presentation,
37 sale, dissemination, distribution or exhibition indicate that an image as described in
38 subsection 1 is being exploited by the defendant for the sake of its prurient appeal, this
39 evidence is probative with respect to the nature of the image and may justify the conclusion
40 that the image lacks serious literary, artistic, political or scientific value.

41 **7.** In prosecutions under this chapter, in determining whether the image taken as a
42 whole lacks serious literary, artistic, political or scientific value in description or
43 representation of the image as described in subsection 1, the fact that the defendant knew

1 that the image depicts a minor under 16 years of age engaged in sexually explicit conduct,
2 as defined in section 281, subsection 4, is a factor that may be considered in making that
3 determination.

4 **Sec. 3. 17-A MRSA §283**, as amended by PL 2015, c. 394, §3, is further amended
5 to read:

6 **§283. Dissemination of ~~sexually explicit~~ child sexual abuse material**

7 1. A person is guilty of dissemination of ~~sexually explicit~~ child sexual abuse material
8 if:

9 A. The person intentionally or knowingly disseminates or possesses with intent to
10 disseminate any ~~book, magazine, newspaper, print, negative, slide, motion picture,~~
11 ~~videotape, computer data file or other mechanically, electronically or chemically~~
12 ~~reproduced visual image or~~ child sexual abuse material that depicts or has been
13 modified to depict any person identifiable child who has not in fact attained 16 years
14 of age who the person knows or has reason to know is ~~a person~~ an identifiable child
15 under 16 years of age engaging in sexually explicit conduct, except that it is not a
16 violation of this paragraph if the ~~person depicted~~ identifiable child is 14 or 15 years of
17 age and the person is less than 5 years older than the ~~person depicted~~ identifiable child.
18 Violation of this paragraph is a Class C crime;

19 A-1. The person intentionally or knowingly disseminates or possesses with intent to
20 disseminate any child sexual abuse material, including an image created using
21 generative AI or machine learning, or material that the person knows or should know
22 depicts or attempts to depict a minor under 16 years of age engaging in sexually explicit
23 conduct and is obscene material. It is not a violation of this paragraph if the minor
24 depicted is 14 or 15 years of age and the person is less than 5 years older than the
25 minor. Violation of this paragraph is a Class C crime;

26 B. The person violates paragraph A or A-1 and, at the time of the offense, has one or
27 more prior convictions under this section or for engaging in substantially similar
28 conduct to that contained in this section in another jurisdiction. Violation of this
29 paragraph is a Class B crime;

30 C. The person intentionally or knowingly disseminates or possesses with intent to
31 disseminate any ~~book, magazine, newspaper, print, negative, slide, motion picture,~~
32 ~~videotape, computer data file or other mechanically, electronically or chemically~~
33 ~~reproduced visual image or~~ child sexual abuse material that depicts ~~any minor or has~~
34 been modified to depict an identifiable child who is less than 12 years of age who the
35 person knows or has reason to know is a minor less than 12 years of age ~~engaging in~~
36 ~~sexually explicit conduct~~. Violation of this paragraph is a Class B crime; ~~or~~

37 C-1. The person intentionally or knowingly disseminates or possesses with intent to
38 disseminate any child sexual abuse material, including an image created using
39 generative AI or machine learning, or material that the person knows or should know
40 depicts or attempts to depict a minor under 12 years of age engaging in sexually explicit
41 conduct and is obscene material. Violation of this paragraph is a Class B crime; or

42 D. The person violates paragraph C or C-1 and, at the time of the offense, has one or
43 more prior convictions under this section or for engaging in substantially similar

conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime.

Section 9-A governs the use of prior convictions when determining a sentence.

2. For the purposes of this section, possession of ~~10~~ 100 or more ~~copies~~ images of any of the materials as described in subsection 1 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person possesses those items with intent to disseminate.

3. For purposes of this section, any element of age of the person depicted means the age of the ~~person~~ identifiable child at the time the sexually explicit conduct occurred, not the age of the ~~person~~ identifiable child depicted at the time of dissemination or possession of the sexually explicit visual image or material.

4. For purposes of this section, if it appears from the nature of an image as described in subsection 1 or the circumstances of the image's dissemination, distribution or exhibition that the image is designed for clearly defined deviant sexual groups, the appeal of the image must be judged with reference to its intended recipient group.

5. In prosecutions under this chapter, if circumstances of production, presentation, sale, dissemination, distribution or publicity indicate that an image as described in subsection 1 is being exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the image and may justify the conclusion that the image lacks serious literary, artistic, political or scientific value.

6. In prosecutions under this chapter, in determining whether an image as described in subsection 1 taken as a whole lacks serious literary, artistic, political or scientific value in description or representation of the image, the fact that the defendant knew that the image depicts a minor under 16 years of age engaged in sexually explicit conduct, as defined in section 281, subsection 4, is a factor that may be considered in making that determination.

7. This section does not apply to any noncommercial dissemination, distribution or exhibition for purely educational purposes by any library, art gallery, museum, public school, private school or institution of learning, nor to any commercial distribution or exhibition by any art gallery or museum.

Sec. 4. 17-A MRSA §284, as amended by PL 2015, c. 394, §4, is further amended to read:

§284. Possession of ~~sexually explicit~~ child sexual abuse material

1. A person is guilty of possession of ~~sexually explicit~~ child sexual abuse material if that person:

A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any ~~book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or~~ child sexual abuse material that the person knows or should know depicts ~~another person engaging in sexually explicit conduct, and,~~ or has been modified to depict:

(1) ~~The other person~~ An identifiable child who has not in fact attained 16 years of age; or

(2) ~~The~~ An identifiable child who the person knows or has reason to know that the other person has not attained 16 years of age.

It is not a violation of this paragraph if the ~~person depicted~~ identifiable child is 14 or 15 years of age and the person is less than 5 years older than the ~~person depicted~~ identifiable child.

Violation of this paragraph is a Class D crime;

A-1. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any child sexual abuse material, including an image created using generative AI or machine learning, or material that:

(1) The person knows or has reason to know depicts or attempts to depict a minor under 16 years of age engaging in sexually explicit conduct; and

(2) Is obscene material.

Violation of this paragraph is a Class D crime;

B. Violates paragraph A or A-1 and, at the time of the offense, 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. Violation of this paragraph is a Class C crime;

C. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any ~~book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or~~ child sexual abuse material that the person knows or should know depicts another person engaging in sexually explicit conduct, and, or has been modified to depict:

(1) ~~The other person~~ An identifiable child who has not in fact attained 12 years of age; or

(2) ~~The~~ An identifiable child who the person knows or has reason to know that the other person has not attained 12 years of age.

Violation of this paragraph is a Class C crime; ~~or~~

C-1. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any child sexual abuse material, including an image created using generative AI or machine learning, or material that:

(1) The person knows or has reason to know depicts a minor under 12 years of age engaging in sexually explicit conduct; and

(2) Is obscene material.

Violation of this paragraph is a Class C crime; or

D. Violates paragraph C or C-1 and, at the time of the offense, 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. Violation of this paragraph is a Class B crime.

Section 9-A governs the use of prior convictions when determining a sentence.

1 2. It is a defense to a prosecution under this section that the person depicted was the
2 spouse of the person possessing the sexually explicit material at the time the material was
3 produced.

4 3. The age of the person depicted and that the person depicted is an actual person may
5 be reasonably inferred from the depiction. Competent medical evidence or other expert
6 testimony may be used to establish the age and authenticity of the person depicted.

7 4. Any material that depicts a person who has not attained 16 years of age engaging
8 in sexually explicit conduct is declared to be contraband and may be seized by the State.

9 5. For purposes of this section, any element of age of the person depicted means the
10 age of the person at the time the sexually explicit conduct occurred, not the age of the
11 person depicted at the time of the transporting, exhibiting, purchasing, possession or
12 accessing of the sexually explicit visual image or material.

13 6. For purposes of this section, if it appears from the nature of the image or the
14 circumstances of the image's dissemination, distribution or exhibition that the image is
15 designed for clearly defined deviant sexual groups, the appeal of the image must be judged
16 with reference to its intended recipient group.

17 7. In prosecutions under this chapter, if circumstances of production, presentation,
18 sale, dissemination, distribution or publicity indicate that image is being commercially
19 exploited by the defendant for the sake of its prurient appeal, this evidence is probative
20 with respect to the nature of the image and may justify the conclusion that the image lacks
21 serious literary, artistic, political or scientific value.

22 8. In prosecutions under this chapter, in determining whether the image taken as a
23 whole lacks serious literary, artistic, political or scientific value in description or
24 representation of the image, the fact that the defendant knew that the image depicts a minor
25 under 16 years of age engaged in sexually explicit conduct, as defined in section 281,
26 subsection 4, is a factor that may be considered in making that determination.

27 9. This section does not apply to any noncommercial distribution or exhibition for
28 purely educational purposes by any library, art gallery, museum, public school, private
29 school or institution of learning, nor to any commercial distribution or exhibition by any
30 art gallery or museum.

31 **Sec. 5. 17-A MRSA §511-A, sub-§1**, as enacted by PL 2015, c. 339, §1, is
32 amended to read:

33 1. A person is guilty of unauthorized dissemination of certain private images if the
34 person, with the intent to harass, torment or threaten the depicted person or another person,
35 intentionally or knowingly disseminates, displays or publishes a photograph, videotape,
36 film or digital recording an image of another person in a state of nudity or engaged in a
37 sexual act or engaged in sexual contact or creates or modifies an image to represent the
38 depicted person in a state of nudity or engaged in a sexual act or engaged in sexual contact
39 in a manner in which there is no public or newsworthy purpose when the person knows or
40 should have known that the depicted person:

41 B. Is identifiable from the image itself or information displayed in connection with the
42 image; and

43 C. Has not consented to the dissemination, display or publication of the private image.

Sec. 6. 17-A MRSA §511-A, sub-§3, ¶D is enacted to read:

D. "Image" has the same meaning as in section 281, subsection 1-D.

Sec. 7. 19-A MRSA §4102, sub-§1, ¶G, as enacted by PL 2021, c. 647, Pt. A, §3 and affected by Pt. B, §65, is amended to read:

G. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; ~~or~~

Sec. 8. 19-A MRSA §4102, sub-§1, ¶H, as enacted by PL 2021, c. 647, Pt. A, §3 and affected by Pt. B, §65, is amended to read:

H. Engaging in aggravated sex trafficking or sex trafficking as described in Title 17-A, section 852 or 853, respectively; or

Sec. 9. 19-A MRSA §4102, sub-§1, ¶I is enacted to read:

I. Communicating to a person a threat to commit, or to cause to be committed, a crime of unauthorized dissemination of certain private images described in Title 17-A, section 511-A.

SUMMARY

This bill makes several changes in the Maine Criminal Code to protect children and adults from sexual abuse that is facilitated by technology, including modified images or videos of children or artificially created images of children. First, the bill defines the terms "child sexual abuse material," "identifiable child," "image," "obscene material" and "generative AI or machine learning" and amends the definition of "minor" for purposes of the Maine Revised Statutes, Title 17-A, chapter 12 to ban the possession and dissemination of child sexual abuse material.

The bill expands the crime of sexual exploitation of a minor by specifying that a person is guilty of sexual exploitation of a minor if knowing or intending that the conduct will be used to create an image and, for the purpose of arousing or gratifying the sexual desire of that person or another person, the person intentionally or knowingly employs, solicits, entices, persuades or uses an identifiable child to engage in sexually explicit conduct or create child sexual abuse material. The bill further expands the crime of sexual exploitation of a minor to include a person who intentionally or knowingly modifies or alters an image to depict child sexual abuse material and the identifiable child depicted is a minor. The bill also expands that crime to prohibit a person from intentionally or knowingly manufacturing or creating an image, including generative AI or machine learning, and the person knows or should know that the material depicts child sexual abuse material and is obscene material.

The bill amends the statute prohibiting possession of sexually explicit material to the crime of prohibiting possession of child sexual abuse material. A person is guilty of possession of child sexual abuse material if that person intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any child sexual abuse material that the person knows or should know depicts, or has been modified to depict, an identifiable child. A person is also guilty of possession of child sexual abuse material if the person intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any child sexual abuse material, including an image created

1 using generative AI or machine learning, or material that the person knows or has reason
2 to know depicts a child engaging in sexually explicit conduct and is obscene material.

3 The bill also expands the scope of the crime of dissemination of sexually explicit
4 material to include images created using generative AI or machine learning.

5 The bill also expands the scope of the crime of unauthorized dissemination of certain
6 private images in Title 17-A, section 511-A. A person is guilty of unauthorized
7 dissemination of certain private images if the person, with the intent to harass, torment or
8 threaten the depicted person or another person, intentionally or knowingly disseminates,
9 displays or publishes an image of another person in a state of nudity or engaged in a sexual
10 act or engaged in sexual contact or creates or modifies an image to represent the depicted
11 person in a state of nudity or engaged in a sexual act or engaged in sexual contact in a
12 manner in which there is no public or newsworthy purpose.

13 Finally, the bill expands the definition of "abuse" under the protection from abuse laws
14 to allow a person to seek a protection order against another person who communicates to
15 the person a threat to commit, or cause to be committed, a crime of unauthorized
16 dissemination of certain private images.