

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND THIRTEEN

H.P. 346 - L.D. 527

**An Act To Protect Vulnerable Adults from Exploitation**

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

**Sec. 1. 17-A MRSA §109, sub-§3, ¶B**, as enacted by PL 1981, c. 324, §27, is amended to read:

B. It is given by a person who, by reason of intoxication, physical illness, mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, or youth, is manifestly unable, or known by the defendant to be unable, to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the crime; or

**Sec. 2. 17-A MRSA §109, sub-§3, ¶C**, as enacted by PL 1981, c. 324, §27, is amended to read:

C. It is induced by force, duress or deception or undue influence.

**Sec. 3. 17-A MRSA §109, sub-§4** is enacted to read:

4. As used in this section, "undue influence" means the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with a person who is an incapacitated adult as defined in Title 22, section 3472, subsection 10 or is a dependent adult as defined in Title 22, section 3472, subsection 6 and who is wholly or partially dependent upon that person or others for care or support, either emotional or physical.

**Sec. 4. 17-A MRSA §361-A, sub-§3** is enacted to read:

3. Proof that a defendant possessed or controlled property of a person who, by reason of physical illness or mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, is manifestly unable or known by the defendant to be unable to make a reasonable judgment with respect to the disposition of the property or proof that a defendant obtained possession or control of the property by undue influence gives rise to a permissible inference under the Maine Rules of Evidence.

Rule 303 that the defendant obtained or exercised unauthorized control over the property with the intent to deprive the owner of the property. As used in this subsection, "undue influence" has the same meaning as in section 109, subsection 4.

**Sec. 5. 17-A MRSA §903**, as enacted by PL 1975, c. 499, §1, is amended to read:

**§903. Misuse of entrusted property**

1. A person is guilty of misuse of entrusted property if ~~he~~ that person deals with property that has been entrusted to ~~him~~ that person as a fiduciary, or property of the government or of a financial institution, in a manner ~~which he~~ that that person knows is a violation of ~~his~~ that person's duty and ~~which~~ that involves a substantial risk of loss to the owner or to a person for whose benefit the property was entrusted.

2. As used in this section "fiduciary" includes any person carrying on fiduciary functions on behalf of an organization ~~which~~ that is a fiduciary.

3. ~~Misuse~~ Except as provided in subsection 4, misuse of entrusted property is a Class D crime.

4. If a misuse of entrusted property results in the loss of a vulnerable person's property or the loss of property entrusted to a person for the benefit of a vulnerable person and, at the time of the offense, the owner or the beneficiary of the property is a vulnerable person:

A. If the value of the property is more than \$1,000 but not more than \$10,000, the misuse of entrusted property is a Class C crime; and

B. If the value of the property is more than \$10,000, the misuse of entrusted property is a Class B crime.

As used in this subsection, "vulnerable person" means an incapacitated adult as defined in Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6.