

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 633, L.D. 833, Bill, "An Act to Amend the Sex Offender Registration and Notification Act of 1999"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Sex Offender Registration and Notification Act of 1999 and Sentencing Provisions for Sex Offenders'

Further amend the bill in section 1 in paragraph A by striking out all of subparagraph (14) and inserting in its place the following:

'(14) A violation of a sex offender registration provision under Title 34-A, chapter ~~11-05-13~~ 15; and'

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 17-A MRSA §1252, sub-§4-A, as enacted by PL 1997, c. 460, §5, is amended to read:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27 was committed, the defendant had been convicted of 2 or more crimes

violating chapter 9, 11, 13 or 27 or essentially similar crimes in other jurisdictions, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. For purposes of this subsection, for violations under chapter 11, the dates of the prior convictions may have occurred at any time. For purposes of this subsection, for violations under chapter 9, 13 or 27, the dates of the prior convictions must precede the commission of the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same date. This subsection does not apply if the 2 prior offenses were committed within a 3-day period. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date an offense was committed is presumed to be the date stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 34-A MRSA §11201, as enacted by PL 1999, c. 437, §2, is amended to read:

§11201. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999." The purpose of this chapter is to protect the public from potentially dangerous sex offenders and sexually violent predators by enhancing access to information concerning sex offenders and sexually violent predators.'

Further amend the bill by inserting after section 6 the following:

'Sec. 7. 34-A MRSA §11203, sub-§6, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, 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; or Title 17-A, section 855; or

2 **Sec. 8. 34-A MRSA §11203, sub-§8, ¶B**, as enacted by PL 1999,
c. 437, §2, is amended to read:

4 B. Sex offense when the person has a prior conviction for
6 ~~which registration is required by this chapter or an attempt~~
 to commit an offense that includes the essential elements of
8 a sex offense or sexually violent offense.

10 **Sec. 9. 34-A MRSA §11222, sub-§2-A** is enacted to read:

12 **2-A. Sex offenders or sexually violent predators convicted**
14 **from June 30, 1992 to September 17, 1999. Sex offenders or**
16 **sexually violent predators convicted from June 30, 1992 to**
18 **September 17, 1999 shall register with the bureau by September 1,**
 2002, unless sooner notified of a duty to register by the bureau,
 the Department of Corrections or a law enforcement officer, in
 which case the sex offender or sexually violent predator shall
 register with the bureau within 10 days of notice.

20 **Sec. 10. 34-A MRSA §11225, sub-§1**, as enacted by PL 1999, c.
22 437, §2, is amended to read:

24 **1. Sex offender.** A sex offender shall register for a
26 period of 10 years from the initial date of registration pursuant
28 to this chapter, except that a sex offender required to register
30 because the sex offender established a domicile in this State
32 subsequent to being declared a sex offender in another state or
34 under another jurisdiction shall register for a maximum of 10
36 years from the date when the sex offender was first required to
38 register in the other state or under another jurisdiction. A sex
 offender or sexually violent predator convicted from June 30,
 1992 to September 17, 1999 shall register for 10 years from the
 date of conviction if the sex offender or sexually violent
 predator was not sentenced to a period of institutional
 confinement, or for 10 years from the date of discharge or
 conditional release if the sex offender or sexually violent
 predator was sentenced to a period of institutional confinement.

40 **Sec. 11. 34-A MRSA §11227**, as enacted by PL 1999, c. 437, §2,
is amended to read:

42 **§11227. Violation**

44 A sex offender or sexually violent predator who fails to
46 register or update the information required under this chapter
48 commits a Class D crime, except that a violation of this section
50 when the sex offender or sexually violent predator has 2 or more
prior convictions in this State for violation of this chapter is
a Class C crime. For purposes of this section, the dates of both
of the prior convictions must precede the commission of the

2 offense being enhanced by no more than 10 years, although both
3 prior convictions may have occurred on the same day. The date of
4 the conviction is deemed to be the date that sentence is imposed,
5 even though an appeal was taken. The date of a commission of a
6 prior offense is deemed to be that stated in the complaint,
7 information or indictment, notwithstanding the use of the words
8 "on or about" or the equivalent. It is an affirmative defense
9 that the failure to register or update information resulted from
10 just cause, except that sex offenders and sexually violent
11 predators convicted from June 30, 1992 to September 17, 1999 may
12 not raise a defense under just cause that they were not aware of
13 the registration requirement.'

14 Further amend the bill by striking out all of the 2nd
15 section 8 (page 5, lines 4 to 8 in L.D.) and inserting in its
16 place the following:

17 **'Sec. 8. Nonseverability.** Notwithstanding the provisions of
18 the Maine Revised Statutes, Title 1, section 71, if any provision
19 of this Act or its application is held invalid, it is the intent
20 of the Legislature that the entire Act is invalidated.
21

22 **Sec. 9. Appropriation.** The following funds are appropriated
23 from the General Fund to carry out the purposes of this Act.

	2001-02	2002-03
28 PUBLIC SAFETY, DEPARTMENT OF		
30 State Police		
32	(1,000)	(2,000)
33	\$9,376	\$28,801

34 Appropriates funds for the
35 General Fund share of the
36 costs of one additional Data
37 Entry Specialist position
38 starting on October 1, 2001
39 and one additional Data Entry
40 Specialist position starting
41 on July 1, 2002. These
42 positions are necessary to
43 process an expanded sex
44 offender registration program.

45 **Sec. 10. Allocation.** The following funds are allocated from
46 the Highway Fund to carry out the purposes of this Act.
47
48

2001-02

2002-03

2

PUBLIC SAFETY, DEPARTMENT OF

4

State Police

6

Positions - Legislative Count	(1,000)	(2,000)
Personal Services	\$14,063	\$43,202

8

10

Allocates funds for the Highway Fund share of the costs of one additional Data Entry Specialist position starting on October 1, 2001 and one additional Data Entry Specialist position starting on July 1, 2002. These positions are necessary to process an expanded sex offender registration program.'

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Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

24

26

Further amend the bill by inserting at the end before the summary the following:

28

30

FISCAL NOTE

32

2001-02

2002-03

34

APPROPRIATIONS/ALLOCATIONS

36

General Fund	\$9,376	\$28,801
Highway Fund	14,063	43,202

38

40

REVENUES

42

General Fund	\$20,000	\$30,000
Highway Fund	30,000	45,000

44

46

This bill includes General Fund appropriations of \$9,376 and \$28,801 in fiscal years 2001-02 and 2002-03, respectively, for the State Police program within the Department of Public Safety to cover the General Fund share of one additional Data Entry

48

50

2 Specialist position to start on October 1, 2001 and one
3 additional Data Entry Specialist to start on July 1, 2002. This
4 bill also includes Highway Fund allocations of \$14,063 and
5 \$43,202 in fiscal years 2001-02 and 2002-03, respectively, for
6 the State Police program within the Department of Public Safety
7 to cover the Highway Fund share of these positions. These
8 positions are necessary to process an expanded sex offender
9 registration program.

10 The expanded sex offender registration requirements will
11 increase General Fund revenue by \$20,000 and \$30,000 in fiscal
12 years 2001-02 and 2002-03, respectively. These expanded
13 registration requirements will also increase Highway Fund revenue
14 by \$30,000 and \$45,000 in fiscal years 2001-02 and 2002-03,
15 respectively.'

18 SUMMARY

20 This amendment does the following.

22 1. It amends the title.

24 2. It deletes language made unnecessary due to the repeal
25 of the Maine Revised Statutes, Title 34-A, chapters 11 and 13 and
26 the new application of Title 34-A, chapter 15.

28 3. It amends the sentencing provisions of the Maine
29 Criminal Code by specifying that for purposes of enhancement of
30 the classification of a crime due to prior convictions, the prior
31 convictions for sex offenses could have occurred at any time,
32 instead of within a 10-year window.

34 4. It specifies that the purpose of the Maine Revised
35 Statutes, Title 34-A, chapter 15 is not punishment but to protect
36 the public from potentially dangerous sex offenders and sexually
37 violent predators by enhancing access to information concerning
38 sex offenders and sexually violent predators.

40 5. It adds the new crime of solicitation of a child by
41 computer to commit a prohibited act to the definition of "sex
42 offense" for purposes of registration and notification.

44 6. It clarifies the definition of "sexually violent
45 predator."

46 7. It specifies that sex offenders or sexually violent
47 predators convicted from June 30, 1992 to September 17, 1999
48 shall register with the Department of Public Safety, State Bureau
49 of Identification by September 1, 2002, unless sooner notified of
50

2 a duty to register by the bureau, the Department of Corrections
4 or a law enforcement officer, in which case the sex offender or
sexually violent predator shall register with the bureau within
10 days.

6 8. It specifies that a sex offender or sexually violent
8 predator convicted from June 30, 1992 to September 17, 1999 shall
10 register for 10 years from the date of conviction if the sex
12 offender or sexually violent predator was not sentenced to a
14 period of institutional confinement, or for 10 years from the
date of discharge or conditional release if the sex offender or
sexually violent predator was sentenced to a period of
institutional confinement.

16 9. It specifies that sex offenders and sexually violent
18 predators convicted from June 30, 1992 to September 17, 1999 may
not raise a defense under "just cause" that they were not aware
of the registration requirement.

20 10. It amends the severability clause to conform to
22 drafting standards.

24 11. It adds an appropriation and allocation section and a
fiscal note to the bill.