

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 833

H.P. 633

House of Representatives, February 15, 2001

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

Reference to the Committee on Criminal Justice suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative CANAVAN of Waterville.

Cosponsored by Representatives: GAGNE of Buckfield, GERZOFKY of Brunswick, MARRACHE of Waterville, O'BRIEN of Lewiston, TOBIN of Windham.

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

2
4 **Sec. 1. 17-A MRSA §15, sub-§1, ¶A,** as amended by PL 1999, c.
644, §1, is further amended to read:

6 A. Any person who the officer has probable cause to believe
8 has committed or is committing:

10 (1) Murder;

12 (2) Any Class A, Class B or Class C crime;

14 (3) Assault while hunting;

16 (4) Any offense defined in chapter 45;

18 (5) Assault, criminal threatening, terrorizing or
20 stalking, if the officer reasonably believes that the
person may cause injury to others unless immediately
arrested;

22 (5-A) Assault, criminal threatening, terrorizing,
24 stalking, criminal mischief, obstructing the report of
a crime or injury or reckless conduct if the officer
reasonably believes that the person and the victim are
26 family or household members, as defined in Title 15,
section 321;

28 (6) Theft as defined in section 357, when the value of
30 the services is \$2,000 or less if the officer
reasonably believes that the person will not be
32 apprehended unless immediately arrested;

34 (7) Forgery, if the officer reasonably believes that
36 the person will not be apprehended unless immediately
arrested;

38 (8) Negotiating a worthless instrument if the officer
40 reasonably believes that the person will not be
apprehended unless immediately arrested;

42 (9) A violation of a condition of probation when
44 requested by a probation officer or juvenile caseworker;

46 (10) Violation of a condition of release in violation
48 of Title 15, section 1026, subsection 3; Title 15,
section 1027, subsection 3; Title 15, section 1051,
subsection 2; and Title 15, section 1092;

2 (11) Theft involving a detention under Title 17,
section 3521;

4 (12) Harassment, as set forth in section 506-A;

6 (13) Violation of a protection order, as specified in
8 Title 5, section 4659, subsection 2; Title 15, section
321, subsection 6; former Title 19, section 769,
10 subsection 2; former Title 19, section 770, subsection
5; Title 19-A, section 4011, subsection 3; and Title
12 19-A, section 4012, subsection 5; or

14 (14) A violation of a sex offender registration
provision under former Title 34-A, chapter 11 or 13 or
16 Title 34-A, chapter 15; and

18 **Sec. 2. 17-A MRSA §1152, sub-§2-C**, as enacted by PL 1995, c.
680, §4, is amended to read:

20 **2-C.** As part of a sentence, the court shall order every
22 natural person who is a convicted sex offender or sexually
violent predator, as defined under Title 34-A, section ~~11103~~
24 11203 to satisfy all requirements set forth in the Sex Offender
Registration and Notification Act of 1999.

26 **Sec. 3. 17-A MRSA §1204, sub-§1-C**, as amended by PL 1999, c.
437, §1, is further amended to read:

28 **1-C.** The court shall attach as a condition of probation
30 that the convicted sex offender, as defined under Title 34-A,
32 section ~~11103~~, ~~satisfy all responsibilities set forth in Title~~
~~34-A, chapter 13, the Sex Offender Registration and Notification~~
34 ~~Act and that the convicted sex offender, as defined under Title~~
36 ~~34-A, section 11203, subsection 5, or the convicted sexually~~
violent predator, as defined under Title 34-A, section 11203,
38 subsection 8, satisfy all responsibilities set forth in Title
34-A, chapter 15, the Sex Offender Registration and Notification
Act of 1999.

40 **Sec. 4. 34-A MRSA cc. 11 and 13**, as amended, are repealed.

42 **Sec. 5. 34-A MRSA §11202**, as enacted by PL 1999, c. 437, §2,
is amended to read:

44 **§11202. Application**

46 This chapter applies to a person sentenced as a sex offender
48 or a sexually violent predator on or after ~~the effective date of~~
~~this chapter~~ June 30, 1992.

50

2 **Sec. 6. 34-A MRSA §11203, sub-§§1-A, 1-B and 4-A** are enacted to
read:

4 **1-A. Conditional release.** "Conditional release" means
supervised release of a sex offender or sexually violent predator
6 from institutional confinement for placement on probation,
parole, intensive supervision, supervised community confinement,
8 home release monitoring or release under Title 15, section 104-A
or Title 17-A, chapter 50.

10 **1-B. Discharge.** "Discharge" means unconditional release
and discharge of a sex offender or sexually violent predator from
12 institutional confinement upon the expiration of a sentence or
upon discharge under Title 15, section 104-A.

14 **4-A. Risk assessment instrument.** "Risk assessment
instrument" means an instrument created and modified as necessary
16 by reviewing and analyzing precursors to a sex offense, victim
populations of a sex offender or sexually violent predator,
18 living conditions and environment of a sex offender or sexually
violent predator and other factors predisposing a person to
20 become a sex offender, repeat sex offender or sexually violent
predator, for the ongoing purpose of identifying risk factors
22 used to provide notification of a sex offender's or sexually
violent predator's conditional release or discharge from a state
24 correctional facility to law enforcement agencies and to the
26 public.

28 **Sec. 7. 34-A MRSA §11251,** as enacted by PL 1999, c. 437, §2,
30 is repealed.

32 **Sec. 8. 34-A MRSA §§11253 to 11256** are enacted to read:

34 **§11253. Risk assessment**

36 The department shall establish and apply a risk assessment
instrument to each sex offender and sexually violent predator
38 under its jurisdiction for the purpose of notification to law
enforcement agencies and to the public.

40 **§11254. Mandatory notification of conditional release or**
42 **discharge of sex offenders**

44 The department and the Department of Public Safety, State
Bureau of Identification are governed by the following notice
46 provisions when a sex offender or sexually violent predator is
conditionally released or discharged.

48

2 1. Duties of the department. The department shall give the
Department of Public Safety, State Bureau of Identification
4 notice of the following:

6 A. The address where the sex offender or sexually violent
predator will reside;

8 B. The address where the sex offender or sexually violent
predator will work, if applicable;

10 C. The geographic area to which a sex offender's or
12 sexually violent predator's conditional release is limited,
if any; and

14 D. The status of the sex offender or sexually violent
16 predator when released as determined by the risk assessment
instrument, the offender's or predator's risk assessment
18 score, a copy of the risk assessment instrument and
applicable contact standards for the offender or predator.

20 2. Duties of the Department of Public Safety, State Bureau
22 of Identification. Upon receipt of the information concerning
the conditional release or discharge of a sex offender or
24 sexually violent predator pursuant to subsection 1, the
Department of Public Safety, State Bureau of Identification shall
26 forward the information in subsection 1 to all law enforcement
agencies that have jurisdiction in those areas where the sex
28 offender or sexually violent predator may reside or work.

30 **§11255. Public notification**

32 1. Department. Upon the conditional release or discharge
of a sex offender or sexually violent predator from a state
34 correctional institution, the department shall give notice of the
information under section 11254, subsection 1 to members of the
36 public the department determines appropriate to ensure public
safety.

38 2. Law enforcement agencies. Upon receipt of the
40 information concerning the conditional release or discharge of a
sex offender or sexually violent predator pursuant to section
42 11254, subsection 2, a law enforcement agency shall notify
members of municipality that the law enforcement agency
44 determines appropriate to ensure public safety.

46 **§11256. Risk assessment assistance**

48 Upon request, the department shall provide to law
enforcement agencies technical assistance concerning risk
50 assessment for purposes of notification to the public of a sex

2 offender's or sexually violent predator's conditional release or
3 discharge.

4 **Sec. 8. Nonseverability.** If a court rules that that section of
5 this Act that amends the Maine Revised Statutes, Title 34-A,
6 section 11202 is unconstitutional and has no force and effect,
7 then this entire Act has no force and effect.

10 **SUMMARY**

12 This bill revises the most recent sex offender registration
13 and notification laws to apply to all sex offenders and sexually
14 violent predators who were sentenced on or after June 30, 1992.

16 This bill repeals the two earlier laws covering sex offender
17 registration and notification that applied before 1999.

18 This bill contains a nonseverability clause that provides
19 that this whole Act has no force and effect if a court rules that
20 the amendment to the Maine Revised Statutes, Title 34-A, section
21 11202 is unconstitutional. This is necessary to ensure that
22 current law requiring registration and notification is retained
23 for sex offenders convicted and sentenced before September 18,
24 1999, if a court rules that the Sex Offender Registration and
25 Notification Act of 1999 cannot be modified to apply
26 retroactively to earlier convictions.