

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1855

H.P. 1380

House of Representatives, February 17, 2004

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

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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.  
31  
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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:  
36

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:  
46  
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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 ~~were~~ 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:

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

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29 Pt. 000, §9, is repealed and the following enacted in its place:

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

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

2 Title 17-A, section 253, subsection 2, paragraph A, B, C or  
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  
6 elevated a class under Title 17-A, former section 255,  
subsection 3; or Title 17-A, section 255-A, subsection 1,  
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.  
371, §3, is further amended to read:

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

16 A. Sexually violent offense; or

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

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

24 **9. Tribe.** "Tribe" means the Passamaquoddy Tribe or the  
26 Penobscot Nation.

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

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

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

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

42 **2. National or regional registry.** The bureau is authorized  
44 to make the registry available to and accept files from a  
national or regional registry of ~~sex--offenders~~ registrants for  
46 the purpose of sharing information.

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

50

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

20  
21  
22 A. At least 10 days prior to the required verification  
23 date, the bureau shall mail a nonforwardable ~~verfication~~  
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~~  
~~or-sexually-violent-predator~~ registrant still resides at the  
27 address last reported to the bureau.  
28

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~~  
~~registrant's~~ registrant's identity, have the ~~sex-offender--or--sexually~~  
~~violent-predator~~ registrant sign the verification form, take  
37 the ~~sex---offender's---or---sexually---violent---predator's~~  
~~registrant's~~ registrant's fingerprints, complete the law enforcement  
38 portion of the verification form and immediately forward the  
39 fingerprints, photograph and form to the bureau.  
40  
41  
42  
43  
44

45 **5. Change of domicile, place of employment or college or**  
46 **school being attended.** A ~~sex--offender--or--sexually--violent~~  
~~predator~~ registrant shall notify the bureau in writing of a  
47 change of domicile, place of employment or college or school  
48 being attended within 10 days after that change.  
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  
the conditional release or discharge of a ~~sex--offender--or~~  
48           ~~sexually--violent--predator~~ registrant pursuant to subsection 1,  
the Department of Public Safety, State Bureau of Identification  
50           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

20           2. Assess whether the current Maine crimes listed as sex  
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

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

28

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

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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  
4 one class the following crimes:

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  
10 a Class A crime;

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

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

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

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

22 F. Sexual exploitation of minors, from a Class B crime to a  
24 Class A crime;

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

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

34 2. It allows courts to have the option to impose a sentence  
36 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  
38 gross sexual assault and repeat sexual exploitation of minors.

40 3. It increases the period of probation for persons  
convicted of sex crimes committed against children who have not  
42 attained 12 years of age. Without imposing minimum mandatory  
sentences, the bill provides courts, when victims are under 12  
44 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 A. For a person convicted of a Class A crime, a period of  
50 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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