

STATE OF MAINE

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MAINE PROSECUTORS ASSOCIATION SHIRA BURNS, EXECUTIVE DIRECTOR

“An Act to Implement the Recommendations of the Sex Offender Management and Risk Assessment
Advisory Commission Regarding Tier II Offenses”
Before the Joint Standing Committee on Criminal Justice and Public Safety
Public Hearing Date: May 12, 2025
Testimony in SUPPORT of LD 1836

Senator Beebe-Center, Representative Hasenfus and members of the Joint Standing Committee on Criminal Justice and Public Safety. My name is Shira Burns and I represent the Maine Prosecutors Association and submit this testimony in support of LD 1836.

This not a policy change, but only a correction to a mistake in the law. This mistake was noticed based on a case out of Androscoggin County that was prosecuted pursuant to 17-A M.R.S. § 255-A(1)(D) which is Unlawful Sexual Contact. The State has to prove that “the other person is unconscious or otherwise physically incapable or resisting and has not consented to the sexual contact **and the sexual contact includes penetration.**” This is a Class C crime. At this time, this crime is NOT a registerable offense under SORNA.

However, if a person is convicted pursuant to 17-A M.R.S. § 255-A(1)(C) which also is Unlawful Sexual Contact, the crime qualifies as a Tier 1 offense for SORNA registration purposes. In that crime, the State has to prove that “the other person is unconscious or otherwise physically incapable or resisting and has not consented to the sexual contact.” This is a Class D crime.

In comparing the two statutes, a person has to register pursuant to SORNA for a Class D offense where there is NO penetration during the sexual assault, but does NOT have to register pursuant to SORNA for a Class C offense where penetration was used during the sexual assault.

This bill fixes a mistake in the law that didn’t add a certain crime type to the SORNA statute. For these reasons, the Maine Prosecutors Association supports LD 1836.