

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1855

H.P. 1380

House of Representatives, February 17, 2004

An Act To Implement the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability

Reported by Representative FAIRCLOTH of Bangor for the Commission to Improve Community Safety and Sex Offender Accountability pursuant to Resolve 2003, chapter 75, section 8 and chapter 101, section 3.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 **PART A**

6 **Sec. A-1. 17 MRSA §2922, sub-§1**, as amended by PL 2003, c.
452, Pt. I, §47 and affected by Pt. X, §2, is further amended to
8 read:

10 **1. Offense.** A person is guilty of sexual exploitation of a
minor if:

12 A. Knowing or intending that the conduct will be
14 photographed, the person intentionally or knowingly employs,
solicits, entices, persuades, uses or compels another
16 person, not that person's spouse, who is in fact a minor, to
engage in sexually explicit conduct~~;~~~~or~~. Violation of this
paragraph is a Class B crime;

18 A-1. The person violates paragraph A and, at the time of
20 the offense, has one or more prior convictions for violating
this section~~;~~. Violation of this paragraph is a Class A
22 crime;

24 A-2. The person violates paragraph A and the minor has not
in fact attained 12 years of age. Violation of this
26 paragraph is a Class A crime;

28 A-3. The person violates paragraph A and, at the time of
the offense, the person has one or more prior convictions
30 for violating this section and the minor has not in fact
attained 12 years of age. Violation of this paragraph is a
32 Class A crime;

34 B. Being a parent, legal guardian or other person having
care or custody of another person~~,~~ who is in fact a minor,
36 that person knowingly or intentionally permits that minor to
engage in sexually explicit conduct, knowing or intending
38 that the conduct will be photographed~~;~~~~or~~. Violation of
this paragraph is a Class B crime;

40 B-1. The person violates paragraph B and the minor has not
42 in fact attained 12 years of age. Violation of this
paragraph is a Class A crime;

44 C. The person violates paragraph B and, at the time of the
46 offense, has one or more prior convictions for violating
this section. Violation of this paragraph is a Class A
48 crime; or

2 D. The person violates paragraph B and, at the time of the
3 offense, the person has one or more prior convictions for
4 violating this section, and the minor has not in fact
5 attained 12 years of age. Violation of this paragraph is a
6 Class A crime.

7 **Sec. A-2. 17 MRSA §2922, sub-§2**, as repealed and replaced by
8 PL 2003, c. 452, Pt. I, §48 and affected by Pt. X, §2, is
9 repealed.

10 **Sec. A-3. 17 MRSA §2922, sub-§3** is enacted to read:

11 **3. Mandatory minimum terms of imprisonment.** The following
12 mandatory minimum terms of imprisonment apply to sexual
13 exploitation of a minor.

14 A. A court shall impose upon a person convicted under
15 subsection 1, paragraph A or B a sentencing alternative
16 involving a term of imprisonment of at least 5 years.

17 B. A court shall impose upon a person convicted under
18 subsection 1, paragraph A-1 or C a sentencing alternative
19 involving a term of imprisonment of at least 10 years.

20 The court may not suspend a minimum term of imprisonment imposed
21 under paragraph A or B unless it sets forth in detail, in
22 writing, the reasons for suspending the sentence. The court
23 shall consider the nature and circumstances of the crime, the
24 physical and mental well-being of the minor and the history and
25 character of the defendant and may only suspend the minimum term
26 if it is of the opinion that exceptional features of the case
27 justify the imposition of another sentence. Title 17-A, section
28 9-A governs the use of prior convictions when determining a
29 sentence.

30 **Sec. A-4. 17 MRSA §2923, sub-§1**, as repealed and replaced by
31 PL 2003, c. 452, Pt. I, §49 and affected by Pt. X, §2, is amended
32 to read:

33 **1. Offense.** A person is guilty of dissemination of
34 sexually explicit material if:

35 A. The person intentionally or knowingly disseminates or
36 possesses with intent to disseminate any book, magazine,
37 print, negative, slide, motion picture, videotape, computer
38 data file or other mechanically, electronically or
39 chemically reproduced visual image or material that depicts
40 any minor, who the person knows or has reason to know is a
41 minor, engaging in sexually explicit conduct; ~~or.~~ Violation
42 of this paragraph is a Class C crime;

2 B. The person violates paragraph A and, at the time of the
4 offense, has one or more prior convictions for violating
this section. Violation of this paragraph is a Class B
crime;

6
8 C. The person intentionally or knowingly disseminates or
possesses with intent to disseminate any book, magazine,
10 print, negative, slide, motion picture, videotape, computer
data file or other mechanically, electronically or
12 chemically reproduced visual image or material that depicts
any minor who is less than 12 years of age, who the person
14 knows or has reason to know is a minor less than 12 years of
age, engaging in sexually explicit conduct. Violation of
this paragraph is a Class B crime; or

16
18 D. The person violates paragraph C and, at the time of the
offense, has one or more prior convictions for violating
this section. Violation of this paragraph is a Class A
20 crime.

22 Title 17-A, section 9-A governs the use of prior convictions when
determining a sentence.

24
26 **Sec. A-5. 17 MRSA §2923, sub-§3,** as repealed and replaced by
PL 2003, c. 452, Pt. I, §50 and affected by Pt. X, §2, is
repealed.

28
30 **Sec. A-6. 17 MRSA §2924, sub-§2-A,** as enacted by PL 2003, c.
452, Pt. I, §52 and affected by Pt. X, §2, is amended to read:

32 **2-A. Offense.** A person is guilty of possession of sexually
explicit material if that person:

34
36 A. Intentionally or knowingly transports, exhibits,
purchases or possesses any book, magazine, print, negative,
38 slide, motion picture, computer data file, videotape or
other mechanically, electronically or chemically reproduced
40 visual image or material that the person knows or should
know depicts another person engaging in sexually explicit
conduct, and:

42 (1) The other person has not in fact attained the age
44 of 14 years; or

46 (2) The person knows or has reason to know that the
48 other person has not attained the age of 14 years~~+-e#.~~

50 Violation of this paragraph is a Class D crime;

2 B. Violates paragraph A and, at the time of the offense,
has one or more prior convictions for violating this
4 section. Violation of this paragraph is a Class C crime;

6 C. Intentionally or knowingly transports, exhibits,
purchases or possesses any book, magazine, print, negative,
8 slide, motion picture, computer data file, videotape or
other mechanically, electronically or chemically reproduced
10 visual image or material that the person knows or should
know depicts another person engaging in sexually explicit
12 conduct, and;

14 (1) The other person has not in fact attained 12 years
of age; or

16 (2) The person knows or has reason to know that the
other person has not attained 12 years of age.

18 Violation of this paragraph is a Class C crime; or

20 D. Violates paragraph C and, at the time of the offense,
has one or more prior convictions for violating this
22 section. Violation of this paragraph is a Class B crime.

24 Title 17-A, section 9-A governs the use of prior convictions when
determining a sentence.

28 **Sec. A-7. 17 MRSA §2924, sub-§5**, as repealed and replaced by
PL 2003, c. 452, Pt. I, §53 and affected by Pt. X, §2, is
30 repealed.

32 **Sec. A-8. 17-A MRSA §253, sub-§1**, as amended by PL 2001, c.
383, §14 and affected by §156, is further amended to read:

34 1. A person is guilty of gross sexual assault if that
36 person engages in a sexual act with another person and:

38 A. The other person submits as a result of compulsion, as
defined in section 251, subsection 1, paragraph E.
40 Violation of this paragraph is a Class A crime; ~~or~~

42 B. The other person, not the actor's spouse, has not in
fact attained the age of 14 years. Violation of this
44 paragraph is a Class A crime; or

46 C. The other person, not the actor's spouse, has not in
fact attained 12 years of age. Violation of this paragraph
48 is a Class A crime.

2 **Sec. A-9. 17-A MRSA §255-A, sub-§1, ¶¶E-1 and F-1** are enacted
to read:

4 E-1. The other person, not the actor's spouse, is in fact
6 less than 12 years of age and the actor is at least 3 years
 older. Violation of this paragraph is a Class B crime;

8 F-1. The other person, not the actor's spouse, is in fact
10 less than 12 years of age and the actor is at least 3 years
 older and the sexual contact includes penetration.
12 Violation of this paragraph is a Class A crime;

14 **Sec. A-10. 17-A MRSA §256, sub-§1**, as enacted by PL 1995, c.
72, §1, is amended to read:

16 1. A person is guilty of visual sexual aggression against a
18 child if, for the purpose of arousing or gratifying sexual desire
 or for the purpose of causing affront or alarm, the actor, having
20 in fact attained 18 years of age, exposes the actor's genitals to
 another person or causes the other person to expose that person's
22 genitals to the actor and the other person, not the actor's
 spouse, has not in fact attained 14 years of age. Violation of
24 this subsection is a Class D crime.

26 **Sec. A-11. 17-A MRSA §256, sub-§1-A** is enacted to read:

28 1-A. A person is guilty of visual sexual aggression against
 a child if, for the purpose of arousing or gratifying sexual
30 desire or for the purpose of causing affront or alarm, the actor,
 having in fact attained 18 years of age, exposes the actor's
32 genitals to another person or causes the other person to expose
 that person's genitals to the actor and the other person, not the
34 actor's spouse, has not in fact attained 12 years of age.
 Violation of this subsection is a Class C crime.

36 **Sec. A-12. 17-A MRSA §256, sub-§2**, as enacted by PL 1995, c.
72, §1, is repealed.

38 **Sec. A-13. 17-A MRSA §258, sub-§1**, as enacted by PL 1997, c.
40 143, §1, is amended to read:

42 1. A person is guilty of sexual misconduct with a child
44 under 14 years of age if that person, having in fact attained 18
 years of age, knowingly displays any sexually explicit materials
46 to another person, not the actor's spouse, who has not in fact
 attained the age of 14 years, with the intent to encourage the
48 other person to engage in a sexual act or sexual contact.
 Violation of this subsection is a Class D crime.

50 **Sec. A-14. 17-A MRSA §258, sub-§1-A** is enacted to read:

2 1-A. A person is guilty of sexual misconduct with a child
3 under 12 years of age if that person, having in fact attained 18
4 years of age, knowingly displays any sexually explicit materials
5 to another person, not the actor's spouse, who has not in fact
6 attained 12 years of age, with the intent to encourage the other
7 person to engage in a sexual act or sexual contact. Violation of
8 this subsection is a Class C crime.

10 **Sec. A-15. 17-A MRSA §258, sub-§3**, as enacted by PL 1997, c.
11 143, §1, is repealed.

12 **Sec. A-16. 17-A MRSA §259, sub-§1-A**, as enacted by PL 2001, c.
13 383, §25 and affected by §156, is amended to read:

14 **1-A.** A person is guilty of soliciting a child by a computer
15 to commit a prohibited act if:

16 A. The actor:

17 (1) Uses a computer knowingly to solicit, entice,
18 persuade or compel another person to meet with the
19 actor;

20 (2) Is at least 16 years of age;

21 (3) Knows or believes that the other person is less
22 than 14 years of age; and

23 (4) Is at least 3 years older than the expressed age
24 of the other person; and

25 B. The actor has the intent to engage in any one of the
26 following prohibited acts with the other person:

27 (1) A sexual act as defined in section 251, subsection
28 1, paragraph C;

29 (2) Sexual contact as defined in section 251,
30 subsection 1, paragraph D; or

31 (3) Sexual exploitation of a minor pursuant to Title
32 17, section 2922.

33 Violation of this subsection is a Class D crime.

34 **Sec. A-17. 17-A MRSA §259, sub-§1-B** is enacted to read:

35 1-B. A person is guilty of soliciting a child by a computer
36 to commit a prohibited act if:

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A. The actor:

(1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;

(2) Is at least 16 years of age;

(3) Knows or believes that the other person is less than 12 years of age; and

(4) Is at least 3 years older than the expressed age of the other person; and

B. The actor has the intent to engage in any one of the following prohibited acts with the other person:

(1) A sexual act as defined in section 251, subsection 1, paragraph C;

(2) Sexual contact as defined in section 251, subsection 1, paragraph D; or

(3) Sexual exploitation of a minor pursuant to Title 17, section 2922.

Violation of this subsection is a Class C crime.

Sec. A-18. 17-A MRSA §259, sub-§3, as enacted by PL 1999, c. 349, §3, is repealed.

Sec. A-19. 17-A MRSA §511, sub-§1, as amended by PL 1997, c. 467, §1, is further amended to read:

1. A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, that person intentionally:

A. Commits a civil trespass on property with the intent to overhear or observe any person in a private place.
Violation of this paragraph is a Class D crime;

B. Installs or uses in a private place without the consent of the person or persons entitled to privacy in that place, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place.
Violation of this paragraph is a Class D crime;

2 C. Installs or uses outside a private place without the
3 consent of the person or persons entitled to privacy
4 therein, any device for hearing, recording, amplifying or
5 broadcasting sounds originating in that place that would not
6 ordinarily be audible or comprehensible outside that place;
7. Violation of this paragraph is a Class D crime;

8 D. Engages in visual surveillance in a public place by
9 means of mechanical or electronic equipment with the intent
10 to observe or photograph, or record, amplify or broadcast an
11 image of any portion of the body of another person present
12 in that place when that portion of the body is in fact
13 concealed from public view under clothing and a reasonable
14 person would expect it to be safe from surveillance.
15 Violation of this paragraph is a Class D crime; or

16 17 E. Violates paragraph B and the person or persons entitled
18 to privacy in that place are under 12 years of age.
19 20 Violation of this paragraph is a Class C crime.

21 **Sec. A-20. 17-A MRSA §511, sub-§3,** as enacted by PL 1975, c.
22 499, §1, is repealed.

23 **Sec. A-21. 17-A MRSA §1152, sub-§2-C,** as amended by PL 2001,
24 c. 439, Pt. 000, §2, is further amended to read:

25 ~~2-C. As part of~~ At the time the court imposes a sentence,
26 the court shall order every natural person ~~who is a~~ convicted ~~sex~~
27 ~~offender--or--sexually--violent--predator,~~ of a sex offense or a
28 sexually violent offense as defined under Title 34-A, section
29 11203 to satisfy all requirements set forth in the Sex Offender
30 Registration and Notification Act of 1999.
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33 **Sec. A-22. 17-A MRSA §1202, sub-§1-A, ¶A,** as enacted by PL
34 1999, c. 788, §2, is repealed and the following enacted in its
35 place:
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37 A. If the State pleads and proves that at the time of the
38 crime the victim had not attained 12 years of age, the
39 period of probation for a person convicted under chapter 11
40 or Title 17, chapter 93-B may not exceed:

41 (1) Eighteen years for a Class A crime;

42 (2) Twelve years for a Class B crime; and

43 (3) Six years for a Class C crime;

44 **Sec. A-23. 17-A MRSA §1202, sub-§1-A, ¶B,** as enacted by PL
45 1999, c. 788, §2, is amended to read:
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2 B. The period of probation for a person sentenced as a
4 ~~dangerous~~ repeat sexual assault offender pursuant to section
1252, subsection 4-B is any term of years; and

6 **Sec. A-24. 17-A MRSA §1202, sub-§1-A, ¶C** is enacted to read:

8 C. The period of probation for a person sentenced under
10 section 1252, subsection 5-C may not exceed 18 years.

12 **Sec. A-25. 17-A MRSA §1203, sub-§1-A, ¶B**, as enacted by PL
1999, c. 788, §4, is amended to read:

14 B. The court may revoke probation if, during the initial
16 unsuspended portion of the term of imprisonment, a person
sentenced as a ~~dangerous~~ repeat sexual assault offender,
18 pursuant to section 1252, subsection 4-B, refuses to
actively participate in a sex offender treatment program in
20 accordance with the expectations and judgment of the
treatment providers, when requested to do so by the
Department of Corrections.

22 **Sec. A-26. 17-A MRSA §1231, sub-§2, ¶A**, as enacted by PL 1999,
24 c. 788, §7, is amended to read:

26 A. Any period of years for a person sentenced as a
28 ~~dangerous~~ repeat sexual assault offender pursuant to section
1252, subsection 4-B; and

30 **Sec. A-27. 17-A MRSA §1252, sub-§4-B**, as enacted by PL 1999,
c. 788, §8, is amended to read:

32 **4-B.** If the State pleads and proves that the defendant is a
34 ~~dangerous~~ repeat sexual assault offender, the court,
notwithstanding subsection 2, may set a definite period of
36 imprisonment for any term of years.

38 A. As used in this section, "~~dangerous~~ repeat sexual
40 assault offender" means a person who commits a new gross
sexual assault after having been convicted previously and
sentenced for any of the following:

42 (1) Gross sexual assault, formerly denominated as
44 gross sexual misconduct;

46 (2) Rape;

48 (3) Attempted murder accompanied by sexual assault;

50 (4) Murder accompanied by sexual assault; or

2 (5) Conduct substantially similar to a crime listed in
4 subparagraph (1), (2), (3) or (4) that is a crime under
the laws of the United States or any other state.

6 The date of sentencing is the date of the oral pronouncement
8 of the sentence by the trial court, even if an appeal is
taken.

10 B. "Accompanied by sexual assault" as used with respect to
12 attempted murder, murder and crimes involving substantially
14 similar conduct in other jurisdictions is satisfied if the
sentencing court at the time of sentence imposition makes
such a finding.

16 **Sec. A-28. 17-A MRSA §1252, sub-§§5-C and 5-D** are enacted to
18 read:

20 5-C. In using a sentencing alternative involving a term of
22 imprisonment for a person convicted of a Class A crime of gross
24 sexual assault who, at the time the crime was committed, had
26 previously been convicted and sentenced for a Class B or Class C
crime of unlawful sexual contact, or an essentially similar crime
in another jurisdiction, the court may impose a maximum period of
incarceration in excess of 20 years based on the prior conviction
alone.

28 5-D. In using a sentencing alternative involving a term of
30 imprisonment for a person convicted under section 253, subsection
32 1, paragraph C or Title 17, section 2922, subsection 1, paragraph
34 A-2, A-3, B-1 or D, the court may impose a maximum period of
incarceration in excess of 20 years based on the fact that the
victim had not attained 12 years of age.

36 **PART B**

38 **Sec. B-1. 34-A MRSA §11201**, as amended by PL 2001, c. 439,
40 Pt. 000, §6, is further amended to read:

42 **§11201. Short title**

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

2 **Sec. B-2. 34-A MRSA §11202**, as amended by PL 2001, c. 439,
Pt. 000, §7, is repealed and the following enacted in its place:

4 **§11202. Application**

6 This chapter applies to a person defined as a 10-year
7 registrant or lifetime registrant who has been sentenced on or
8 after June 30, 1992.

10 **Sec. B-3. 34-A MRSA §11203, sub-§§1-A and 1-B**, as enacted by
PL 2001, c. 439, Pt. 000, §8, are amended to read:

12 **1-A. Conditional release.** "Conditional release" means
14 supervised release of a ~~sex-offender or sexually violent predator~~
registrant from institutional confinement for placement on
16 probation, parole, intensive supervision, supervised community
confinement, home release monitoring or release under Title 15,
18 section 104-A or Title 17-A, chapter 50.

20 **1-B. Discharge.** "Discharge" means unconditional release
and discharge of a ~~sex-offender or sexually violent predator~~
22 registrant from institutional confinement upon the expiration of
a sentence or upon discharge under Title 15, section 104-A.

24 **Sec. B-4. 34-A MRSA §11203, sub-§§1-C and 3-A** are enacted to
26 read:

28 **1-C. Another state.** "Another state" means each of the
several states except Maine, the District of Columbia, the
30 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
American Samoa and the Northern Mariana Islands.

32 **3-A. Jurisdiction.** "Jurisdiction" means the Federal
34 Government, including the military, this State or another state
or tribe.

36 **Sec. B-5. 34-A MRSA §11203, sub-§4**, as enacted by PL 1999, c.
38 437, §2, is amended to read:

40 **4. Law enforcement agency having jurisdiction.** "Law
enforcement agency having jurisdiction" means the chief of police
42 in the municipality where a ~~sex-offender~~ registrant expects to be
or is domiciled. If the municipality does not have a chief of
44 police, "law enforcement agency having jurisdiction" means the
sheriff of the county ~~where~~ where the municipality is located.
46 "Law enforcement agency having jurisdiction" also means the
sheriff of the county in an unorganized territory.

48 **Sec. B-6. 34-A MRSA §11203, sub-§4-A**, as enacted by PL 2001,
50 c. 439, Pt. 000, §8, is amended to read:

2 **4-A. Risk assessment instrument.** "Risk assessment
3 instrument" means an instrument created and modified as necessary
4 by reviewing and analyzing precursors to a sex offense, victim
5 populations of a ~~sex--offender--or--sexually--violent--predator~~
6 registrant, living conditions and environment of a ~~sex--offender~~
7 ~~or--sexually--violent--predator~~ registrant and other factors
8 predisposing a person to become a ~~sex--offender--repeat--sex~~
9 ~~offender--or--sexually--violent--predator~~ registrant, for the ongoing
10 purpose of identifying risk factors used to provide notification
11 of a ~~sex--offender's--or--sexually--violent--predator's~~ registrant's
12 conditional release or discharge from a state correctional
13 facility to law enforcement agencies and to the public.

14 **Sec. B-7. 34-A MRSA §11203, sub-§4-C** is enacted to read:

16 **4-C. Registrant.** "Registrant" means a 10-year registrant
17 or a lifetime registrant or, when appropriate, both a 10-year
18 registrant and a lifetime registrant.

20 **Sec. B-8. 34-A MRSA §11203, sub-§5,** as amended by PL 2003, c.
21 371, §1, is further amended to read:

24 **5. Ten-year registrant.** "~~Sex--offender~~ Ten-year registrant"
25 means a person who is an adult convicted and sentenced or a
26 juvenile convicted and sentenced as an adult of a sex offense.

28 **Sec. B-9. 34-A MRSA §11203, sub-§§6, ¶B,** as amended by PL
29 2001, c. 383, §153 and affected by §156 and amended by c. 439,
30 Pt. 000, §9, is repealed and the following enacted in its place:

32 B. A violation under Title 17-A, section 253, subsection 2,
33 paragraph E, F, G, H, I or J; Title 17-A, section 254;
34 former Title 17-A, section 255, subsection 1, paragraph A,
35 B, D, E, F, I or J if the crime was not elevated a class
36 under former Title 17-A, section 255, subsection 3; Title
37 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I,
38 J, K, L, M, N, O, R, S or T; Title 17-A, section 256; Title
39 17-A, section 258; Title 17-A, section 259; Title 17-A,
40 section 301; Title 17-A, section 302; Title 17-A, section
41 511, subsection 1, paragraph D; Title 17-A, section 556;
42 Title 17-A, section 852, subsection 1, paragraph B; or Title
43 17-A, section 855; or

44 **Sec. B-10. 34-A MRSA §11203, sub-§7, ¶A,** as amended by PL
45 2001, c. 553, §3 and affected by §10, is further amended to read:

48 A. A conviction for one of the offenses or for an attempt
49 to commit one of the offenses under former Title 17-A,
50 section 252; under Title 17-A, section 253, subsection 1;

2 Title 17-A, section 253, subsection 2, paragraph A, B, C or
3 D; former Title 17-A, section 255, subsection 1, paragraph C
4 or H or paragraph A, B, D, E, F, G, I or J if the crime was
5 elevated a class under Title 17-A, former section 255,
6 subsection 3; or Title 17-A, section 255-A, subsection 1,
7 paragraph G, D, E, F, G, H, O or P; or

8 **Sec. B-11. 34-A MRSA §11203, sub-§8**, as amended by PL 2003, c.
9 371, §3, is further amended to read:

10 **8. Lifetime registrant.** "~~Sexually---violent---predator~~
11 Lifetime registrant" means a person who is an adult convicted
12 and sentenced or a juvenile convicted and sentenced as an adult
13 of a:

14 A. Sexually violent offense; or

15 B. Sex offense when the person has a prior conviction for
16 or an attempt to commit an offense that includes the
17 essential elements of a sex offense or sexually violent
18 offense.

19 **Sec. B-12. 34-A MRSA §11203, sub-§9** is enacted to read:

20 **9. Tribe.** "Tribe" means the Passamaquoddy Tribe or the
21 Penobscot Nation.

22 **Sec. B-13. 34-A MRSA §11221, sub-§1, ¶¶A and F**, as enacted by
23 PL 1999, c. 437, §2, are amended to read:

24 A. The ~~sex--offender's--or--sexually--violent--predator's~~
25 registrant's name, aliases, date of birth, sex, race,
26 height, weight, eye color, mailing address, home address or
27 expected domicile;

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

31 **Sec. B-14. 34-A MRSA §11221, sub-§2**, as enacted by PL 1999, c.
32 437, §2, is amended to read:

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~~ registrants for
36 the purpose of sharing information.

37 **Sec. B-15. 34-A MRSA §11221, sub-§6**, as repealed and replaced
38 by PL 2003, c. 371, §6, is amended to read:

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2 **6. Distribution of information to department and law**
3 **enforcement agencies.** The bureau shall distribute information
4 described in subsection 1 to the department and law enforcement
5 agencies having jurisdiction over the address and location of the
6 ~~sex-offender's-or-sexually-violent-predator's~~ registrant's
7 domicile, place of employment and college or school being
8 attended.

9 **Sec. B-16. 34-A MRSA §11221, sub-§§9 and 10,** as enacted by PL
10 2003, c. 371, §7, are amended to read:

11 **9. Public access to information.** The bureau shall provide
12 information to the public as follows.

13 A. The bureau shall post on the Internet for public
14 inspection the following information concerning a ~~sex~~
15 ~~offender-or-sexually-violent-predator~~ registrant:

16 (1) The ~~sex-offender's-or-sexually-violent-predator's~~
17 registrant's name, date of birth and photograph;

18 (2) The ~~sex-offender's-or-sexually-violent-predator's~~
19 registrant's city or town of domicile;

20 (3) The ~~sex-offender's-or-sexually-violent-predator's~~
21 registrant's place of employment and college or school
22 being attended, if applicable, and the corresponding
23 address and location; and

24 (4) The statutory citation and name of the offense for
25 which the ~~sex-offender-or-sexually-violent-predator~~
26 registrant was convicted.

27 B. Upon receiving a written request that includes the name
28 and date of birth of a ~~sex-offender-or-sexually-violent~~
29 ~~predator~~ registrant, the bureau shall provide the following
30 information concerning a ~~sex-offender-or-sexually-violent~~
31 ~~predator~~ registrant to the requestor:

32 (1) The ~~sex-offender's-or-sexually-violent-predator's~~
33 registrant's name, aliases, date of birth, sex, race,
34 height, weight, eye color, mailing address and home
35 address or domicile;

36 (2) The ~~sex-offender's-or-sexually-violent-predator's~~
37 registrant's place of employment and college or school
38 being attended, if applicable, and the corresponding
39 address and location;

2 (3) A description of the offense for which the ~~sex~~
~~offender--or--sexually-violent-predator~~ registrant was
4 convicted, the date of conviction and the sentence
imposed; and

6 (4) The ~~sex-offender's--or--sexually-violent-predator's~~
registrant's photograph.

8
10 **10. Registrant access to information.** Pursuant to Title
12 16, section 620, the bureau shall provide all information
described in subsection 1 to a ~~sex-offender-or--sexually-violent~~
~~predator~~ registrant who requests that person's own information.

14 **Sec. B-17. 34-A MRSA §11222**, as amended by PL 2003, c. 371,
16 §§8 to 10, are further amended to read:

18 **§11222. Duty of registrant**

20 **1. Determination by court.** The court shall determine at
22 the time of sentencing if a defendant is a ~~sex-offender~~ 10-year
registrant or a ~~sexually-violent-predator~~ lifetime registrant. A
24 person who the court determines is a ~~sex--offender~~ 10-year
registrant or a ~~sexually-violent-predator~~ lifetime registrant
shall register according to this subchapter.

26 **1-A. When duty to register must be exercised.** Following
28 determination by the court under subsection 1, a ~~sex-offender-or~~
~~a-sexually-violent-predator~~ registrant shall register as follows.

30 A. If the ~~sex--offender--or--sexually--violent--predator~~
registrant is sentenced to a wholly suspended sentence with
32 probation or to a punishment alternative not involving
imprisonment, the duty to register is triggered at the time
34 the person commences an actual execution of the wholly
suspended sentence or at the time of sentence imposition
36 when no punishment alternative involving imprisonment is
imposed, unless the court orders a stay of execution, in
38 which event the duty is triggered by the termination of the
stay.

40 B. If the ~~sex--offender--or--sexually--violent--predator~~
registrant is sentenced to a straight term of imprisonment
42 or to a split sentence, the duty to register is triggered by
44 discharge or conditional release.

46 C. If the ~~sex--offender--or--sexually--violent--predator~~
registrant is committed under Title 15, section 103, the
48 duty to register is triggered by discharge or conditional
release under Title 15, section 104-A.

50

2 **2. Responsibility of ensuring initial registration.** The
3 department, the county jail or the state mental health institute
4 that has custody of a ~~sex-offender-or-sexually-violent-predator~~
5 registrant required to register under this subchapter shall
6 inform the ~~sex-offender-or-sexually-violent-predator~~ registrant,
7 prior to discharge or conditional release, of the duty to
8 register. If a ~~sex--offender--or--sexually--violent--predator~~
9 registrant does not serve a period of institutional confinement,
10 the court shall inform the ~~sex--offender--or--sexually--violent~~
11 ~~predator~~ registrant at the time of sentencing of the duty to
12 register. The department, county jail, state mental health
institute or court shall:

14 A. Inform the ~~sex--offender--or--sexually--violent--predator~~
15 registrant of the duty to register and obtain the
16 information required for the initial registration;

18 B. Inform the ~~sex--offender--or--sexually--violent--predator~~
19 registrant that if the ~~sex--offender--or--sexually--violent~~
20 ~~predator~~ registrant changes domicile, place of employment or
21 college or school being attended, the ~~sex--offender--or~~
22 ~~sexually--violent--predator~~ registrant shall give the new
23 address to the bureau in writing within 10 days;

24 C. Inform the ~~sex--offender--or--sexually--violent--predator~~
25 registrant that if that ~~sex--offender--or--sexually--violent~~
26 ~~predator~~ registrant changes domicile to another state, the
27 ~~sex--offender--or--sexually--violent--predator~~ registrant shall
28 register the new address with the bureau and if the new
29 state has a registration requirement, the ~~sex--offender--or~~
30 ~~sexually--violent--predator~~ registrant shall register with a
31 designated law enforcement agency in the new state not later
32 than 10 days after establishing domicile in the new state;

34 D. Inform the ~~sex--offender--or--sexually--violent--predator~~
35 registrant that if that ~~sex--offender--or--sexually--violent~~
36 ~~predator~~ registrant has part-time or full-time employment in
37 another state, with or without compensation, for more than
38 14 consecutive days or for an aggregate period exceeding 30
39 days in a calendar year or if that ~~sex--offender--or--sexually~~
40 ~~violent--predator~~ registrant enrolls in any type of school in
41 another state on a part-time or full-time basis, the ~~sex~~
42 ~~offender--or--sexually--violent--predator~~ registrant shall give
43 the bureau the registrant's place of employment or school to
44 be attended in writing within 10 days after beginning work
45 or attending school and if the other state has a
46 registration requirement, shall register with the designated
47 law enforcement agency in the other state;

2 E. Obtain fingerprints and a photograph of the ~~sex-offender~~
3 ~~or--sexually-violent-predator~~ registrant or the court may
4 order the ~~sex--offender--or--sexually--violent--predator~~
5 registrant to submit to the taking of fingerprints and a
6 photograph at a specified law enforcement agency within 3
7 days if the fingerprints and photograph have not already
8 been obtained in connection with the offense that
necessitates registration; and

10 F. Enforce the requirement that the ~~sex--offender--or~~
11 ~~sexually-violent-predator~~ registrant read and sign a form
12 provided by the bureau that states that the duty of the ~~sex~~
13 ~~offender--or--sexually-violent-predator~~ registrant to register
14 under this section has been explained.

16 **2-A. Duty of registrant sentenced from June 30, 1992 to**
17 **September 17, 1999 to register.** Notwithstanding subsection 1 and
18 except as provided in subsection 2-B, a person coming within the
19 definition of a 10-year registrant or lifetime registrant who has
20 been sentenced on or after June 30, 1992 but before September 18,
21 1999 for a sex offense or a sexually violent offense shall
22 register either as a ~~sex--offender~~ 10-year registrant or as--a
23 ~~sexually--violent--predator~~ lifetime registrant, whichever is
24 applicable, with the bureau by September 1, 2002 if the duty to
25 register has been triggered under subsection 1-A, paragraph A, B
26 or C, unless sooner notified in writing of a duty to register
27 under subsection 1-A, paragraph A, B or C by the bureau, the
28 department or a law enforcement officer, in which case the person
shall register with the bureau within 10 days of notice.

30 **2-B. Duty to register for new crimes.** For a person
31 otherwise subject to subsection 2-A who has been sentenced for a
32 crime added by an amendment to the definition of sex offense or
33 sexually violent offense in section 11203 since September 1,
34 2002, if the duty to register has been triggered under subsection
35 1-A, paragraph A, B or C, that person shall register as a 10-year
36 registrant or a lifetime registrant, whichever is applicable,
37 with the bureau by June 1, 2005, unless sooner notified in
38 writing of a duty to register under subsection 1-A, paragraph A,
39 B or C by the bureau, the department or a law enforcement
40 officer, in which case the person shall register with the bureau
41 within 10 days of notice.

44 **3. Transfer of initial registration information to bureau**
45 **and FBI.** The department, county jail, state mental health
46 institute or court within 3 days of receipt of the information
47 described in subsection 2 shall forward the information to the
48 bureau. If the court orders the ~~sex-offender--or--sexually-violent~~
49 ~~predator~~ registrant to submit to the taking of fingerprints and a
50 photograph at a specified law enforcement agency, the law

2 enforcement agency shall submit the fingerprints and photograph
3 to the bureau within 3 days. The bureau shall immediately enter
4 the information into the registration system, notify the law
5 enforcement agency having jurisdiction where the ~~sex-offender-or~~
~~sexually-violent-predator~~ registrant expects to be domiciled and
6 transmit the information to the FBI for inclusion in the national
7 FBI sex offender database.

8
9 **4. Verification.** During the period a ~~sex--offender--or~~
10 ~~sexually-violent-predator~~ registrant is required to register, the
11 bureau shall verify a ~~sex--offender's--or--sexually--violent~~
12 ~~predator's~~ registrant's domicile. The bureau shall verify the
13 domicile of a ~~sex-offender~~ 10-year registrant on each anniversary
14 of the ~~sex-offender's~~ 10-year registrant's initial registration
15 date and shall verify a ~~sexually-violent-predator's~~ lifetime
16 ~~registrant's~~ registrant's domicile every 90 days after that ~~sexually-violent~~
~~predator's~~ lifetime registrant's initial registration date.
17 Verification of the domicile of a ~~sex-offender~~ 10-year registrant
18 or ~~sexually-violent-predator~~ lifetime registrant occurs as set
19 out in this subsection.

20
21 A. At least 10 days prior to the required verification
22 date, the bureau shall mail a nonforwardable ~~verfication~~
23 verification form to the last reported mailing address of
24 the ~~sex-offender-or-sexually-violent-predator~~ registrant.

25
26 B. The verification form must state that the ~~sex-offender~~
27 ~~or-sexually-violent-predator~~ registrant still resides at the
28 address last reported to the bureau.

29
30 C. The ~~sex-offender-or-sexually-violent-predator~~ registrant
31 shall take the completed verification form and a photograph
32 to the law enforcement agency having jurisdiction within 10
33 days of receipt of the form.

34
35 D. The law enforcement agency having jurisdiction shall
36 verify the ~~sex-offender's--or--sexually--violent--predator's~~
37 ~~registrant's~~ identity, have the ~~sex-offender--or--sexually~~
~~violent-predator~~ registrant sign the verification form, take
38 the ~~sex---offender's---or---sexually---violent---predator's~~
39 ~~registrant's~~ fingerprints, complete the law enforcement
40 portion of the verification form and immediately forward the
41 fingerprints, photograph and form to the bureau.

42
43 **5. Change of domicile, place of employment or college or**
44 **school being attended.** A ~~sex--offender--or--sexually--violent~~
45 ~~predator~~ registrant shall notify the bureau in writing of a
46 change of domicile, place of employment or college or school
47 being attended within 10 days after that change.
48
49
50

2 A. If the ~~sex--offender--or--sexually--violent--predator~~
3 registrant establishes a new domicile, place of employment
4 or college or school being attended in the State, the bureau
5 shall notify, within 3 days, both the law enforcement agency
6 having jurisdiction where the ~~sex--offender--er--sexually~~
7 ~~violent--predator~~ registrant was formerly domiciled, employed
8 or enrolled and the law enforcement agency having
9 jurisdiction where the ~~sex--offender--or--sexually--violent~~
10 ~~predator~~ registrant is currently domiciled, employed or
11 enrolled.

12 B. If the ~~sex--offender--or--sexually--violent--predator~~
13 registrant establishes a domicile, place of employment or
14 college or school being attended in another state, the
15 bureau shall notify, within 3 days, the law enforcement
16 agency having jurisdiction where the ~~sex--offender--er~~
17 ~~sexually--violent--predator~~ registrant was formerly domiciled,
18 employed or enrolled and the law enforcement agency having
19 jurisdiction where the ~~sex--offender--or--sexually--violent~~
20 ~~predator~~ registrant is currently domiciled, employed or
21 enrolled.

22 For purposes of registration requirements pursuant to this
23 subchapter, convictions that result from or are connected with
24 the same act or result from offenses committed at the same time
25 are considered as one conviction.
26

27 **Sec. B-18. 34-A MRSA §§11223 and 11224**, as amended by PL
28 2003, c. 371, §11, are further amended to read:
29

30 **§11223. Duty of person establishing domicile to register**
31

32 A person required under another jurisdiction to register
33 pursuant to that jurisdiction's sex offender registration statute
34 or, if not so required, who is has been convicted and sentenced
35 for an offense that includes the essential elements of a sex
36 offense or sexually violent offense ~~that--would--require~~
37 ~~registration--in--this--State~~ shall register as a ~~sex--offender~~
38 10-year registrant or ~~sexually--violent--predator~~ lifetime
39 registrant, whichever is applicable, within 10 days of
40 establishing domicile in this State. The person shall contact
41 the bureau, which shall provide the person with the registration
42 form and direct the person to take the form and a photograph of
43 the person to the law enforcement agency having jurisdiction.
44 The law enforcement agency shall supervise the completion of the
45 form, take the person's fingerprints and immediately forward the
46 form, photograph and fingerprints to the bureau.
47

48 **§11224. Duty of person employed or attending college or school to**
49 **register**
50

2 A person who is required under another jurisdiction to
3 register pursuant to that jurisdiction's sex offender
4 registration statute because the person is domiciled in another
5 state or, if not so required, who is has been convicted and
6 sentenced for an offense that includes the essential elements of
7 a sex offense or sexually violent offense ~~that would require~~
8 ~~registration in this State~~ shall register as a ~~sex offender~~
9 10-year registrant or ~~sexually violent predator~~ lifetime
10 registrant, whichever is applicable, within 10 days of beginning
11 full-time or part-time employment, with or without compensation,
12 for more than 14 consecutive days or for an aggregate period
13 exceeding 30 days in a calendar year or beginning college or
14 school on a full-time or part-time basis in this State. The
15 person shall contact the bureau, which shall provide the person
16 with a registration form and direct the person to take the form
17 and a photograph of the person to the law enforcement agency
18 having jurisdiction. The law enforcement agency shall supervise
19 the completion of the form, take the person's fingerprints and
20 immediately forward the form, photograph and fingerprints to the
21 bureau.

22 **Sec. B-19. 34-A MRSA §11225**, as amended by PL 2001, c. 553,
23 §§7 and 8, is further amended to read:

24 **§11225. Duration of registration**

25 **1. Ten-year registrant.** A ~~sex offender~~ person coming
26 within the definition of a 10-year registrant shall register for
27 a period of 10 years from the initial date of registration
28 pursuant to this chapter, except that a ~~sex offender~~ 10-year
29 registrant required to register because ~~the sex offender that~~
30 registrant established a domicile in this State subsequent to
31 being ~~declared a sex offender in~~ required to register pursuant to
32 another state or under another jurisdiction's sex
33 offender registration statute for a period of years other than
34 life shall register for a maximum of 10 years from the date when
35 ~~the sex offender that registrant~~ was first required to register
36 in the other ~~state or under another~~ jurisdiction. A ~~sex offender~~
37 person coming within the definition of a 10-year registrant who
38 has been sentenced from June 30, 1992 to September 17, 1999 shall
39 register for a period of 10 years, to be calculated as follows.

40
41
42
43
44 A. If the ~~sex offender~~ 10-year registrant was sentenced to
45 a wholly suspended sentence with probation or to a
46 punishment alternative not involving imprisonment, the
47 10-year period is treated as having begun at the time the
48 person commenced an actual execution of the wholly suspended
49 sentence or at the time of sentence imposition when no
50 punishment alternative involving imprisonment was imposed,

2 unless the court ordered a stay of execution, in which event
the 10-year period is treated as having begun at the
4 termination of the stay.

6 B. If the ~~sex-offender~~ 10-year registrant was sentenced to
a straight term of imprisonment or to a split sentence, the
8 10-year period is treated as having begun at the time of
discharge or conditional release.

10 C. If the ~~sex-offender~~ 10-year registrant was committed
under Title 15, section 103, the 10-year period is treated
12 as having begun at the time of discharge or conditional
release under Title 15, section 104-A.

14 D. If the ~~sex--offender's~~ 10-year registrant's duty to
16 register has not yet been triggered, the 10-year period will
commence upon registration by the person in compliance with
18 section 11222, subsection 1-A, ~~paragraphs~~ paragraph A, B or
C.

20 **2. Lifetime registrant.** A ~~sexually-violent-predator person~~
22 coming within the definition of a lifetime registrant who has
been sentenced on or after June 30, 1992 shall register for the
24 duration of the ~~sexually-violent-predator's~~ that registrant's
life.

26 A person who has established a domicile in this State subsequent
28 to being required to register pursuant to another jurisdiction's
sex offender registration statute for a lifetime or who is a
30 person coming within the definition of a lifetime registrant
shall register for the duration of the registrant's life.

32 **2-A. Periods when domiciled outside Maine.** Notwithstanding
34 subsections 1 and 2, during any period in which the 10-year
registrant or lifetime registrant leaves the State, establishes a
36 domicile in another state and remains physically absent from the
State the bureau may suspend the requirement that a 10-year
38 registrant or lifetime registrant register.

40 **3. Periods of incarceration or civil confinement.**
Notwithstanding subsections 1 and 2, the bureau may suspend the
42 requirement that a ~~sex--offender~~ 10-year registrant or ~~sexually~~
~~violent-predator~~ lifetime registrant register during periods of
44 incarceration or civil confinement.

46 **4. Relief from duty to register.** If the underlying
conviction for a sex offense or sexually violent offense is
48 reversed, vacated or set aside, or if the registrant is pardoned
for the offense, registration or continued registration as a sex

2 offender 10-year registrant or sexually-violent-predator lifetime
3 registrant is no longer required.

4 **Sec. B-20. 34-A MRSA §11226**, as enacted by PL 1999, c. 437,
5 §2, is amended to read:

6 **§11226. Fee**

7
8 The bureau may charge a ~~\$25~~ \$35 annual fee to persons
9 required to register under this chapter. ~~Sex--offenders--or~~
10 ~~sexually-violent-predators~~ Registrants shall pay the fee at the
11 time of initial registration and shall pay the fee on each
12 anniversary of their initial registration.

13
14 The fee must be credited to the General Fund and the Highway
15 Fund in an amount consistent with currently budgeted
16 appropriations and allocations, except that the local law
17 enforcement agency that takes and processes the registrant's
18 fingerprints and picture must receive \$10 of the total annual \$35
19 fee.

20
21 **Sec. B-21. 34-A MRSA §11227, sub-§§1, 2, 3 and 6**, as enacted by
22 PL 2003, c. 452, Pt. S, §1 and affected by Pt. X, §2, are amended
23 to read:

24
25 **1. Failure to register or update information.** A ~~sex~~
26 ~~offender--or--sexually-violent-predator~~ registrant who fails to
27 register or update the information required under this chapter
28 commits a Class D crime.

29
30 **2. Failure to register or update information; 2nd offense.**
31 A ~~sex--offender--or--sexually-violent-predator~~ registrant who has
32 one prior conviction for failure to register or update the
33 information required under this chapter commits a Class D crime.

34
35 **3. Failure to register or update information; 3rd or**
36 **subsequent offense.** A ~~sex--offender--or--sexually-violent-predator~~
37 registrant who fails to register or update the information
38 required under this chapter when the ~~sex--offender--or--sexually~~
39 ~~violent-predator~~ registrant has 2 or more prior convictions in
40 this State for violation of this chapter commits a Class C crime.

41
42 **6. Affirmative defense.** It is an affirmative defense that
43 the failure to register or update information resulted from just
44 cause, except that ~~sex--offenders--or--sexually-violent-predators~~
45 registrants convicted from June 30, 1992 to September 17, 1999
46 may not raise a defense under just cause that they were not aware
47 of the registration requirement.

2 **Sec. B-22. 34-A MRSA §11253**, as enacted by PL 2001, c. 439,
Pt. 000, §15, is amended to read:

4 **§11253. Risk assessment**

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

10 **Sec. B-23. 34-A MRSA §11254**, as amended by PL 2003, c. 371,
12 §13, is further amended to read:

14 **§11254. Mandatory notification of conditional release or
discharge of registrants**

16 The department, county jails, state mental health institutes
18 and the Department of Public Safety, State Bureau of
Identification are governed by the following notice provisions
20 when a ~~sex--offender--or--sexually--violent--predator~~ registrant is
conditionally released or discharged.

22 **1. Duties.** The department, a county jail or a state mental
24 health institute shall give the Department of Public Safety,
State Bureau of Identification notice of the following:

26 A. The address where the ~~sex--offender--or--sexually--violent~~
28 ~~predator~~ registrant will reside;

30 B. The address where the ~~sex--offender--or--sexually--violent~~
32 ~~predator~~ registrant will work and attend college or school,
if applicable;

34 C. The geographic area to which a ~~sex--offender's--or~~
36 ~~sexually--violent--predator's~~ registrant's conditional release
is limited, if any; and

38 D. The status of the ~~sex--offender--or--sexually--violent~~
40 ~~predator~~ registrant when released as determined by the risk
assessment instrument, the ~~offender's--or--predator's~~
42 registrant's risk assessment score, a copy of the risk
assessment instrument and applicable contact standards for
44 the ~~offender--or--predator~~ registrant.

46 **2. Duties of the Department of Public Safety, State Bureau
of Identification.** Upon receipt of the information concerning
48 the conditional release or discharge of a ~~sex--offender--or~~
~~sexually--violent--predator~~ registrant pursuant to subsection 1,
50 the Department of Public Safety, State Bureau of Identification
shall forward the information in subsection 1 to all law

enforcement agencies that have jurisdiction in those areas where
the ~~sex-offender-or-sexually-violent-predator~~ registrant may
reside, work or attend college or school.

Sec. B-24. 34-A MRSA §§11255 and 11256, as enacted by PL
2001, c. 439, Pt. 000, §15, are amended to read:

§11255. Public notification

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

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

§11256. Risk assessment assistance

Upon request, the department shall provide to law
enforcement agencies technical assistance concerning risk
assessment for purposes of notification to the public of a ~~sex
offender's---or---sexually---violent---predator's~~ registrant's
conditional release or discharge.

PART C

Sec. C-1. Research and report regarding potential offenders. The
Department of Behavioral and Developmental Services, the
Department of Human Services, the Department of Corrections and
the Department of Public Safety, in cooperation with the Child
Abuse Action Network, shall:

1. Identify the subpopulation of potential offenders or
young persons at risk of offending because they have been
sexually abused or face a significant mental health disability,
with recognition of the fact that over 95% of sex offenders are
male;

2. Identify the types of prevention and treatment currently
known to work with these young persons;

2 3. Coordinate prevention and education efforts with the
goal of seeking coordinated services to transition at-risk youth
to healthy adulthood; and

4
6 4. Report findings to the joint standing committees of the
Legislature having jurisdiction over health and human services
and criminal justice and public safety matters no later than
8 January 30, 2005.

10 **Sec. C-2. Review and report of registerable sex offenses.** The
Criminal Law Advisory Commission, established under the Maine
12 Revised Statutes, Title 17-A, chapter 55, shall:

14 1. Review the Sex Offender Registration and Notification
Act of 1999, as amended, to identify all crimes of gross sexual
16 assault and unlawful sexual contact that currently do not require
any registration;

18 2. Assess whether the current Maine crimes listed as sex
20 offenses and sexually violent offenses are appropriate under the
federal guidelines for the Jacob Wetterling Crimes Against
22 Children and Sexually Violent Offender Registration Act, 42
United States Code, Section 14071, as amended; and

24 3. Report its findings and any proposed changes to the
26 joint standing committee of the Legislature having jurisdiction
over criminal justice and public safety matters.

28 **Sec. C-3. Retroactivity.** Those sections of this Act that amend
30 the Maine Revised Statutes, Title 34-A apply retroactively to
June 30, 1992.

32
34 **SUMMARY**

36 This bill implements the recommendations of the Commission
to Improve Community Safety and Sex Offender Accountability,
38 which was created pursuant to Resolve 2003, chapter 75. The
commission was established to provide a legislative forum to
40 review criminal sentencing laws for sex crimes and to review sex
offender registration and notification laws and policies. The
42 purpose of this commission's review was to take a thoughtful and
comprehensive look at Maine's sex offender laws and to identify
44 areas in which immediate legislative and policy change is
necessary to increase community safety. The bill does the
46 following.

48 1. It raises the classification of sex crimes committed
against children who have not attained 12 years of age. Without
50 imposing new minimum mandatory sentences, the commission

2 recommends providing courts, when victims are under 12 years of
age, with an increased potential range of penalties by raising by
one class the following crimes:

4
6 A. Unlawful sexual contact when the actor is at least 3
years older than the victim, from a Class C crime to a Class
8 B crime, and when the actor is at least 3 years older than
the victim and there is penetration, from a Class B crime to
a Class A crime;

10
12 B. Visual sexual aggression against a child, from a Class D
crime to a Class C crime;

14
16 C. Sexual misconduct with a child, from a Class D crime to
a Class C crime;

18
20 D. Solicitation of a child by computer to commit a
prohibited act, from a Class D crime to a Class C crime;

22
24 E. Violation of privacy, from a Class D crime to a Class C
crime;

26
28 F. Sexual exploitation of minors, from a Class B crime to a
Class A crime;

30
32 G. Dissemination of sexually explicit materials, from a
Class C crime to a Class B crime for the first offense and
from a Class B crime to a Class A crime for a subsequent
offense; and

34
36 H. Possession of sexually explicit materials, from a Class
D crime to a Class C crime and from a Class C crime to a
Class B crime for a subsequent offense.

38
40 2. It allows courts to have the option to impose a sentence
of imprisonment in excess of 20 years, based upon the fact that
the victim is under 12 years of age, for the Class A crimes of
gross sexual assault and repeat sexual exploitation of minors.

42
44 3. It increases the period of probation for persons
convicted of sex crimes committed against children who have not
attained 12 years of age. Without imposing minimum mandatory
sentences, the bill provides courts, when victims are under 12
years of age, with an increased potential range of penalties by
increasing periods of probation for persons convicted under the
46 Maine Revised Statutes, Title 17, chapter 93-B or Title 17-A,
chapter 11 as follows:

48
50 A. For a person convicted of a Class A crime, a period of
probation not to exceed 18 years;

2 B. For a person convicted of a Class B crime, a period of
probation not to exceed 12 years; and

4

6 C. For a person convicted of a Class C crime, a period of
probation not to exceed 6 years.

8 4. It allows the court to have the option to impose a
sentence of probation of up to 18 years based upon the fact that
10 the defendant was convicted of gross sexual assault after having
been previously convicted and sentenced for a Class B crime or
12 Class C crime of unlawful sexual contact.

14 5. It renames "dangerous sexual offender," defined in Title
17-A, section 1252, subsection 4-B, as "repeat sexual assault
16 offender."

18 6. It allows courts to have the option to impose a sentence
of imprisonment in excess of 20 years, based upon the fact that
20 the defendant was convicted of gross sexual assault after having
been previously convicted and sentenced for a Class B crime or
22 Class C crime of unlawful sexual contact.

24 7. It changes the names of registration categories in the
Sex Offender Registration and Notification Act of 1999, also
26 known as the "SORNA," from "sexually violent predators" and "sex
offenders" to "lifetime registrants" and "10-year registrants,"
28 respectively.

30 8. It moves Class D or Class E offenses that currently
require lifetime registration as "sexually violent predators"
32 under the SORNA of 1999 to 10-year registration for "sex
offenders."

34

36 9. It makes technical drafting changes to the SORNA of
1999, including:

38 A. Adding to the list of registerable offenses the former
crime of rape, restoring the former crimes of unlawful
40 sexual contact and solicitation of a child by computer to
commit a prohibited act and moving from the definition of
42 "sex offense" to "sexually violent offense" the crimes of
unlawful sexual contact that involve penetration;

44

46 B. Making registration requirements consistent by removing
from the crime of "kidnapping" the defense that the actor is
a parent, which is consistent with the crime of criminal
48 restraint for purposes of sex offender registration; and

2 C. Defining the terms "another state," "registrant,"
"jurisdiction," and "tribe" to be more consistent with
4 federal law.

6 10. It authorizes the State to suspend the requirement that
a sex offender or sexually violent predator register during any
8 period in which the registrant leaves the State, establishes a
domicile in another state and remains physically absent from the
10 State.

12 11. It increases from \$25 to \$35 the sex offender and
sexually violent predator fee for initial registration and annual
14 renewal registration and specifies that the law enforcement
agency that processes registrants' pictures and fingerprints
16 receives \$10 of the fee.

18 12. It makes all changes to the Sex Offender Registration
and Notification Act of 1999 retroactive to June 30, 1992.

20 13. It directs the Department of Behavioral and
Developmental Services, the Department of Human Services, the
22 Department of Corrections and the Department of Public Safety, in
cooperation with the Child Abuse Action Network, to:

24 A. Identify the subpopulation of potential offenders or
26 young persons at risk of offending because they have been
sexually or physically abused or face a significant mental
28 health disability, with recognition of the fact that over
95% of sex offenders are male;

30 B. Identify the types of prevention and treatment currently
32 known to work with these young persons;

34 C. Coordinate prevention and education efforts with the
goal of seeking coordinated services to transition at-risk
36 youth to healthy adulthood; and

38 D. Report findings to the joint standing committees of the
Legislature having jurisdiction over health and human
40 services and criminal justice and public safety matters.

42 14. It directs the Criminal Law Advisory Commission to:

44 A. Review the Sex Offender Registration and Notification
Act of 1999 to identify all crimes of gross sexual assault
46 and unlawful sexual contact that currently do not require
any registration;

48 B. Assess whether the current Maine crimes listed as sex
50 offenses and sexually violent offenses are appropriate under

2 the federal guidelines for the Jacob Wetterling Crimes
Against Children and Sexually Violent Offender Registration
Act, 42 United States Code, Section 14071, as amended; and

4

6 C. Report its findings and any proposed changes to the
Joint Standing Committee on Criminal Justice and Public
Safety.

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