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Legislative Document

No. 1114

S.P. 386

In Senate, March 26, 2015

An Act To Protect Maine's Children from Sexual Abuse and Exploitation

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
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 DIAMOND of Cumberland.
Cosponsored by Representative LONG of Sherman and
Senators: BURNS of Washington, CUSHING of Penobscot, HASKELL of Cumberland,
ROSEN of Hancock, Representatives: DION of Portland, GUERIN of Glenburn.

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

2 **Sec. 1. 17-A MRSA §259-A, sub-§1, ¶B,** as enacted by PL 2011, c. 597, §3, is
3 amended to read:

4 B. The actor, with the intent to engage in a prohibited act with the other person,
5 knowingly solicits directly or indirectly that person by any means to engage in a
6 prohibited act and the actor:

- 7 (1) Is at least 16 years of age;
- 8 (2) Knows or believes that the other person is less than ~~12~~ 13 years of age; and
- 9 (3) Is at least 3 years older than the age expressed by the other person.

10 Violation of this paragraph is a Class C crime.

11 **Sec. 2. 17-A MRSA §282-A** is enacted to read:

12 **§282-A. Exploitive travel**

13 **1. A person is guilty of exploitive travel if the actor:**

14 **A. Is at least 18 years of age; and**

15 **B. Knowingly travels any distance either within this State, to this State or from this**
16 **State by any means, or attempts to do so, or causes another person to do so or to**
17 **attempt to do so, in order to:**

18 **(1) Seduce, solicit, lure or entice, or attempt to seduce, solicit, lure or entice, a**
19 **child, or a person believed by the actor to be a child, to engage in a prohibited**
20 **act; or**

21 **(2) Solicit, lure or entice, or attempt to solicit, lure or entice, a parent, legal**
22 **guardian or custodian of a child, or a person believed by the actor to be a parent,**
23 **legal guardian or custodian of a child, to consent to the participation of that child**
24 **in a prohibited act.**

25 **2. For the purposes of this section, the following terms have the following**
26 **meanings.**

27 **A. "Child" means a person who is less than 12 years of age.**

28 **B. "Prohibited act" means:**

- 29 **(1) A sexual act as defined in section 251, subsection 1, paragraph C;**
- 30 **(2) Sexual contact as defined in section 251, subsection 1, paragraph D; or**
- 31 **(3) Sexual exploitation of a minor pursuant to section 282.**

32 **3. Violation of this section is a Class C crime.**

33 **Sec. 3. 17-A MRSA §283-A** is enacted to read:

1 **§283-A. Unlawful electronic transmission of image or video depicting sexually**
2 **explicit conduct**

3 **1. A person is guilty of unlawful electronic transmission of an image or video**
4 **depicting sexually explicit conduct if the actor:**

5 **A. Is at least 18 years of age; and**

6 **B. Knowingly electronically transmits to another person known or believed by the**
7 **actor to be less than 14 years of age:**

8 **(1) An image or video that depicts sexually explicit conduct; or**

9 **(2) An Internet link to an image, video or website that depicts sexually explicit**
10 **conduct.**

11 **2. For the purposes of this section, "electronically transmit" means to send by**
12 **electronic means, including, but not limited to, by electronic mail or text messaging or**
13 **through social media or a community online forum.**

14 **3. Violation of this section is a Class D crime, except that:**

15 **A. If the person the actor knows or believes to be viewing the image or video is less**
16 **than 12 years of age, violation of this section is a Class C crime; or**

17 **B. If the person the actor knows or believes to be viewing the image or video is less**
18 **than 10 years of age, violation of this section is a Class B crime.**

19 **Sec. 4. 17-A MRS §285**, as enacted by PL 2003, c. 711, Pt. B, §12, is amended
20 to read:

21 **§285. Forfeiture of equipment and other property items used to facilitate or commit**
22 **violations of this chapter**

23 **1. Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an**
24 **attorney for the State may, in writing, move the court for an order requiring the forfeiture**
25 **to the State of any equipment, including computers, as well as any conveyances and**
26 **money instruments under Title 15, chapter 517, that may have facilitated the commission**
27 **of the offense or been used to commit the offense.** Notice of the motion must be made by
28 the State to the defendant and any party of interest; this notice must be done by registered
29 mail.

30 **2. If contesting the forfeiture, the defendant or other party-in-interest in the in rem**
31 **civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding**
32 **must be before the court.**

33 **3. At the jury trial or court hearing, the State has the burden of proving to the fact**
34 **finder by a preponderance of the evidence that the equipment, conveyance or money**
35 **instrument was used in violation of this chapter.**

36 **4. Upon a finding by a preponderance of the evidence that the equipment,**
37 **conveyance or money instrument was used to facilitate the commission of a violation of**
38 **this chapter or commit a violation of this chapter, the court shall order the equipment,**

