

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1721

S.P. 597

In Senate, March 9, 1999

**An Act to Create the Sex Offender Registration and Notification Act of
1999.**

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MURRAY of Penobscot.
Cosponsored by Representative O'BRIEN of Augusta and
Representative: McALEVEY of Waterboro.

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

4 **Sec. 1. 17-A MRSA §1204, sub-§1-C, as enacted by PL 1995, c. 680, §6, is amended to read:**

6 1-C. The court shall attach as a condition of probation
8 that the convicted sex offender, as defined under Title 34-A,
10 section 11103, satisfy all responsibilities set forth in Title
12 34-A, chapter 13, the Sex Offender Registration and Notification
14 Act and that the convicted sex offender, as defined under Title
34-A, section 11203, subsection 5, or the convicted sexually
violent predator, as defined under Title 34-A, section 11203,
subsection 8, satisfy all responsibilities set forth in Title
34-A, chapter 15, the Sex Offender Registration and Notification
Act of 1999.

16 **Sec. 2. 34-A MRSA c. 15 is enacted to read:**

18 **CHAPTER 15**

20 **SEX OFFENDER REGISTRATION AND NOTIFICATION ACT OF 1999**

22 **SUBCHAPTER I**

24 **GENERAL PROVISIONS**

26 **§11201. Short title**

28 This chapter may be known and cited as the "Sex Offender
30 Registration and Notification Act of 1999."

32 **§11202. Application**

34 This chapter applies to a person sentenced as a sex offender
36 or a sexually violent predator on or after the effective date of
this chapter.

38 **§11203. Definitions**

40 As used in this chapter, unless the context otherwise
42 indicates, the following terms have the following meanings.

44 1. Bureau. "Bureau" means the State Bureau of
Identification.

46 2. Domicile. "Domicile" means the place where a person
48 lives, resides or dwells.

50 3. FBI. "FBI" means the Federal Bureau of Investigation.

2 **4. Law enforcement agency having jurisdiction.** "Law
enforcement agency having jurisdiction" means the chief of police
4 in the municipality where a sex offender expects to be or is
domiciled. If the municipality does not have a chief of police,
6 "law enforcement agency having jurisdiction" means the sheriff of
the county where the municipality is located. "Law enforcement
agency having jurisdiction" also means the sheriff of the county
8 in an unorganized territory.

10 **5. Sex offender.** "Sex offender" means a person who is an
adult convicted or a juvenile convicted as an adult of a sex
12 offense.

14 **6. Sex offense.** "Sex offense" means a conviction for one
of the following offenses or for an attempt of one of the
16 following offenses if the victim was less than 18 years of age at
the time of the criminal conduct:

18 **A. A violation under Title 17, section 2922;**

20 **B. A violation under Title 17-A, section 253, subsection 2,**
22 **paragraph G or H; Title 17-A, section 254; Title 17-A,**
24 **section 255, subsection 1, paragraph C, F, G or J; Title**
26 **17-A, section 256; Title 17-A, section 258; Title 17-A,**
28 **section 301, unless the actor is a parent of the victim;**
Title 17-A, section 302; Title 17-A, section 511, subsection
1, paragraph D; Title 17-A, section 556; Title 17-A, section
852, subsection 1, paragraph B; Title 17-A, section 854; or
Title 17-A, section 855; or

30 **C. A violation of an offense in another jurisdiction,**
32 **including, but not limited to, a state, federal, military or**
34 **tribal court, that includes the essential elements of an**
offense listed in paragraph A or B.

36 **7. Sexually violent offense.** "Sexually violent offense"
means:

38 **A. A conviction for or an attempt to commit an offense**
40 **under Title 17-A, section 253, subsection 1; Title 17-A,**
42 **section 253, subsection 1; Title 17-A, section 253,**
44 **subsection 2, paragraph A, B, C, D, E, F, I or J; or Title**
17-A, section 255, subsection 1, paragraph A, B, D, E, H or
I; or

46 **B. A conviction for or an attempt to commit an offense of**
48 **the law in another jurisdiction, including, but not limited**
to, a state, federal, military or tribal court, that
includes the essential elements of an offense listed in
50 **paragraph A.**

2 8. Sexually violent predator. "Sexually violent predator"
3 means a person who is an adult convicted or a juvenile convicted
4 as an adult of a:

5 A. Sexually violent offense; or

6 B. Sex offense when the person has a prior conviction for
7 which registration is required by this chapter.

8
9
10 SUBCHAPTER II

11 SEX OFFENDER REGISTRATION

12
13 §11221. Maintenance of sex offender registry

14
15 1. Maintenance of registry. The bureau shall establish and
16 maintain a registry of persons required to register pursuant to
17 this subchapter. The registry must include the following
18 information on each registrant:

19 A. The sex offender's or sexually violent predator's name,
20 aliases, date of birth, sex, race, height, weight, eye
21 color, mailing address, home address or expected domicile;

22 B. Place of employment or college or school being attended
23 and the corresponding address and location;

24 C. Offense history;

25 D. Documentation of any treatment received for a mental
26 abnormality or personality disorder;

27 E. A photograph and set of fingerprints;

28 F. A description of the offense for which the sex offender
29 or sexually violent predator was convicted, the date of
30 conviction and the sentence imposed; and

31 G. Any other information the bureau determines important.

32
33 2. National or regional registry. The bureau is authorized
34 to make the registry available to and accept files from a
35 national or regional registry of sex offenders for the purpose of
36 sharing information.

37 3. Registration form. The bureau shall develop a
38 standardized registration form to be made available to the
39 appropriate reporting authorities and persons required to
40 register.

2 **4. Verification form.** The bureau shall develop and mail a
3 **nonforwardable verification form to the last reported mailing**
4 **address of each person required to meet the verification**
5 **requirements of this chapter.**

6
7 **5. Sexually violent predator directory.** The bureau shall
8 **develop and maintain a directory of sexually violent predators.**

9
10 **6. Distribution of information.** The bureau shall
11 **distribute information to the department and law enforcement**
12 **agencies having jurisdiction as required by this chapter.**

13
14 **7. Rules.** The bureau may adopt rules that are necessary to
15 **administer its responsibilities pursuant to this chapter. Rules**
16 **adopted pursuant to this subsection are routine technical rules**
17 **pursuant to Title 5, chapter 375, subchapter II-A.**

18
19 **§11222. Duty of sex offender or sexually violent predator to**
20 **register**

21
22 **1. Determination by court.** The court shall determine at
23 **the time of conviction if a defendant is a sex offender or a**
24 **sexually violent predator. A person who the court determines is**
25 **a sex offender or a sexually violent predator shall register**
26 **according to this subchapter.**

27
28 **2. Responsibility of ensuring initial registration.** The
29 **department, the county jail or the state mental health institute**
30 **that has custody of a sex offender or sexually violent predator**
31 **required to register under this subchapter shall inform the sex**
32 **offender or sexually violent predator, prior to discharge or**
33 **conditional release, of the duty to register. If a sex offender**
34 **or sexually violent predator does not serve a period of**
35 **institutional confinement, the court shall inform the sex**
36 **offender or sexually violent predator at the time of sentencing**
37 **of the duty to register. The department, county jail, state**
38 **mental health institute or court shall:**

39 **A. Inform the sex offender or sexually violent predator of**
40 **the duty to register and obtain the information required for**
41 **the initial registration;**

42
43 **B. Inform the sex offender or sexually violent predator**
44 **that if the sex offender or sexually violent predator**
45 **changes domicile, the sex offender or sexually violent**
46 **predator shall give the new address to the bureau in writing**
47 **within 10 days;**
48

2 C. Inform the sex offender or sexually violent predator
4 that if that sex offender or sexually violent predator
6 changes domicile to another state, the sex offender or
8 sexually violent predator shall register the new address
with the bureau and if the new state has a registration
requirement, the sex offender or sexually violent predator
shall register with a designated law enforcement agency in
the new state not later than 10 days after establishing
domicile in the new state;

10 D. Inform the sex offender or sexually violent predator
12 that if that sex offender or sexually violent predator has
14 part-time or full-time employment in another state, with or
16 without compensation, for more than 14 consecutive days or
18 for an aggregate period exceeding 30 days in a calendar year
20 or if that sex offender or sexually violent predator enrolls
22 in any type of school in another state on a part-time or
24 full-time basis, the sex offender or sexually violent
predator shall give the bureau the registrant's place of
employment or school to be attended in writing within 10
days after beginning work or attending school and if the
other state has a registration requirement, shall register
with the designated law enforcement agency in the other
state;

26 E. Obtain fingerprints and a photograph of the sex offender
28 or sexually violent predator or the court may order the sex
30 offender or sexually violent predator to submit to the
32 taking of fingerprints and a photograph at a specified law
enforcement agency within 3 days if the fingerprints and
photograph have not already been obtained in connection with
the offense that necessitates registration; and

34 F. Enforce the requirement that the sex offender or
36 sexually violent predator read and sign a form provided by
38 the bureau that states that the duty of the sex offender or
sexually violent predator to register under this section has
been explained.

40 3. Transfer of initial registration information to bureau
42 and FBI. The department, county jail, state mental health
44 institute or court within 3 days of receipt of the information
46 described in subsection 2 shall forward the information to the
48 bureau. If the court orders the sex offender or sexually violent
50 predator to submit to the taking of fingerprints and a photograph
at a specified law enforcement agency, the law enforcement agency
shall submit the fingerprints and photograph to the bureau within
3 days. The bureau shall immediately enter the information into
the registration system, notify the law enforcement agency having
jurisdiction where the sex offender or sexually violent predator

2 expects to be domiciled and transmit the information to the FBI
3 for inclusion in the national FBI sex offender database.

4 4. Verification. During the period a sex offender or
5 sexually violent predator is required to register, the bureau
6 shall verify a sex offender's or sexually violent predator's
7 domicile. The bureau shall verify the domicile of a sex offender
8 on each anniversary of the sex offender's initial registration
9 date and shall verify a sexually violent predator's domicile
10 every 90 days after that sexually violent predator's initial
11 registration date. Verification of the domicile of a sex
12 offender or sexually violent predator occurs as set out in this
13 subsection.

14
15 A. At least 10 days prior to the required verification
16 date, the bureau shall mail a nonforwardable verification
17 form to the last reported mailing address of the sex
18 offender or sexually violent predator.

19
20 B. The verification form must state that the sex offender
21 or sexually violent predator still resides at the address
22 last reported to the bureau.

23
24 C. The sex offender or sexually violent predator shall take
25 the completed verification form and a photograph to the law
26 enforcement agency having jurisdiction within 10 days of
27 receipt of the form.

28
29 D. The law enforcement agency having jurisdiction shall
30 verify the sex offender's or sexually violent predator's
31 identity, have the sex offender or sexually violent offender
32 sign the verification form, take the sex offender's or
33 sexually violent offender's fingerprints, complete the law
34 enforcement portion of the verification form and immediately
35 forward the fingerprints, photograph and form to the bureau.

36
37 5. Change of domicile. A sex offender or sexually violent
38 predator shall notify the bureau in writing of a change of
39 domicile within 10 days after establishing that domicile.

40
41 A. If the sex offender or sexually violent predator
42 establishes a new domicile in the State, the bureau shall
43 notify, within 3 days, both the law enforcement agency
44 having jurisdiction where the sex offender or sexually
45 violent predator was formerly domiciled and the law
46 enforcement agency having jurisdiction where the sex
47 offender or sexually violent predator is currently domiciled.

48
49 B. If the sex offender or sexually violent predator
50 establishes a domicile in another state, the bureau shall
51 notify, within 3 days, the law enforcement agency having

2 jurisdiction where the sex offender or sexually violent
3 predator was formerly domiciled and the law enforcement
4 agency having jurisdiction where the sex offender or
5 sexually violent predator is currently domiciled.

6 For purposes of registration requirements pursuant to this
7 subchapter, convictions that result from or are connected with
8 the same act or result from offenses committed at the same time
9 are considered as one conviction.

10 **§11223. Duty of person establishing domicile to register**

11 A person required under another jurisdiction to register as
12 a sex offender or sexually violent predator, or who is convicted
13 of a similar sex offense or sexually violent offense in another
14 jurisdiction, shall register as a sex offender or sexually
15 violent predator within 10 days of establishing domicile in this
16 State. The person shall contact the bureau, which shall provide
17 the person with the registration form and direct the person to
18 take the form and a photograph of the person to the law
19 enforcement agency having jurisdiction. The law enforcement
20 agency shall supervise the completion of the form, take the
21 person's fingerprints and immediately forward the form,
22 photograph and fingerprints to the bureau.

23 **§11224. Duty of person employed or attending school to register**

24 A person who is required under another jurisdiction to
25 register as a sex offender or sexually violent predator because
26 the person is domiciled in another state or who is convicted of a
27 similar sex offense or sexually violent offense in another
28 jurisdiction shall register as a sex offender within 10 days of
29 beginning full-time or part-time employment, with or without
30 compensation, for more than 14 consecutive days or for an
31 aggregate period exceeding 30 days in a calendar year or
32 beginning school on a full-time or part-time basis in this
33 State. The person shall contact the bureau, which shall provide
34 the person with a registration form and direct the person to take
35 the form and a photograph of the person to the law enforcement
36 agency having jurisdiction. The law enforcement agency shall
37 supervise the completion of the form, take the person's
38 fingerprints and immediately forward the form, photograph and
39 fingerprints to the bureau.

40 **§11225. Duration of registration**

41 1. Sex offender. A sex offender shall register for a
42 period of 10 years from the initial date of registration pursuant
43 to this chapter, except that a sex offender required to register
44 because the sex offender established a domicile in this State

2 subsequent to being declared a sex offender in another state or
3 under another jurisdiction shall register for a maximum of 10
4 years from the date when the sex offender was first required to
5 register in the other state or under another jurisdiction.

6 2. Sexually violent predator. A sexually violent predator
7 shall register for the duration of the sexually violent
8 predator's life.

9 3. Periods of incarceration or civil confinement.
10 Notwithstanding subsections 1 and 2, the bureau may suspend the
11 requirement that a sex offender register during periods of
12 incarceration or civil confinement.

13 4. Relief from duty to register. If the underlying
14 conviction for a sex offense or sexually violent offense is
15 reversed, vacated or set aside, or if the registrant is pardoned
16 for the offense, registration or continued registration as a sex
17 offender or sexually violent predator is no longer required.

18 §11226. Violation

19 A sex offender or sexually violent predator who fails to
20 register or update the information required under this chapter
21 commits a Class D crime, except that a violation of this section
22 when the sex offender or sexually violent offender has 2 or more
23 prior convictions in this State for violation of this chapter is
24 a Class C crime. For purposes of this section, the dates of both
25 of the prior convictions must precede the commission of the
26 offense being enhanced by no more than 10 years, although both
27 prior convictions may have occurred on the same day. The date of
28 the conviction is deemed to be the date that sentence is imposed,
29 even though an appeal was taken. The date of a commission of a
30 prior offense is deemed to be that stated in the complaint,
31 information or indictment, notwithstanding the use of the words
32 "on or about" or the equivalent. It is an affirmative defense
33 that the failure to register or update information resulted from
34 just cause.

35 SUBCHAPTER III

36 NOTIFICATION

37 §11251. Notification

38 The provisions regarding notification in chapter 13,
39 subchapter III are applicable to a person determined to be a sex
40 offender or sexually violent predator pursuant to this chapter.

41 §11252. Immunity from liability

2 Neither the failure to perform the requirements of this
3 chapter nor compliance with this chapter subjects any state,
4 municipal or county official or employee to liability in a civil
5 action. The immunity provided under this section applies to the
6 release of relevant information to other officials or employees
7 or to the general public.

8
9
10 **SUMMARY**

11 This bill provides for the registration of sex offenders in
12 conformance with federal law. The bill does the following.

13 1. It expands the scope of the definition of "sex offender"
14 for purposes of registration.

15 2. It adds "sexually violent predator" as a new category.

16 3. It increases the type of identifying information for sex
17 offenders and sexually violent predators that must be kept by the
18 State Bureau of Identification and directs the bureau to forward
19 registration information to the Federal Bureau of Investigation
20 for inclusion in the national sex offender database.

21 4. It sets guidelines for sex offender responsibilities
22 regarding registration.

23 5. It creates a penalty for failure to comply with sex
24 offender registration requirements.