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**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 996, L.D. 1375, Bill, “An Act To Prevent Law Enforcement Officers from Using Their Authority To Extract Sexual Favors”

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

**'An Act To Prohibit Certain Sexual Acts and Sexual Contact by Law Enforcement Officers in Performance of Official Duties and To Amend the Law on Obstructing Criminal Prosecution'**

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

**'Sec. 1. 17-A MRSA §253, sub-§2, ¶L**, as amended by PL 2017, c. 300, §1, is further amended to read:

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

**Sec. 2. 17-A MRSA §253, sub-§2, ¶M**, as enacted by PL 2017, c. 300, §2, is further amended to read:

M. The other person has not expressly or impliedly acquiesced to the sexual act. Violation of this paragraph is a Class C crime.; or

**Sec. 3. 17-A MRSA §253, sub-§2, ¶N** is enacted to read:

N. The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. For the purposes of this paragraph, "law

**COMMITTEE AMENDMENT**

1 enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection  
2 5. Violation of this paragraph is a Class B crime.

3 **Sec. 4. 17-A MRSA §754, sub-§1**, as amended by PL 2001, c. 383, §89 and  
4 affected by §156, is further amended to read:

5 **1.** A person is guilty of obstructing criminal prosecution if:

6 A. The person uses force, violence or intimidation, or the person promises, offers or  
7 gives any pecuniary benefit or anything of benefit to another, with the intent to  
8 induce the other:

9 (1) To refrain from initiating a criminal prosecution or juvenile proceeding; or

10 (2) To refrain from continuing with a criminal prosecution or juvenile  
11 proceeding that the other person has initiated; or

12 B. The person solicits, accepts or agrees to accept any pecuniary benefit or anything  
13 of benefit to another in consideration of doing any of the things specified in this  
14 subsection.

15 **Sec. 5. 25 MRSA §2806-A, sub-§5, ¶¶J and K**, as enacted by PL 2013, c. 147,  
16 §39, are amended to read:

17 J. Engaging in conduct that violates the standards established by the board and that  
18 when viewed in light of the nature and purpose of the person's conduct and  
19 circumstances known to the person, involves a gross deviation from the standard of  
20 conduct that a reasonable and prudent certificate holder would observe in the same or  
21 similar situation; ~~and~~

22 K. Engaging in a sexual act, as defined in Title 17-A, section 251, subsection 1,  
23 paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1,  
24 paragraph D, with another person, not the person's spouse, if at the time of the sexual  
25 act or sexual contact:

26 (1) The officer was engaged in an investigation or purported investigation  
27 involving an allegation of abuse, as defined in former Title 19, section 762,  
28 subsection 1 and in Title 19-A, section 4002, subsection 1;

29 (2) The other person was the alleged victim of that abuse;

30 (3) The parties did not have a preexisting and ongoing sexual relationship that  
31 included engaging in any sexual act or sexual contact; and

32 (4) Less than 60 days had elapsed since the officer initially became involved in  
33 the investigation or purported investigation; ~~and~~

34 **Sec. 6. 25 MRSA §2806-A, sub-§5, ¶L** is enacted to read:

35 L. Engaging in sexual contact, as defined in Title 17-A, section 251, subsection 1,  
36 paragraph D, with another person, not the person's spouse, if at the time of the sexual  
37 contact the applicant or certificate holder is acting in performance of official duties  
38 and the other person is under arrest, in custody or being interrogated or temporarily  
39 detained, including during a traffic stop or questioning pursuant to an investigation of

1 a crime, except that it is not grounds for discipline that a certificate holder properly  
2 performs a search of a person for legitimate law enforcement purposes consistent  
3 with training standards approved by the board.'

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

6 **SUMMARY**

7 This amendment replaces the bill and provides a new title. The amendment provides  
8 that a law enforcement officer commits Class B gross sexual assault if the officer, in the  
9 performance of the officer's official duties, engages in a sexual act with another person,  
10 not the officer's spouse, while the other person is under arrest, in custody or being  
11 interrogated or temporarily detained, including during a traffic stop or questioning  
12 pursuant to an investigation of a crime. The amendment subjects to disciplinary sanctions  
13 by the Board of Trustees of the Maine Criminal Justice Academy an applicant or  
14 certificate holder who engages in sexual contact, as defined in the Maine Revised  
15 Statutes, Title 17-A, section 251, subsection 1, paragraph D, with another person, not the  
16 person's spouse, if at the time of the sexual contact the applicant or certificate holder is  
17 acting in performance of official duties and the other person is under arrest, in custody or  
18 being interrogated or temporarily detained, including during a traffic stop or questioning  
19 pursuant to an investigation of a crime, except that it is not grounds for discipline that a  
20 certificate holder properly performs a search of a person for legitimate law enforcement  
21 purposes consistent with training standards approved by the board. The amendment also  
22 prohibits, as obstructing criminal prosecution, giving anything of benefit to another  
23 person with the intent to induce the other person to refrain from initiating or continuing  
24 with a criminal prosecution or juvenile proceeding or soliciting, accepting or agreeing to  
25 accept anything of benefit for those purposes.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**