

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 357, L.D. 460, Bill, "An Act to Amend the Sex Offender Registration Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 34-A MRSA §11002, sub-§1, as enacted by PL 1991, c. 809, §1, is amended to read:

1. Agency. "Agency" means ~~an institution or department that has custody or jurisdiction over a sex offender.~~ Agency includes a county jails, state prisons, jail or the Department of Corrections, ~~the Maine Youth Center and detention facilities.~~

Sec. 2. 34-A MRSA §11003, sub-§§1 and 2, as enacted by PL 1991, c. 809, §1, are amended to read:

1. Duty to register. A sex offender ~~who is sentenced to probation, discharged or discharged under supervision from a state or county correctional facility~~ shall, ~~within 15 calendar days after being sentenced to probation, discharge or discharge under supervision,~~ register that person's current address with the Department of Public Safety, State Bureau of Identification within 15 calendar days after discharge or discharge under supervision from a state correctional facility or county jail or, if no period of institutional confinement is to be served, within 15 calendar days of sentencing.

This registration requirement remains in effect for 15 years from the date of:

A. Sentencing if no period of ~~incarceration~~ institutional confinement is to be served; or

2 B. Discharge or discharge under supervision from any state
3 ~~or county~~ correctional facility or county jail.

4
5 2. **Notice of duty to register.** The agency that has
6 jurisdiction over a sex offender required to register under this
7 chapter ~~or the court~~ shall inform the sex offender, prior to
8 discharge or ~~at the time of sentencing~~ discharge under
9 supervision, ~~inform the sex offender~~ of the duty to register
10 under subsection 1. If no period of institutional confinement is
11 to be served, the court shall inform the sex offender at the time
12 of sentencing of the duty to register under subsection 1.

14 **Sec. 3. 34-A MRSA §11003, sub-§4, ¶C**, as enacted by PL 1991,
15 c. 809, §1, is repealed.

16 **Sec. 4. 34-A MRSA §11003, sub-§4, ¶C-1** is enacted to read:

17
18 C-1. The Superior Court, upon the petition of the sex
19 offender, waives the registration requirement.

20
21 A sex offender may not petition for waiver of the
22 registration requirement until at least 5 years after the
23 sex offender is first required to register.

24
25 A sex offender may petition once a year for waiver of the
26 registration requirement.

27
28 Before waiving the registration requirement, the court must
29 determine that the sex offender has shown a reasonable
30 likelihood that registration is no longer necessary and
31 waiver of the registration requirement is appropriate. The
32 court shall consider the sex offender's progress in
33 treatment and may request an independent forensic evaluation
34 provided through the State Forensic Service. If the court
35 orders an independent forensic evaluation, the court shall
36 reimburse the State Forensic Service for the cost of the
37 evaluation and order the sex offender to reimburse the court
38 for the cost of the evaluation; or

39
40
41
42 **FISCAL NOTE**

43
44 The Department of Mental Health and Mental Retardation will
45 be required to provide evaluations if requested by the court.
46 The department will be required to reimburse the evaluator out of
47 existing General Fund appropriations which will be offset through
48 an accounting procedure by payments from the Judicial Department,

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2 resulting in no net fiscal impact. The Judicial Department will
3 order the sex offender to reimburse the court for this cost. If
4 the sex offender is unable to pay, the Judicial Department will
5 incur a net cost. Any net additional costs can be absorbed
6 within the existing budgeted resources of the Judicial Department.

7 The Department of Mental Health and Mental Retardation can
8 absorb the cost of securing qualified evaluators and processing
9 the related payments beginning in fiscal year 1998-99.
10

12 STATEMENT OF FACT

14 This amendment corrects errors in the original Sex Offender
15 Registration Act and makes changes regarding the waiver of the
16 registration requirement.

18 Current law provides for a waiver of the registration
19 requirement in 4 circumstances. The bill repeals the provision
20 allowing for a "certificate of rehabilitation." This amendment
21 adds a new procedure for the sex offender who is required to
22 register to petition the Superior Court for a waiver. An
23 unsuccessful registrant may not petition the court more often
24 than once a year. The registrant must demonstrate that waiving
25 the registration requirement is appropriate by showing that there
26 is a reasonable likelihood that registration is no longer
27 necessary for that offender. The possibility that the
28 registration requirement may be waived before the expiration of
29 the 15-year period may be sufficient motivation for at least some
30 sex offenders to participate in beneficial treatment. The court
31 shall consider the treatment in which the offender is engaged and
32 the offender's progress in that treatment. The court may request
33 that the State Forensic Service conduct an independent evaluation
34 and shall order the sex offender to pay the costs of the
35 evaluation.
36

38 The definition of "agency" is amended to cover the
39 Department of Corrections and county jails only. Convicted
40 persons are currently ordered into the custody of either county
41 jails or the Department of Corrections. No mention of any state
42 prison is necessary. "Detention centers" is deleted because
43 there are none that are not also county jails or the state
44 correctional facilities administered by the Department of
45 Corrections. "The Maine Youth Center" is deleted because the Act
46 does not apply to any juveniles tried as juveniles. The term
47 "institutional confinement" is substituted for "incarceration" to
48 avoid any inconsistency with the language used in the intensive
supervision laws.

COMMITTEE AMENDMENT

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2 The language specifying the duty of a sex offender to
register is clarified to correctly refer to sentences that are
4 imposed. A convicted person who is not sentenced to a period of
institutional confinement is required to register within 15
6 calendar days of sentencing. This includes persons who are
placed on probation or intensive supervision without having to
8 spend any time in jail or prison. Persons who are sentenced to
some period of institutional confinement are required to register
10 when they are released from that institutional confinement. They
will be either discharged completely or discharged under
supervision. They must register within 15 days of that discharge.

12
14 The requirement that the agency or the court inform the
convicted person that the person must register is also
16 clarified. The agency shall provide the information when the
person has served a period of institutional confinement. If the
18 person is not sentenced to a period of institutional confinement,
the court shall inform the person of the duty to register at the
time of sentencing.

20

Reported by the Committee on Judiciary
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