



Janet T. Mills
GOVERNOR

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AUGUSTA, MAINE
04333-0001

June 23, 2021

The 130th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 130th Legislature:

By the authority conferred by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 710, *An Act Regarding the Criminal Code*.

L.D. 710 was drafted originally by the Criminal Law Advisory Commission (CLAC), a commission comprised of defense attorneys, judges and prosecutors. CLAC is tasked by law to review the Criminal Code, make such recommendations as they deem advisable and to recommend legislation to the Legislature. CLAC members are the foremost experts in our state on the Criminal Code and Criminal Procedure, and I take their recommendations seriously. However, the Committee amendment changes this CLAC bill in one significant respect that requires me to veto the bill.

Current law imposes strict liability on a sexual act committed with a child under the age of fourteen, a reflection of the long-standing tenet of criminal law that children do not have the capacity to consent to sexual acts. This bill as enacted however, creates an exception from the strict liability crime if the actor and the victim are both younger than 14 years of age. In other words, the bill gives immunity from prosecution to an adolescent who commits an act of gross sexual assault with a child absent "compulsion." Young children can be easily pressured and manipulated, emotionally and otherwise; but manipulation is not compulsion under the law.

This bill will make it legal for a 13-year-old to engage in a sexual act with a 4-year-old, undermining the ability of the court to intervene in that 13-year-old's life or to protect the 4-year-old. At the same time, a 14-year-old committing the same act commits a Class A offense and is subject to the intervention of the Juvenile Court.

Strict liability law exists in statute now because it has long been the view that children of this age are unable to give consent to sexual acts. We cannot afford, as a society, to forfeit the protection of our youngest citizens and leave them at risk of sexual exploitation. This amendment was not what CLAC intended when it proposed this otherwise laudable bill to clarify certain provisions of the Criminal Code.



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For these reasons, I return L.D. 710 unsigned and vetoed and urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills
Governor



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