



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

---

Legislative Document

No. 654

---

S.P. 216

In Senate, February 28, 2017

### An Act To Amend the Laws Governing Certain Sexual Offenses

---

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator CARPENTER of Aroostook.  
Cosponsored by Representative HERBIG of Belfast and  
Senators: DESCHAMBAULT of York, MILLETT of Cumberland, Representatives: CASÁS  
of Rockport, ESPLING of New Gloucester.

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

2 **Sec. 1. 17-A MRSA §253, sub-§2, ¶¶K and L** as enacted by PL 2011, c. 423,  
3 §3, are amended to read:

4 K. The actor owns, operates or is an employee of an organization, program or  
5 residence that is operated, administered, licensed or funded by the Department of  
6 Health and Human Services and the other person, not the actor's spouse, receives  
7 services from the organization, program or residence and suffers from a mental  
8 disability that is reasonably apparent or known to the actor. Violation of this  
9 paragraph is a Class C crime; ~~or~~

10 L. The actor is employed to provide care to a dependent person, who is not the  
11 actor's spouse or domestic partner and who is unable to perform self-care because of  
12 advanced age or physical or mental disease, disorder or defect. For the purposes of  
13 this paragraph, "domestic partners" means 2 unmarried adults who are domiciled  
14 together under a long-term arrangement that evidences a commitment to remain  
15 responsible indefinitely for each other's welfare. Violation of this paragraph is a  
16 Class C crime; or

17 **Sec. 2. 17-A MRSA §253, sub-§2, ¶M** is enacted to read:

18 M. The other person has not consented to the sexual act. Violation of this paragraph  
19 is a Class C crime.

20 **Sec. 3. 17-A MRSA §253, sub-§3**, as repealed and replaced by PL 2007, c. 474,  
21 §2, is repealed.

22 **Sec. 4. 17-A MRSA §255-A, sub-§1, ¶¶A and B**, as enacted by PL 2001, c.  
23 383, §23 and affected by §156, are amended to read:

24 A. The other person has not ~~expressly or impliedly acquiesced in~~ consented to the  
25 sexual contact. Violation of this paragraph is a Class D crime;

26 B. The other person has not ~~expressly or impliedly acquiesced in~~ consented to the  
27 sexual contact and the sexual contact includes penetration. Violation of this  
28 paragraph is a Class C crime;

29 **Sec. 5. 17-A MRSA §260, sub-§1, ¶A**, as enacted by PL 2003, c. 138, §5, is  
30 amended to read:

31 A. The other person has not ~~expressly or impliedly acquiesced in~~ consented to the  
32 sexual touching. Violation of this paragraph is a Class D crime;

33 **SUMMARY**

34 This bill creates a new violation under the law defining the crime of gross sexual  
35 assault in which an actor is guilty of gross sexual assault if the actor engages in a sexual  
36 act with another person who has not consented to the sexual act; this violation is a Class  
37 C crime. The bill also amends the crime of gross sexual assault by repealing the defense

1 to prosecution that the other person voluntarily consumed or allowed the actor to  
2 administer to that person drugs or other intoxicants.

3 The bill also amends the crime of unlawful sexual contact and unlawful sexual  
4 touching by eliminating language specifying that the other person did not expressly or  
5 impliedly acquiesce to the sexual contact or sexual touching and replaces it with language  
6 specifying that the person did not consent to the sexual contact or sexual touching.