

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 H.P. 996 - L.D. 1375

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

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

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; ~~or~~

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

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

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

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

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

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

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

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

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

- (1) The officer was engaged in an investigation or purported investigation involving an allegation of abuse, as defined in former Title 19, section 762, subsection 1 and in Title 19-A, section 4002, subsection 1;
- (2) The other person was the alleged victim of that abuse;
- (3) The parties did not have a preexisting and ongoing sexual relationship that included engaging in any sexual act or sexual contact; and
- (4) Less than 60 days had elapsed since the officer initially became involved in the investigation or purported investigation; ~~and~~

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

L. Engaging in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual contact the applicant or certificate holder is acting in performance of official duties and the other person 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, except that it is not grounds for discipline that a certificate holder properly performs a search of a person for legitimate law enforcement purposes consistent with training standards approved by the board.