

# MAINE STATE LEGISLATURE

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R. 03

L.D. 1903

DATE: 4-5-04

(Filing No. H-860)

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903, Bill, "An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners"

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

**'An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability'**

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

**PART A**

**Sec. A-1. 4 MRSA §422, sub-§1, as enacted by PL 1999, c. 780, §1, is repealed and the following enacted in its place:**

**1. Coordinator of Diversion and Rehabilitation Programs.**  
**The judicial branch shall employ a Coordinator of Diversion and Rehabilitation Programs. The Coordinator of Diversion and Rehabilitation Programs is responsible for helping the judicial branch establish, staff, coordinate, operate and evaluate diversion and rehabilitation programs in the courts.**

**COMMITTEE AMENDMENT**

A. of S.

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

2           **Sec. A-2. 4 MRSA §422, sub-§2**, as enacted by PL 1999, c. 780,  
§1 and amended by PL 2001, c. 354, §3, is further amended to read:

4           **2. Pass-through services.** The Administrative Office of the  
6           Courts, with the assistance of the ~~Drug-Court~~ Coordinator of  
Diversion and Rehabilitation Programs, may enter into cooperative  
8           agreements or contracts with:

10           A. The Department of Behavioral and Developmental Services,  
Office of Substance Abuse or other federal-licensed  
12           treatment providers or state-licensed treatment providers to  
provide substance abuse services for alcohol and drug  
14           treatment program participants. To the extent possible, the  
alcohol and drug treatment programs must access existing  
16           substance abuse treatment resources for alcohol and drug  
treatment program participants;

18           B. The Department of Corrections, Division of Community  
Corrections or other appropriate organizations to provide  
20           for supervision of alcohol and drug treatment program  
participants;

22           C. The Department of Corrections or other appropriate  
24           organizations to provide for drug testing of alcohol and  
drug treatment program participants;

26           D. Appropriate organizations to provide for a drug court  
28           manager at each alcohol and drug treatment program location;  
and

30           E. Appropriate organizations and agencies for training of  
32           alcohol and drug treatment program staff and for evaluation  
of alcohol and drug treatment program operations;

34           F. Appropriate local, county and state governmental entities  
36           and other appropriate organizations and agencies to  
encourage the development of diversion and rehabilitation  
38           programs; and

40           G. Appropriate organizations and agencies for the provision  
of medical, educational, vocational, social and  
42           psychological services, training, counseling, residential  
care and other rehabilitative services designed to create,  
44           improve or coordinate diversion or rehabilitation programs.

46           **Sec. A-3. 15 MRSA §1004**, as amended by PL 1999, c. 788, §1,  
is further amended to read:

48           **§1004. Applicability and exclusions**

2 This chapter applies to the setting of bail for a defendant  
4 in a criminal proceeding, including the setting of bail for an  
6 alleged contemnor in a plenary contempt proceeding involving a  
8 punitive sanction under the Maine Rules of Criminal Procedure,  
10 Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does  
12 not apply to the setting of bail in extradition proceedings under  
14 sections 201 to 229 or post-conviction review proceedings under  
16 sections 2121 to 2132, probation revocation proceedings under  
18 Title 17-A, sections 1205 to 1207 ~~or~~ supervised release  
20 revocation proceedings under Title 17-A, section 1233 or  
administrative release revocation proceedings under Title 17-A,  
sections 1349 to 1349-F, except to the extent and under the  
conditions stated in those sections. This chapter applies to the  
setting of bail for an alleged contemnor in a summary contempt  
proceeding involving a punitive sanction under the Maine Rules of  
Criminal Procedure, Rule 42 or the Maine Rules of Civil  
Procedure, Rule 66 and to the setting of bail relative to a  
material witness only as specified in sections 1103 and 1104,  
respectively.

22 Sec. A-4. 17-A MRSA §405, as enacted by PL 1989, c. 263, is  
24 repealed and the following enacted in its place:

26 **§405. Burglary of motor vehicle**

28 **1. A person is guilty of burglary of a motor vehicle if:**

30 **A. The person enters a motor vehicle, knowing that the**  
**person is not licensed or privileged to do so, with the**  
**intent to commit a crime therein. Violation of this**  
**paragraph is a Class D crime; or**

34 **B. The person violates paragraph A, and the person forcibly**  
**enters a motor vehicle that is locked. Violation of this**  
**paragraph is a Class C crime.**

38 **2-A. As used in subsection 1, "forcibly" means with the use**  
**of a burglar's tool or by the use of physical force that damages**  
**or destroys the motor vehicle. "Burglar's tool" means any device**  
**described in section 403, subsection 1, paragraph A.**

42 Sec. A-5. 17-A MRSA §755, sub-§1-A, ¶A, as enacted by PL 2001,  
44 c. 383, §91 and affected by §156, is amended to read:

46 **A. ~~Fails to appear for work, for school or for a meeting~~**  
**~~with the person's Intensive Supervision Program officer or~~**  
**~~otherwise intentionally violates~~ Violates a curfew, time or**  
48 **travel restriction. Violation of this paragraph is a Class**  
50 **C crime; or**

2           **Sec. A-6. 17-A MRSA §755, sub-§1-B, ¶A**, as enacted by PL 2001,  
c. 383, §92 and affected by §156, is amended to read:

4  
6           A. ~~Fails to appear for work, for school or for a meeting~~  
~~with that person's supervising officer or intentionally~~  
7           fails Fails to return to the correctional facility from  
8           which transfer was made upon the direction of the  
9           Commissioner of Corrections or otherwise intentionally  
10          violates a curfew, residence, time or travel restriction.  
11          Violation of this paragraph is a Class C crime; or'

12           **Sec. A-7. 17-A MRSA §1152, sub-§2, ¶H**, as amended by PL 1995,  
14          c. 136, §2, is further amended to read:

16           H. A county jail reimbursement fee as authorized by chapter  
17          54-B; ~~or~~

18           **Sec. A-8. 17-A MRSA §1152, sub-§2, ¶I**, as enacted by PL 1995,  
20          c. 136, §3, is amended to read:

22           I. A specified number of hours of community service work as  
23          authorized by chapter 54-C;

24           **Sec. A-9. 17-A MRSA §1152, sub-§2, ¶¶J to L** are enacted to read:

26           J. Deferred disposition as authorized by chapter 54-F;

28           K. A fine, suspended in whole or in part, with, at the  
30          court's discretion, administrative release as authorized by  
31          chapter 54-G; or

32           L. A suspended term of imprisonment with administrative  
34          release as authorized by chapter 54-G.

36           **Sec. A-10. 17-A MRSA §1201, sub-§1, ¶¶A-1 and A-2** are enacted  
37          to read:

38           A-1. The conviction is for a Class D or Class E crime other  
40          than any Class D crime committed against a family or  
41          household member under chapter 9 or 13 or section 506-B,  
42          554, 555 or 758; any Class D or Class E crime in chapter 11  
43          or 12; a Class D or Class E crime under section 556, 854,  
44          excluding subsection 1, paragraph A, subparagraph (1), or  
45          855; and the Class D or Class E crime under Title 29-A,  
46          section 2411, subsection 1-A, paragraph B. As used in this  
47          paragraph, "family or household member" has the same meaning  
48          as in Title 19-A, section 4002, subsection 4;

2 A-2. The court sentences the person to a sentencing  
3 alternative under section 1152 that includes a period of  
4 administrative release;

6 **Sec. A-11. 17-A MRSA §1202, sub-§1**, as repealed and replaced  
by PL 1985, c. 821, §5, is amended to read:

8 1. A person convicted of a Class A crime may be placed on  
9 probation for a period not to exceed ~~6~~ 4 years; for a Class B or  
10 ~~Class C~~ crime, for a period of probation not to exceed ~~4~~ 3  
11 years; and ~~for a Class C crime, for a period of probation not to~~  
12 ~~exceed 2 years; and~~ for Class D and Class E crimes, for a period  
13 not to exceed one year.

14 **Sec. A-12. 17-A MRSA §1202, sub-§1-A, ¶A-1** is enacted to read:

16 A-1. If the State pleads and proves that the person was  
17 convicted of committing against a family or household member  
18 a crime under chapter 9 or 13 or section 554 or if the  
19 person was convicted under chapter 11 or 12 or section 556,  
20 the period of probation may not exceed:

22 (1) Six years for a Class A crime; or

24 (2) Four years for a Class B or Class C crime.

26 As used in this paragraph, "family or household member" has  
27 the same meaning as in Title 19-A, section 4002, subsection  
28 4; and

30 **Sec. A-13. 17-A MRSA §1202, sub-§2-A** is enacted to read:

32 2-A. Once the period of probation has commenced, on  
33 application of the probation officer, or of the person on  
34 probation, or on the court's own motion, the court may convert at  
35 any time a period of probation for a Class D or Class E crime to  
36 a period of administrative release. A conversion to  
37 administrative release may not be ordered upon the motion of the  
38 person on probation unless notice of the motion is given to the  
39 probation officer by the person on probation. The provisions of  
40 chapter 54-G apply when probation is converted to administrative  
41 release. Conversion to administrative release serves to relieve  
42 the person on probation of any obligations imposed by the  
43 probation conditions.

44 **Sec. A-14. 17-A MRSA §1202, sub-§3**, as amended by PL 1991, c.  
45 258, is further amended to read:

3. ~~On~~ Once the period of probation has commenced, on application of the probation officer, or of the person on probation, or on its own motion, the court may terminate at any time a period of probation and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsection 1, if warranted by the conduct of such person. A termination and discharge may not be ordered upon the motion of the person on probation unless notice of the motion is given to the probation officer by the person on probation. Such termination and discharge shall--serve serves to relieve the person on probation of any obligations imposed by the sentence of probation.

Sec. A-15. 17-A MRSA §1253, sub-§2, ¶A is enacted to read:

A. For any person who commits a crime on or after August 1, 2004, is subsequently sentenced to a term of imprisonment for that crime and is entitled to receive a day-for-day deduction pursuant to this subsection, up to 2 additional days per calendar month may be credited to that deduction if the person's conduct during that period of detention was such that the credit is determined to be warranted in the discretion of the chief administrative officer of the facility in which the person has previously been detained.

Credits under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum credit available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

The sheriff or other person required to furnish a statement showing the length of detention shall also furnish a statement showing the number of days credited pursuant to this paragraph.

Detention awaiting trial, during trial, post-trial awaiting sentencing or post-sentencing prior to the date on which a sentence commences to run is not punishment.

Sec. A-16. 17-A MRSA §1253, sub-§6-A, as amended by PL 1995, c. 433, §2, is further amended to read:

6-A. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

2 a term of imprisonment is thereafter imposed upon the person for  
the same offense, day-for-day credit must be accorded on the new  
4 sentence both for each day the person served in execution of the  
initial sentence and for all previously earned deductions  
6 specified in subsections 4, 5 and, 8, 9 and 10 and Title 30-A,  
section 1606. Prior to the day-for-day credit being given on the  
8 new sentence, the new sentence must, after first having been  
reduced by any deductions specified in subsection 2 previously or  
10 subsequently received, have applied to it the controlling  
deduction specified in either subsection 3 or 3-B, if applicable.

12 **Sec. A-17. 17-A MRSA §1253, sub-§7,** as repealed and replaced  
by PL 1995, c. 433, §3, is amended to read:

14 7. Notwithstanding the fact that subsections 3, 3-B and 4  
16 directly address only persons who are committed to the custody of  
the Department of Corrections, they apply also to persons who are  
18 committed to the custody of a sheriff. Subsection 5 ~~does~~ and  
subsubsection 10, paragraph B do not apply to persons who are  
20 committed to the custody of a sheriff.

22 **Sec. A-18. 17-A MRSA §1253, sub-§§9 to 13** are enacted to read:

24 9. Time may be deducted from a term of imprisonment as a  
result of conduct in accordance with this subsection.

26 A. For a person who commits a crime, except for a crime set  
28 forth in subparagraphs (1) to (6), on or after August 1,  
2004 and is subsequently sentenced to a term of imprisonment  
30 for that crime, up to 4 days per calendar month may be  
deducted from that term, calculated from the date of  
32 commencement of that term as specified under subsection 1,  
if that person's conduct during that month is such that the  
34 deduction is determined to be warranted in the discretion of  
the chief administrative officer of the state facility or  
36 the sheriff of the county jail. Deductions under this  
paragraph may not be applied to the sentence of a person who  
38 commits:

40 (1) Murder;

42 (2) A crime under chapter 11;

44 (3) A crime under section 556;

46 (4) A crime under section 854, excluding subsection 1,  
paragraph A, subparagraph (1);

48 (5) A crime under chapter 12; or



(6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 7 days</u>	<u>up to 1</u>
<u>8 to 15 days</u>	<u>up to 2</u>
<u>16 to 23 days</u>	<u>up to 3</u>
<u>24 to 31 days</u>	<u>up to 4</u>

B. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence.

C. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph B if the person's later conduct is such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff.

10. Time may be deducted from a term of imprisonment as a result of fulfillment of assigned responsibilities in accordance with this subsection.

A. In addition to the days of deduction provided for in subsection 9, paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6) on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime, up to 3 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county

2 jail. Deductions under this paragraph may not be applied to  
3 the sentence of a person who commits:

- 4 (1) Murder;
- 6 (2) A crime under chapter 11;
- 8 (3) A crime under section 556;
- 10 (4) A crime under section 854, excluding subsection 1,  
12 paragraph A, subparagraph (1);
- 14 (5) A crime under chapter 12; or
- 16 (6) A crime against a family or household member under  
17 chapter 9 or 13 or section 506-B, 554, 555 or 758.

18 Deductions under this paragraph must be calculated as  
19 follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction</u> <u>available</u>
24 <u>1 to 10 days</u>	<u>up to 1</u>
25 <u>11 to 20 days</u>	<u>up to 2</u>
26 <u>21 to 31 days</u>	<u>up to 3</u>

28 B. In addition to the days of deduction provided for in  
29 paragraph A, for any person who commits a crime, except for  
30 a crime set forth in subparagraphs (1) to (6), on or after  
31 August 1, 2004 and is subsequently sentenced to a term of  
32 imprisonment for that crime to a state facility, up to 2  
33 days per calendar month may also be deducted from that term,  
34 calculated from the date of commencement of that term as  
35 specified under subsection 1, if that person's fulfillment  
36 of responsibilities assigned in the person's transition plan  
37 for community work, education or rehabilitation programs  
38 during that month is such that the deduction is determined  
39 to be warranted in the discretion of the chief  
40 administrative officer of the state facility. Deductions  
41 under this paragraph may not be applied to the sentence of a  
42 person who commits:

- 44 (1) Murder;
- 46 (2) A crime under chapter 11;
- 48 (3) A crime under section 556;

(4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);

(5) A crime under chapter 12; or

(6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

C. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence.

D. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph C if the person's later conduct and fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff.

11. As used in this section, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.

12. Subsections 9 and 10 supersede subsections 3, 3-B, 4, 5, 6 and 8 for a person who commits a crime other than murder and for a person who commits a crime under chapter 11 or 12; under section 556; under section 854, excluding subsection 1, paragraph A, subparagraph (1); or against a family or household member under chapter 9 or 13, section 506-B, 554, 555 or 758, on or after August 1, 2004.

13. If a court imposes a sentencing alternative pursuant to section 1152 that includes a term of imprisonment, in setting the

appropriate length of that term, as well as an unsuspended portion of that term, if any, the court may not consider the potential impact of deductions under subsections 2, 3, 3-B, 4, 5, 8, 9 and 10 except in the context of a plea agreement in which both parties are recommending to the court a particular disposition under the Maine Rules of Criminal Procedure, Rule 11-A.

Sec. A-19. 17-A MRSA cc. 54-F and 54-G are enacted to read:

**CHAPTER 54-F**

**DEFERRED DISPOSITION**

**§1348. Eligibility for deferred disposition**

A person who has pled guilty to a Class C, Class D or Class E crime, except a crime expressly providing that one or more punishment alternatives it authorizes may not be suspended, and who consents to a deferred disposition in writing, is eligible for a deferred disposition.

**§1348-A. Deferred disposition**

1. Following the acceptance of a plea of guilty for a crime for which a person is eligible for a deferred disposition under section 1348, the court may order sentencing deferred to a date certain or determinable and impose requirements upon the person, to be in effect during the period of deferment, considered by the court to be reasonable and appropriate to assist the person to lead a law-abiding life. The court-imposed deferment requirements must include a requirement that the person refrain from criminal conduct. In exchange for the deferred sentencing, the person shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the requirements are immediately in effect.

2. During the period of deferment and upon application of the person granted deferred disposition pursuant to subsection 1 or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or relieve the person of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the person.

3. During the period of deferment, bail does not apply.

**§1348-B. Court hearing as to final disposition**

1. Unless a court hearing is sooner held under subsection 2, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1348-A shall return to court for a hearing on final disposition. If the court finds that the person has complied with the court-imposed deferment requirements, the court shall impose a sentence of unconditional discharge under section 1346, unless the attorney for the State, prior to sentence imposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the defendant, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the court finds by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

3. A hearing under this section or section 1348-A must be held in the court that ordered the deferred disposition. The hearing need not be conducted by the justice or judge who originally ordered the deferred disposition.

4. The person at a hearing under this section or section 1348-A must be afforded the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person who was granted deferred disposition pursuant to section 1348-A can not afford counsel, the court shall appoint counsel for the person. Assignment of counsel and withdrawal of

counsel must be in accordance with the Maine Rules of Criminal Procedure.

5. A summons must be used to order a person who was granted deferred disposition pursuant to section 1348-A to appear for a hearing under this section. If the person can be located and served with a summons, the attorney for the State may not commence a hearing under this section by having the person arrested, except that a person who fails to appear as required may be arrested pursuant to a bench warrant or an order of arrest.

6. If a person who was granted deferred disposition pursuant to section 1348-A can not, with due diligence, be located, the attorney for the State shall file a written notice of this fact with the court that ordered the deferred disposition. If the hearing is for a final disposition at the conclusion of the period of deferment, and the person fails to appear at that hearing, the person may be arrested pursuant to a bench warrant or an order of arrest. If the hearing is to determine whether the person has inexcusably failed to comply with a court-imposed deferment requirement, the attorney for the State shall apply for a warrant of arrest in accordance with Rule 41 of the Maine Rules of Criminal Procedure.

**§1348-C. Limited review by appeal**

A person is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a person who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has been sentenced to an alternative authorized for the crime may appeal to the Law Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**CHAPTER 54-G**

**ADMINISTRATIVE RELEASE**

**§1349. Eligibility for sentence alternative that includes period of administrative release**

A person who has been convicted of a Class D or Class E crime may be sentenced to a sentence alternative under section 1152 that includes a period of administrative release, unless:

A. The statute that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the

convicted person must be sentenced to the imprisonment and required to pay the fine authorized therein;

B. The court sentences the person to a sentencing alternative under section 1152 that includes a period of probation; or

C. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted.

**§1349-A. Period of administrative release**

1. A person who has been convicted of a Class D or Class E crime may be placed on administrative release for a period not to exceed one year.

2. During the period of administrative release and upon application of a person placed on administrative release or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or release the person of any requirement imposed by the court that, in the court's opinion, imposes on the person an unreasonable burden.

3. On application of the attorney for the State or of the person placed on administrative release or on the court's own motion, the court may terminate a period of administrative release and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsection 1 if warranted by the conduct of such person. The court may not order a termination of the period of administrative release and discharge upon the motion of the person placed on administrative release unless notice of the motion is given to the attorney for the State by the person placed on administrative release. The termination of the period of administrative release and discharge relieves the person placed on administrative release of any obligations imposed by the sentence of administrative release.

4. A justice, in order to comply with section 1256, subsection 8, may terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment. A judge may terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment if that judge has jurisdiction over each of the sentences involved.

**§1349-B. Suspended sentence with administrative release**

1. The court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for the Class D or Class E crime, suspend the entire term of imprisonment and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

2. The court may sentence a person to a fine, not to exceed the maximum fine authorized for the Class D or Class E crime, suspend the fine in whole or in part and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

3. A sentence imposed under subsection 1 or subsection 2 commences on the date the person goes into actual execution of the sentence.

**§1349-C. Requirements of administrative release**

1. If the court imposes a suspended sentence with administrative release under section 1349-B, the court shall attach requirements of administrative release, as authorized by this section, as the court determines to be reasonable and appropriate to help ensure accountability and rehabilitation of the person. The court-imposed requirements of administrative release must include a requirement that the convicted person refrain from criminal conduct.

2. In addition to a requirement that the convicted person refrain from criminal conduct and a requirement that the convicted person pay all assessments, surcharges, fees and costs required by law, the court in its sentence may require the convicted person:

A. To pay any fine imposed by the court as part of the sentence;

B. To make any restitution to each victim of the crime imposed by the court;

C. To perform any community service work imposed by the court as part of the sentence; or

D. To satisfy any other requirement reasonably related to helping ensure the accountability and rehabilitation of the person.

3. The convicted person must be given an opportunity to address the court on the requirements that are proposed to be attached and must, after the sentencing, be given a written



statement setting forth the specific requirements on which the person is being administratively released.

**§1349-D. Commencement of administrative release revocation proceeding**

1. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may file a motion with the court seeking to revoke administrative release and cause a summons to be delivered to the person placed on administrative release ordering that person to appear for a court hearing on the alleged violation. The motion must set forth the facts underlying the alleged violation. The summons must be in the same form as a summons under section 1205-B, subsection 2 except that the summons must include the signature of a law enforcement officer other than a probation officer.

2. A person placed on administrative release appearing on a motion to revoke administrative release pursuant to a summons must be afforded an initial appearance as provided in section 1205-C, subsection 4.

3. If the person placed on administrative release fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest of the person, the court shall afford the person a preliminary hearing as provided in section 1205, subsection 4, and, if retained in custody, section 1205-C, subsection 3 applies.

4. If the person placed on administrative release can be located and served a summons, the attorney for the State may not commence the administrative release proceeding by having the person arrested. However, if the person can not, with due diligence, be located, the attorney for the State shall file a written notice of this fact with the court and obtain a warrant of arrest under Rule 41 of the Maine Rules of Criminal Procedure. Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within 14 days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in section 1205-C, subsections 5 and 6.

**§1349-E. Court hearing on administrative release revocation**

The hearing on a motion to revoke administrative release is as provided under section 1206, except that subsections 7-B and 9 do not apply.

**§1349-F. Review**

Review of a revocation of administrative release pursuant to section 1349-E must be by appeal. The appeal is as provided under section 1207.

**Sec. A-20. 34-A MRSA §1210-A, sub-§5,** as enacted by PL 1997, c. 753, §2, is repealed and the following enacted in its place:

**5. Community corrections program account.** Each county treasurer shall place 20% of the funds received from the department pursuant to this section into a separate community corrections program account. A county may use funds placed in this account only for adult or juvenile community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the department shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

**Sec. A-21. 34-A MRSA §3036-A, sub-§2, ¶C,** as enacted by PL 1991, c. 845, §4, is amended to read:

C. A Except as provided in paragraph C-1, a prisoner may not be transferred to supervised community confinement unless the prisoner has no more than one year remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

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Sec. A-22. 34-A MRSA §3036-A, sub-§2, ¶C-1 is enacted to read:

C-1. If the commissioner determines that the average statewide probation case load is no more than 90 probationers to one probation officer, then a prisoner may be transferred to supervised community confinement if that prisoner has no more than 2 years remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

Sec. A-23. PL 2003, c. 451, Pt. K, §2, sub-§6 is amended to read:

6. **Initial report to address immediate needs.** The commission shall submit -a- an initial report that includes its findings and recommendations, including legislation, to the joint standing committee of the Legislature having jurisdiction over ~~sentencing policies during the Second Regular Session of the 121st Legislature~~ criminal justice and public safety matters no later than ~~December 3, 2003~~ February 2, 2004. The commission is authorized to introduce legislation related to its report to the Second Regular Session of the 121st Legislature at the time of submission of its report.

Sec. A-24. PL 2003, c. 451, Pt. K, §2, sub-§7 is enacted to read:

7. Authorized duties; nonlapsing funds. The commission is authorized to conduct any additional work authorized by law within its budgeted resources. Any unencumbered balance of General Fund appropriations originally appropriated to support the work of the commission that remain on June 30, 2004 within the Department of Corrections may not lapse but must be carried forward to June 30, 2005 to be used for the same purpose.

Sec. A-25. **Addressing mental illness in prisons and jails.** No later than July 1, 2004, the Department of Corrections and the Department of Behavioral and Developmental Services shall develop a joint plan of action to address mental illness in the criminal justice community. In developing the plan the departments shall invite the Maine Sheriffs' Association to participate. The plan will be delivered to the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners. No later than January 1, 2005, the Department of Corrections and the Department of Behavioral and Developmental Services shall present the plan to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.



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

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

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

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

Sec. B-3. 17-A MRSA §255-A, sub-§1, ¶¶E-1 and F-1 are enacted to read:

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

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

Sec. B-4. 17-A MRSA §256, as enacted by PL 1995, c. 72, §1, is repealed and the following enacted in its place:

**§256. Visual sexual aggression against child**

1. A person is guilty of visual sexual aggression against a child if:

A. For the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having 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 genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age. Violation of this paragraph is a Class D crime; or

B. For the purpose of arousing or gratifying sexual desire, the actor, having 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 genitals to the actor and the other person, not the actor's spouse, has not in fact

2           attained 12 years of age. Violation of this paragraph is a  
3           Class C crime.

4           **Sec. B-5. 17-A MRSA §258, sub-§1**, as enacted by PL 1997, c.  
5           143, §1, is amended to read:

6  
7           1. A person is guilty of sexual misconduct with a child  
8           under 14 years of age if that person, having in fact attained 18  
9           years of age, knowingly displays any sexually explicit materials  
10           to another person, not the actor's spouse, who has not in fact  
11           attained the age of 14 years, with the intent to encourage the  
12           other person to engage in a sexual act or sexual contact.  
13           Violation of this subsection is a Class D crime.

14           **Sec. B-6. 17-A MRSA §258, sub-§1-A** is enacted to read:

15           1-A. A person is guilty of sexual misconduct with a child  
16           under 12 years of age if that person, having in fact attained 18  
17           years of age, knowingly displays any sexually explicit materials  
18           to another person, not the actor's spouse, who has not in fact  
19           attained 12 years of age, with the intent to encourage the other  
20           person to engage in a sexual act or sexual contact. Violation of  
21           this subsection is a Class C crime.

22           **Sec. B-7. 17-A MRSA §258, sub-§2**, as enacted by PL 1997, c.  
23           143, §1, is amended to read:

24  
25           2. As used in this section, "sexually explicit materials"  
26           means any book, magazine, print, negative, slide, motion picture,  
27           videotape or other mechanically reproduced visual material that  
28           the person knows or should know depicts a person, minor or adult,  
29           engaging in sexually explicit conduct, as that term is defined in  
30           Title 17, section 2921, subsection 5 281.

31           **Sec. B-8. 17-A MRSA §258, sub-§3**, as enacted by PL 1997, c.  
32           143, §1, is repealed.

33           **Sec. B-9. 17-A MRSA §259, sub-§1-A**, as enacted by PL 2001, c.  
34           383, §25 and affected by §156, is amended to read:

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

37           A. The actor:

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

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

- 2 (3) Knows or believes that the other person is less
- 3 than 14 years of age; and
- 4
- 5 (4) Is at least 3 years older than the expressed age
- 6 of the other person; and
- 7
- 8 B. The actor has the intent to engage in any one of the
- 9 following prohibited acts with the other person:
- 10
- 11 (1) A sexual act ~~as defined in section 251, subsection~~
- 12 ~~1, paragraph C;~~
- 13
- 14 (2) Sexual contact ~~as defined in section 251,~~
- 15 ~~subsection 1, paragraph D; or~~
- 16
- 17 (3) Sexual exploitation of a minor pursuant to Title
- 18 ~~17, section 2922~~ 282.

Violation of this subsection is a Class D crime.

**Sec. B-10. 17-A MRSA §259, sub-§1-B** is enacted to read:

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

A. The actor:

- 28 (1) Uses a computer knowingly to solicit, entice,
- 29 persuade or compel another person to meet with the
- 30 actor;
- 31
- 32 (2) Is at least 16 years of age;
- 33
- 34 (3) Knows or believes that the other person is less
- 35 than 12 years of age; and
- 36
- 37 (4) Is at least 3 years older than the expressed age
- 38 of the other person; and
- 39

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

- 41 (1) A sexual act;
- 42
- 43 (2) Sexual contact; or
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- 45 (3) Sexual exploitation of a minor pursuant to
- 46 section 282.
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2 1. A person is guilty of sexual exploitation of a minor if:

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

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

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

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

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

50 F. The person violates paragraph D and the minor has not in  
52 fact attained 12 years of age. Violation of this paragraph  
54 is a Class A crime.

56 2. The following mandatory minimum terms of imprisonment  
58 apply to sexual exploitation of a minor.

60 A. A court shall impose upon a person convicted under  
62 subsection 1, paragraph A or D a sentencing alternative  
64 involving a term of imprisonment of at least 5 years.

66 B. A court shall impose upon a person convicted under  
68 subsection 1, paragraph B or E a sentencing alternative  
70 involving a term of imprisonment of at least 10 years.

72 The court may not suspend a minimum term of imprisonment imposed  
74 under this section unless it sets forth in detail, in writing,  
76 the reasons for suspending the sentence. The court shall consider  
78 the nature and circumstances of the crime, the physical and

mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if the court is of the opinion that the exceptional features of the case justify the imposition of another sentence. Section 9-A governs the use of prior convictions when determining a sentence.

**§283. Dissemination of sexually explicit material**

1. A person is guilty of dissemination of sexually explicit material if:

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

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

C. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who is less than 12 years of age who the person 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

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 crime.

Section 9-A governs the use of prior convictions when determining a sentence.

2. For the purposes of this section, possession of 10 or more copies of any of the materials as described in subsection 1 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person possesses those items with intent to disseminate.

**§284. Possession of sexually explicit material**

2 1. A person is guilty of possession of sexually explicit  
3 material if that person:

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

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

13 (2) The person knows or has reason to know that the  
14 other person has not attained 14 years of age;

15 Violation of this paragraph is a Class D crime;

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

19 C. Intentionally or knowingly transports, exhibits,  
20 purchases or possesses any book, magazine, newspaper, print,  
21 negative, slide, motion picture, computer data file,  
22 videotape or other mechanically, electronically or  
23 chemically reproduced visual image or material that the  
24 person knows or should know depicts another person engaging  
25 in sexually explicit conduct, and:

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

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

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

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

34 Section 9-A governs the use of prior convictions when determining  
35 a sentence.

36 2. It is a defense to a prosecution under this section that  
37 the person depicted was the spouse of the person possessing the  
38 sexually explicit material at the time the material was produced.  
39

2       3. The age of the person depicted may be reasonably  
4       inferred from the depiction. Competent medical evidence or other  
6       expert testimony may be used to establish the age of the person  
      depicted.

8       4. Any material that depicts a person who has not attained  
10      14 years of age engaging in sexually explicit conduct is declared  
      to be contraband and may be seized by the State.

12      **§285. Forfeiture of equipment used to facilitate violations**

14      1. Upon a finding of guilt of any violation of this  
16      chapter, but prior to sentencing, an attorney for the State may,  
18      in writing, move the court for an order requiring the forfeiture  
20      to the State of any equipment, including computers, that may have  
      facilitated the commission of the offense. Notice of the motion  
      must be made by the State to the defendant and any party of  
      interest; this notice must be done by registered mail.

22      2. If contesting the forfeiture, the defendant or other  
24      party-in-interest in the in rem civil forfeiture proceeding may  
      request a jury trial. Absent that request, the proceeding must  
      be before the court.

26      3. At the jury trial or court hearing, the State has the  
28      burden of proving to the fact finder by a preponderance of the  
      evidence that the equipment was used in violation of this chapter.

30      4. Upon a finding by a preponderance of the evidence that  
32      the equipment was used to facilitate the commission of a  
34      violation of this chapter, the court shall order the equipment  
36      forfeited and may, upon the written recommendation of the  
38      attorney for the State, provide in its order for the disposition  
40      or use of the equipment by any state, county or municipal law  
      enforcement agency that made a substantial contribution to the  
      investigation or prosecution of the case. Any equipment  
      forfeited that is not transferred to an investigating or  
      prosecuting agency must be sold and the proceeds deposited in the  
      General Fund.

42      5. The Attorney General may adopt by rule guidelines  
44      regulating the disposition and use of property forfeited or  
46      sought for forfeiture under this section. Rules adopted under  
      this section are routine technical rules as defined in Title 5,  
      chapter 375, subchapter 2-A.

48      **Sec. B-13. 17-A MRSA §1152, sub-§2-C, as amended by PL 2001,**  
50      **c. 439, Pt. 000, §2, is further amended to read:**

2-C. ~~As-part-of~~ At the time the court imposes a sentence,  
2 the court shall order every natural person ~~who-is-a~~ convicted sex  
3 ~~offender-or-sexually-violent-predator,~~ of a sex offense or a  
4 sexually violent offense as defined under Title 34-A, section  
5 11203 to satisfy all requirements set forth in the Sex Offender  
6 Registration and Notification Act of 1999.

8 **Sec. B-14. 17-A MRSA §1202, sub-§1-A, ¶A,** as enacted by PL  
9 1999, c. 788, §2, is repealed and the following enacted in its  
10 place:

12 A. If the State pleads and proves that at the time of the  
13 crime the victim had not attained 12 years of age, the  
14 period of probation for a person convicted under chapter 11  
15 or 12 may not exceed:

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

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

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

22 **Sec. B-15. 17-A MRSA §1202, sub-§1-A, ¶B,** as enacted by PL  
23 1999, c. 788, §2, is amended to read:

26 B. The period of probation for a person sentenced as a  
27 dangerous repeat sexual assault offender pursuant to section  
28 1252, subsection 4-B is any term of years; and

30 **Sec. B-16. 17-A MRSA §1202, sub-§1-A, ¶C** is enacted to read:

32 C. In the case of a crime of gross sexual assault, if the  
33 State pleads and proves that at the time of the crime the  
34 victim had not attained 12 years of age and that the  
35 defendant has previously been convicted and sentenced for  
36 committing gross sexual assault, rape or gross sexual  
37 misconduct against a victim who had not attained 12 years of  
38 age, the period of probation may be life or any term of  
39 years. In addition to any conditions imposed under section  
40 1204, the court shall attach as a condition of probation  
41 that the convicted person participate in counseling or  
42 treatment to the satisfaction of the probation officer.

44 **Sec. B-17. 17-A MRSA §1203, sub-§1-A, ¶B,** as enacted by PL  
45 1999, c. 788, §4, is amended to read:

46 B. The court may revoke probation if, during the initial  
47 unsuspended portion of the term of imprisonment, a person  
48 sentenced as a dangerous repeat sexual assault offender,  
49 pursuant to section 1252, subsection 4-B, refuses to  
50

actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections.

**Sec. B-18. 17-A MRSA §1231, sub-§2, ¶A**, as enacted by PL 1999, c. 788, §7, is amended to read:

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

**Sec. B-19. 17-A MRSA §1252, sub-§4-B**, as enacted by PL 1999, c. 788, §8, is amended to read:

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

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

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of the United States or any other state.

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

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

**Sec. B-20. 17-A MRSA §1252, sub-§§4-C and 4-D** are enacted to read:

2 4-C. If the State pleads and proves that a Class A crime of  
4 gross sexual assault was committed by a person who had previously  
6 been convicted and sentenced for a Class B or Class C crime of  
8 unlawful sexual contact, or an essentially similar crime in  
another jurisdiction, that prior conviction must be given serious  
consideration by the court in exercising its sentencing  
discretion.

10 4-D. If the State pleads and proves that a crime under  
12 section 253, subsection 1, paragraph C or under section 282,  
14 subsection 1, paragraph C or F was committed against a person who  
16 had not attained 12 years of age at the time of the offense, the  
18 age of the victim must be given serious consideration by the  
court in exercising its sentencing discretion.

PART C

20 **Sec. C-1. 19-A MRSA §1653, sub-§6-A, ¶A,** as enacted by PL  
22 2001, c. 665, §4, is amended to read:

24 A. For the purposes of this section, "child-related sexual  
26 offense" means the following sexual offenses if, at the time  
of the commission of the offense, the victim was under 18  
years of age:

- 28 (1) Sexual exploitation of a minor, under Title 17
- 30 17-A, section 2922 282;
- 32 (2) Gross sexual assault, under Title 17-A, section
- 34 253;
- 36 (3) Sexual abuse of a minor, under Title 17-A, section
- 38 254;
- 40 (4) Unlawful sexual contact, under former Title 17-A,
- 42 section 255;
- 44 (5) Visual sexual aggression against a child, under
- 46 Title 17-A, section 256;
- 48 (6) Sexual misconduct with a child under 14 years of
- age, under Title 17-A, section 258; or
- (7) An offense in another jurisdiction, including, but
- not limited to, that of a state, federal, military or
- tribal court, that includes the essential elements of

an offense listed in subparagraph (1), (2), (3), (4),  
(5) or (6).

**Sec. C-2. 30-A MRSA §288, last ¶**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

Therefore district attorneys, their assistants and employees and other law enforcement officials shall refrain from any unnecessary pretrial public disclosure of information that may identify a minor victim of an offense under ~~Title-17,--chapter 93-B,~~ Title 17-A, chapter 11 or 12 or Title 17-A, section 556.

**Sec. C-3. 30-A MRSA §289, first ¶**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

Unless a written agreement exists between a law enforcement agency and a district attorney concerning primary responsibility for investigating any of the following offenses, the district attorney may direct the investigation of any offense under ~~Title 17,--chapter-93-B,--and~~ Title 17-A, chapter 11 or 12, or Title 17-A, sections 207, 208 and 556, when a victim may not have attained ~~his~~ the victim's 18th birthday, and may designate, by geographical boundaries or otherwise, a particular law enforcement agency to have primary responsibility for that investigation.

**Sec. C-4. 34-A MRSA §11201**, as amended by PL 2001, c. 439, Pt. 000, §6, is further amended to read:

**§11201. Short title**

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

**Sec. C-5. 34-A MRSA §11202**, as amended by PL 2001, c. 439, Pt. 000, §7, is repealed and the following enacted in its place:

**§11202. Application**

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



2           **Sec. C-6. 34-A MRSA §11203, sub-§§1-A and 1-B**, as enacted by  
PL 2001, c. 439, Pt. 000, §8, are amended to read:

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

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

14           **Sec. C-7. 34-A MRSA §11203, sub-§§1-C and 3-A** are enacted to  
read:

16           **1-C. Another state.** "Another state" means each of the  
18           several states except Maine, the District of Columbia, the  
20           Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,  
22           American Samoa and the Northern Mariana Islands.

24           **3-A. Jurisdiction.** "Jurisdiction" means the Federal  
26           Government, including the military, this State or another state  
or tribe.

28           **Sec. C-8. 34-A MRSA §11203, sub-§2**, as enacted by PL 1999, c.  
437, §2, is repealed and the following enacted in its place:

30           **2. Domicile.** "Domicile" means the place where a person has  
32           that person's established, fixed, permanent or ordinary dwelling  
34           place or legal residence to which, whenever the person is absent,  
the person has the intention of returning. A person may have  
36           more than one residence but only one domicile.

38           **Sec. C-9. 34-A MRSA §11203, sub-§4**, as enacted by PL 1999, c.  
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. C-10. 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  
4 instrument" means an instrument created and modified as necessary  
6 by reviewing and analyzing precursors to a sex offense, victim  
8 populations of a ~~sex--offender--or--sexually--violent--predator~~  
10 registrant, living conditions and environment of a ~~sex--offender~~  
12 ~~or--sexually--violent--predator~~ registrant and other factors  
14 predisposing a person to become a ~~sex--offender--repeat--sex~~  
16 ~~offender--or--sexually--violent--predator~~ registrant, for the ongoing  
18 purpose of identifying risk factors used to provide notification  
20 of a ~~sex--offender's--or--sexually--violent--predator's~~ registrant's  
22 conditional release or discharge from a state correctional  
24 facility to law enforcement agencies and to the public.

16           **Sec. C-11. 34-A MRSA §11203, sub-§4-C and 4-D** are enacted to  
18 read:

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

22           **4-D. Residence.** "Residence" means that place or those  
24 places, other than a domicile, in which a person may spend time  
26 living, residing or dwelling.

26           **Sec. C-12. 34-A MRSA §11203, sub-§5,** as amended by PL 2003, c.  
28 371, §1, is further amended to read:

28           **5. Ten-year registrant.** "Sex-offender Ten-year registrant"  
30 means a person who is an adult convicted and sentenced or a  
32 juvenile convicted and sentenced as an adult of a sex offense.

32           **Sec. C-13. 34-A MRSA §11203, sub-§6, ¶B,** as amended by PL  
34 2001, c. 383, §153 and affected by §156 and amended by c. 439,  
36 Pt. 000, §9, is repealed and the following enacted in its place:

36           B. A violation under former Title 17, section 2922; former  
38 Title 17, section 2923; former Title 17, section 2924; Title  
40 17-A, section 253, subsection 2, paragraph E, F, G, H, I or  
42 J; Title 17-A, section 254; former Title 17-A, section 255,  
44 subsection 1, paragraph A, E, F, G, I, or J; former Title  
46 17-A, section 255, subsection 1, paragraph B or D if the  
48 crime was not elevated a class under former Title 17-A,  
50 section 255, subsection 3; Title 17-A, section 255-A,  
subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, O, R,  
S or T; Title 17-A, section 256; Title 17-A, section 258;  
Title 17-A, section 259; Title 17-A, section 282; Title  
17-A, section 283; Title 17-A, section 284; Title 17-A,  
section 301, unless the actor is a parent of the victim;  
Title 17-A, section 302, unless the actor is a parent of the

2 victim; Title 17-A, section 511, subsection 1, paragraph D;  
3 Title 17-A, section 556; Title 17-A, section 852, subsection  
4 1, paragraph B; or Title 17-A, section 855; or

6 **Sec. C-14. 34-A MRSA §11203, sub-§7, ¶A**, as amended by PL  
7 2001, c. 553, §3 and affected by §10, is repealed and the  
8 following enacted in its place:

10 A. A conviction for one of the offenses or for an attempt  
11 to commit one of the offenses under former Title 17-A,  
12 section 252; under Title 17-A, section 253, subsection 1;  
13 Title 17-A, section 253, subsection 2, paragraph A, B, C or  
14 D; former Title 17-A, section 255, subsection 1, paragraph C  
15 or H; former Title 17-A, section 255, subsection 1,  
16 paragraph B or D, if the crime was elevated a class under  
17 former Title 17-A, section 255, subsection 3; Title 17-A,  
18 section 255-A, subsection 1, paragraph D, E, E-1, F, F-1, H,  
19 O or P; or

20 **Sec. C-15. 34-A MRSA §11203, sub-§8**, as amended by PL 2003, c.  
21 371, §3, is further amended to read:

22 **8. Lifetime registrant.** "~~Sexually---violent---predator~~  
23 Lifetime registrant" means a person who is an adult convicted  
24 and sentenced or a juvenile convicted and sentenced as an adult  
25 of a:

26 A. Sexually violent offense; or

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

31 **Sec. C-16. 34-A MRSA §11203, sub-§9** is enacted to read:

32 **9. Tribe.** "Tribe" means the Passamaquoddy Tribe or the  
33 Penobscot Nation.

34 **Sec. C-17. 34-A MRSA §11221, sub-§1, ¶¶A and F**, as enacted by  
35 PL 1999, c. 437, §2, are amended to read:

36 A. The ~~sex--offender's--or--sexually--violent--predator's~~  
37 registrant's name, aliases, date of birth, sex, race,  
38 height, weight, eye color, mailing address, home address or  
39 expected domicile and residence;

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

2           **Sec. C-18. 34-A MRSA §11221, sub-§2**, as enacted by PL 1999, c.  
437, §2, is amended to read:

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

10           **Sec. C-19. 34-A MRSA §11221, sub-§6**, as repealed and replaced  
by PL 2003, c. 371, §6, is amended to read:

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

20           **Sec. C-20. 34-A MRSA §11221, sub-§§9 and 10**, as enacted by PL  
22 2003, c. 371, §7, are amended to read:

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

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

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

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

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

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

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

- 2 (1) The ~~sex-offender's-or-sexually-violent-predator's~~  
3 registrant's name, aliases, date of birth, sex, race,  
4 height, weight, eye color, mailing address and home  
5 address or domicile and residence;
- 6 (2) The ~~sex-offender's-or-sexually-violent-predator's~~  
7 registrant's place of employment and college or school  
8 being attended, if applicable, and the corresponding  
9 address and location;
- 10 (3) A description of the offense for which the ~~sex~~  
11 ~~offender-or-sexually-violent-predator~~ registrant was  
12 convicted, the date of conviction and the sentence  
13 imposed; and
- 14 (4) The ~~sex-offender's-or-sexually-violent-predator's~~  
15 registrant's photograph.

16  
17  
18  
19  
20 **10. Registrant access to information.** Pursuant to Title  
21 16, section 620, the bureau shall provide all information  
22 described in subsection 1 to a ~~sex-offender-or-sexually-violent~~  
23 ~~predator~~ registrant who requests that person's own information.

24  
25 **Sec. C-21. 34-A MRSA §11222**, as amended by PL 2003, c. 371,  
26 §§8 to 10, is further amended to read:

27  
28 **§11222. Duty of registrant**

29  
30 **1. Determination by court.** The court shall determine at  
31 the time of sentencing if a defendant is a ~~sex-offender~~ 10-year  
32 registrant or a ~~sexually-violent-predator~~ lifetime registrant. A  
33 person who the court determines is a ~~sex--offender~~ 10-year  
34 registrant or a ~~sexually-violent-predator~~ lifetime registrant  
35 shall register according to this subchapter.

36  
37 **1-A. When duty to register must be exercised.** Following  
38 determination by the court under subsection 1, a ~~sex-offender-or~~  
39 ~~a-sexually-violent-predator~~ registrant shall register as follows.

40  
41 **A.** If the ~~sex--offender--or--sexually--violent--predator~~  
42 registrant is sentenced to a wholly suspended sentence with  
43 probation or to a punishment alternative not involving  
44 imprisonment, the duty to register is triggered at the time  
45 the person commences an actual execution of the wholly  
46 suspended sentence or at the time of sentence imposition  
47 when no punishment alternative involving imprisonment is  
48 imposed, unless the court orders a stay of execution, in  
49 which event the duty is triggered by the termination of the  
50 stay.

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

6  
7 C. If the ~~sex--offender--or--sexually--violent--predator~~  
8 registrant is committed under Title 15, section 103, the  
9 duty to register is triggered by discharge or conditional  
10 release under Title 15, section 104-A.

11 1-B. Duty to notify law enforcement agency. A registrant  
12 who has a duty to register pursuant to this subchapter shall  
13 notify the law enforcement agency having jurisdiction in those  
14 areas where the registrant resides, works or attends school  
15 within 24 hours of becoming a resident or beginning work or  
16 attending school. If the location is a municipality with an  
17 organized municipal police department, the law enforcement agency  
18 having jurisdiction is the municipal police department. If the  
19 location is a school having an organized police department, the  
20 law enforcement agency having jurisdiction is the campus police  
21 department. If the location is neither a municipality nor a  
22 school with an organized police department, the law enforcement  
23 agency having jurisdiction is the sheriff's department.

24  
25 **2. Responsibility of ensuring initial registration.** The  
26 department, the county jail or the state mental health institute  
27 that has custody of a ~~sex--offender--or--sexually--violent--predator~~  
28 registrant required to register under this subchapter shall  
29 inform the ~~sex--offender--or--sexually--violent--predator~~ registrant,  
30 prior to discharge or conditional release, of the duty to  
31 register. If a ~~sex--offender--or--sexually--violent--predator~~  
32 registrant does not serve a period of institutional confinement,  
33 the court shall inform the ~~sex--offender--or--sexually--violent~~  
34 predator registrant at the time of sentencing of the duty to  
35 register. The department, county jail, state mental health  
36 institute or court shall:

37  
38 A. Inform the ~~sex--offender--or--sexually--violent--predator~~  
39 registrant of the duty to register and obtain the  
40 information required for the initial registration;

41  
42 A-1. Inform the registrant of the requirement to notify the  
43 law enforcement agency having jurisdiction pursuant to  
44 subsection 1-B.

45  
46 B. Inform the ~~sex--offender--or--sexually--violent--predator~~  
47 registrant that if the ~~sex--offender--or--sexually--violent~~  
48 predator registrant changes domicile or changes residence,  
49 place of employment or college or school being attended,  
50

2 the ~~sex--offender--or--sexually--violent--predator~~ registrant  
shall give the new address to the bureau in writing within  
4 ~~10-days~~ 5 days and shall notify the law enforcement agency  
having jurisdiction within 24 hours;

6 C. Inform the ~~sex--offender--or--sexually--violent--predator~~  
registrant that if that ~~sex--offender--or--sexually--violent~~  
8 ~~predator~~ registrant changes domicile to another state, the  
~~sex--offender--or--sexually--violent--predator~~ registrant shall  
10 register the new address with the bureau and if the new  
state has a registration requirement, the ~~sex--offender--or~~  
12 ~~sexually--violent--predator~~ registrant shall register with a  
designated law enforcement agency in the new state not later  
14 than ~~10~~ 5 days after establishing domicile in the new  
state;

16 D. Inform the ~~sex--offender--or--sexually--violent--predator~~  
registrant that if that ~~sex--offender--or--sexually--violent~~  
18 ~~predator~~ registrant has part-time or full-time employment in  
another state, with or without compensation, for more than  
20 14 consecutive days or for an aggregate period exceeding 30  
22 days in a calendar year or if that ~~sex--offender--or--sexually~~  
~~violent--predator~~ registrant enrolls in any type of school in  
24 another state on a part-time or full-time basis, the ~~sex~~  
~~offender--or--sexually--violent--predator~~ registrant shall give  
26 the bureau the registrant's place of employment or school to  
be attended in writing within ~~10~~ 5 days after beginning work  
28 or attending school and if the other state has a  
registration requirement, shall register with the designated  
30 law enforcement agency in the other state;

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

40 F. Enforce the requirement that the ~~sex--effender--or~~  
~~sexually--violent--predator~~ registrant read and sign a form  
42 provided by the bureau that states that the duty of the ~~sex~~  
~~effender--or--sexually--violent--predator~~ registrant to register  
44 under this section has been explained.

46  
48 **2-A. Duty of registrant sentenced from June 30, 1992 to**  
**September 17, 1999 to register.** Notwithstanding subsection 1 and  
except as provided in subsection 2-B, a person coming within the  
50 definition of a 10-year registrant or lifetime registrant who has

2 been sentenced on or after June 30, 1992 but before September 18,  
1999 for a sex offense or a sexually violent offense shall  
4 register either as a ~~sex-offender~~ 10-year registrant or as--a  
~~sexually--violent--predator~~ lifetime registrant, whichever is  
6 applicable, with the bureau by September 1, 2002 if the duty to  
register has been triggered under subsection 1-A, paragraph A, B  
8 or C, unless sooner notified in writing of a duty to register  
under subsection 1-A, paragraph A, B or C by the bureau, the  
10 department or a law enforcement officer, in which case the person  
shall register with the bureau within ~~10~~ 5 days of notice.

12 2-B. Duty to register for new crimes. For a person  
otherwise subject to subsection 2-A who has been sentenced for a  
14 crime added by an amendment to the definition of sex offense or  
sexually violent offense in section 11203 since September 1,  
16 2002, if the duty to register has been triggered under subsection  
18 1-A, paragraph A, B or C, that person shall register as a 10-year  
registrant or a lifetime registrant, whichever is applicable,  
20 with the bureau by June 1, 2005, unless sooner notified in  
22 writing of a duty to register under subsection 1-A, paragraph A,  
B or C by the bureau, the department or a law enforcement  
officer, in which case the person shall register with the bureau  
24 within 5 days of notice.

26 **3. Transfer of initial registration information to bureau**  
**and FBI.** The department, county jail, state mental health  
28 institute or court within 3 days of receipt of the information  
described in subsection 2 shall forward the information to the  
30 bureau. If the court orders the ~~sex-offender-or-sexually-violent~~  
~~predator~~ registrant to submit to the taking of fingerprints and a  
32 photograph at a specified law enforcement agency, the law  
enforcement agency shall submit the fingerprints and photograph  
34 to the bureau within 3 days. The bureau shall immediately enter  
the information into the registration system, notify the law  
36 enforcement agency having jurisdiction where the ~~sex-offender-or~~  
~~sexually-violent-predator~~ registrant expects to be domiciled and  
38 transmit the information to the FBI for inclusion in the national  
FBI sex offender database.

40 **4. Verification.** During the period a ~~sex--offender--or~~  
~~sexually-violent-predator~~ registrant is required to register, the  
42 bureau shall verify a ~~sex--offender's--or--sexually--violent~~  
~~predator's~~ registrant's domicile. The bureau shall verify the  
44 domicile of a ~~sex-offender~~ 10-year registrant on each anniversary  
of the ~~sex-offender's~~ 10-year registrant's initial registration  
46 date and shall verify a ~~sexually-violent--predator's~~ lifetime  
registrant's domicile every 90 days after that ~~sexually-violent~~  
48 ~~predator's~~ lifetime registrant's initial registration date.  
Verification of the domicile of a ~~sex-offender~~ 10-year registrant



or ~~sexually-violent-predator~~ lifetime registrant occurs as set out in this subsection.

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

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

C. The ~~sex-offender-or-sexually-violent-predator~~ registrant shall take the completed verification form and a photograph to the law enforcement agency having jurisdiction within 10 5 days of receipt of the form.

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

**5. Change of domicile, residence, place of employment or college or school being attended.** A ~~sex-offender-or-sexually-violent-predator~~ registrant shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within 10 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours after that--change changing that domicile, residence, place of employment or college or school being attended.

A. If the ~~sex-offender-or-sexually-violent-predator~~ registrant establishes a new domicile, residence, place of employment or college or school being attended in the State, the bureau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the ~~sex-offender-or-sexually-violent-predator~~ registrant was formerly domiciled, or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the ~~sex-offender-or-sexually-violent-predator~~ registrant is currently domiciled, residing, employed or enrolled.

B. If the ~~sex-offender-or-sexually-violent-predator~~ registrant establishes a domicile, residence, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law

enforcement agency having jurisdiction where the sex  
2 ~~offender--or--sexually--violent--predator~~ registrant was  
formerly domiciled, or resided or was employed or enrolled  
4 and the law enforcement agency having jurisdiction where the  
~~sex--offender--or--sexually--violent--predator~~ registrant is  
6 currently domiciled, residing, employed or enrolled.

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

12 **Sec. C-22. 34-A MRSA §§11223 and 11224**, as amended by PL  
14 2003, c. 371, §11, are further amended to read:

16 **§11223. Duty of person establishing domicile to register**

18 A person required under another jurisdiction to register  
pursuant to that jurisdiction's sex offender registration statute  
20 or, if not so required, who is has been convicted and sentenced  
for an offense that includes the essential elements of a sex  
22 ~~offense or sexually violent offense that--would--require~~  
~~registration--in--this--State~~ shall register as a ~~sex--offender~~  
24 10-year registrant or ~~sexually--violent--predator~~ lifetime  
registrant, whichever is applicable, within 10 5 days and shall  
26 notify the law enforcement agency having jurisdiction with 24  
hours of establishing domicile in this State. The person shall  
28 contact the bureau, which shall provide the person with the  
registration form and direct the person to take the form and a  
30 photograph of the person to the law enforcement agency having  
jurisdiction. The law enforcement agency shall supervise the  
32 completion of the form, take the person's fingerprints and  
immediately forward the form, photograph and fingerprints to the  
34 bureau.

36 **§11224. Duty of person employed or attending college or school to**  
register

38 A person who is required under another jurisdiction to  
register pursuant to that jurisdiction's sex offender  
40 registration statute because the person is domiciled in another  
state or, if not so required, who is has been convicted and  
42 sentenced for an offense that includes the essential elements of  
44 a sex offense or sexually violent offense ~~that--would--require~~  
~~registration--in--this--State~~ shall register as a ~~sex--offender~~  
46 10-year registrant or ~~sexually--violent--predator~~ lifetime  
registrant, whichever is applicable, within 10 5 days and shall  
48 notify the law enforcement agency having jurisdiction with 24  
hours of beginning full-time or part-time employment, with or  
50 without compensation, for more than 14 consecutive days or for an

aggregate period exceeding 30 days in a calendar year or beginning college or school on a full-time or part-time basis in this State. The person shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

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

§11225. Duration of registration

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

A. If the ~~sex--offender~~ 10-year registrant was sentenced to a wholly suspended sentence with probation or to a punishment alternative not involving imprisonment, the 10-year period is treated as having begun at the time the person commenced an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment was imposed, unless the court ordered a stay of execution, in which event the 10-year period is treated as having begun at the termination of the stay.

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

C. If the ~~sex--offender~~ 10-year registrant was committed under Title 15, section 103, the 10-year period is treated

2 as having begun at the time of discharge or conditional  
release under Title 15, section 104-A.

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

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

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

22 **2-A. Periods when domiciled outside Maine.** Notwithstanding  
24 subsections 1 and 2, during any period in which the 10-year  
registrant or lifetime registrant leaves the State, establishes a  
26 domicile in another state and remains physically absent from the  
State the bureau may suspend the requirement that a 10-year  
registrant or lifetime registrant register.

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

36 **4. Relief from duty to register.** If the underlying  
conviction for a sex offense or sexually violent offense is  
38 reversed, vacated or set aside, or if the registrant is pardoned  
for the offense, registration or continued registration as a ~~sex~~  
40 ~~offender~~ 10-year registrant or ~~sexually-violent-predator~~ lifetime  
registrant is no longer required.

42 **Sec. C-24. 34-A MRSA §11226, first ¶,** as enacted by PL 1999, c.  
44 437, §2, is amended to read:

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

2           **Sec. C-25. 34-A MRSA §11227, sub-§§1, 2, 3 and 6**, as enacted by  
PL 2003, c. 452, Pt. S, §1 and affected by Pt. X, §2, are amended  
to read:

4  
6           **1. Failure to register or update information.** A ~~sex~~  
~~offender-or-sexually-violent-predator~~ registrant who fails to  
register or update the information required under this chapter  
8           commits a Class D crime.

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

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

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

28           **Sec. C-26. 34-A MRSA §11253**, as enacted by PL 2001, c. 439,  
Pt. 000, §15, is amended to read:

30           **§11253. Risk assessment**

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

38           **Sec. C-27. 34-A MRSA §11254**, as amended by PL 2003, c. 371,  
§13, is further amended to read:

40           **§11254. Mandatory notification of conditional release or**  
**discharge of registrants**

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

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

A. The address where the ~~sex-offender-or-sexually-violent predator~~ registrant will be domiciled and reside;

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

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

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

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--effender--or sexually--violent--predator~~ registrant pursuant to subsection 1, 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 be domiciled, reside, work or attend college or school.

**Sec. C-28. 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.

2 **§11256. Risk assessment assistance**

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

10 **PART D**

12 **Sec. D-1. Research and report regarding potential offenders.** The  
14 Department of Behavioral and Developmental Services, the  
16 Department of Human Services, the Department of Corrections and  
the Department of Public Safety, in cooperation with the Child  
Abuse Action Network and the Maine Coalition Against Sexual  
Assault, shall:

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

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

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

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

36 **Sec. D-2. Retroactivity.** Those sections of this Act that amend  
38 the Maine Revised Statutes, Title 34-A apply retroactively to  
June 30, 1992.

42 **PART E**

44 **Sec. E-1. Appropriations and allocations.** The following  
46 appropriations and allocations are made.

48 **JUDICIAL DEPARTMENT**

50 **Courts - Supreme, Superior, District  
and Administrative**

COMMITTEE AMENDMENT "K" to H.P. 1409, L.D. 1903

2 Initiative: Provides funds to contract for computer programmer  
services.

4	<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
6	All Other	\$0	\$55,040
8	General Fund Total	\$0	\$55,040

10 **Courts - Supreme, Superior, District  
and Administrative**

12 Initiative: Provides funds to contract for evaluation services.

14	<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
16	All Other	\$0	\$40,000
18	General Fund Total	\$0	\$40,000

20 **JUDICIAL DEPARTMENT  
DEPARTMENT TOTALS**

22		<b>2003-04</b>	<b>2004-05</b>
24	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$95,040</b>
26	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$95,040'</b>

28 **SUMMARY**

30

32 This amendment replaces the bill and combines the  
34 recommendations of the Commission to Improve the Sentencing,  
36 Supervision, Management and Incarceration of Prisoners, which was  
38 established pursuant to Public Law 2003, chapter 451 and the  
40 recommendations of the Commission to Improve Community Safety and  
Sex Offender Accountability, which was established pursuant to  
Resolve 2003, chapter 75. The amendment also incorporates  
proposed changes to L.D. 617, "An Act Amending the Time by Which  
a Sex Offender or Sexually Violent Predator Must Register."

42 Part A incorporates the recommendations of the Commission to  
44 Improve the Sentencing, Supervision, Management and Incarceration  
of Prisoners. Part A of the amendment does the following.

- 46 1. It expands the responsibility of the judicial branch's  
48 Drug Coordinator to include all criminal diversion programs and  
changes the title of the position to "Coordinator of Diversion  
and Rehabilitation Programs."



COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

2           2. It removes from the bill language that proposed to  
increase the monetary threshold for certain theft offenses.

4           3. It repeals and replaces the section of law regarding the  
crime of burglary of a motor vehicle, breaking the crime into a  
6           Class C offense if the burglary involves a forcible entry and a  
Class D offense if there is no force used in entering the vehicle.

8           4. It amends the section of law regarding the Class C crime  
of escape by removing from the crime an inmate's failure to  
10          appear for work, school or a meeting with the inmate's  
supervising officer while that inmate is on intensive supervision  
12          or supervised community confinement. The amendment makes failure  
to do any of these an administrative violation under the  
14          Department of Corrections.

16          5. It creates 2 new sentencing alternatives. Deferred  
18          disposition may be used for certain persons who have pled guilty  
to a Class C, Class D or Class E crime. Administrative release  
20          may be used for certain persons who have been convicted of a  
Class D or Class E crime. The amendment authorizes the court to  
22          convert probation to administrative release and authorizes the  
use of bail for deferred disposition.

24          6. It restricts the use of probation for Class D and Class  
26          E crimes to those crimes involving domestic violence, sex  
offenses and repeat OUI offenses.

28          7. It reduces for all crimes, except those involving  
30          domestic violence and sex offenses, the length of time a person  
may be sentenced to probation to 4 years for Class A crimes, 3  
32          years for Class B crimes and 2 years for Class C crimes. Sex  
offenses and crimes involving domestic violence continue to be  
34          eligible for probation not to exceed 6 years for Class A crimes  
and not to exceed 4 years for Class B crimes and Class C crimes.

36          8. It clarifies that, once a period of probation has  
38          commenced, the court has authority to terminate that probation at  
any time.

40          9. It removes from the bill language that proposed to grant  
42          the sentencing court the authority to deviate from a mandatory  
minimum sentence and mandatory minimum fine in those  
44          circumstances when the court determined that the mandatory fine  
or sentence would create a substantial injustice and the  
46          deviation would not diminish the gravity of the offense or  
adversely affect public safety.

48          10. It removes from the bill language that proposed to  
50          require that a notice of a defendant's release sent to a victim

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

1 include a phone number or address of a publicly accessible site  
2 on the Internet so the victim can learn the earliest possible  
3 date of the expiration of the imprisonment portion of the  
4 defendant's sentence.

6 11. It provides that a person who is entitled to a  
7 deduction from that person's sentence for time spent in detention  
8 may be given additional detention credit of up to 2 days per  
9 month for good behavior during the time spent in detention.

10 12. Except for persons who commit murder, sex offenses or  
11 crimes involving domestic violence, it increases the amount of  
12 good behavior good time that may be awarded from 2 to 4 days.  
13 The increase in good time may be applied to persons who commit  
14 crimes on or after August 1, 2004. Persons convicted of the  
15 excepted crimes continue to be eligible for a total of only 5  
16 days of good time per month as allowed under current law. The  
17 5-day total includes a combination of good behavior and  
18 meritorious good time.

20 13. Except for persons who commit murder, sex offenses or  
21 crimes involving domestic violence, it expands the concept of  
22 good time earned for work to include good time earned for  
23 education and rehabilitation and increases the amount that may be  
24 awarded from 3 to 5 days for prisoners in state facilities  
25 participating in community programs. The increase in good time  
26 may be applied to persons who commit crimes on or after August 1,  
27 2004. Again, persons convicted of the excepted crimes continue  
28 to be eligible for a total of only 5 days of good time per month  
29 as allowed under current law. The 5-day total includes a  
30 combination of good behavior and meritorious good time. Those  
31 eligible for the increases in good time may earn up to a total of  
32 9 days per month.

34 14. It precludes a court, in setting the appropriate length  
35 of a term of imprisonment, from factoring in the potential impact  
36 of good time deductions provided under the Maine Revised  
37 Statutes, Title 17-A, section 1253, except in cases in which the  
38 parties jointly recommend a "time served" sentence or recommend a  
39 sentence in which the total term of imprisonment or an  
40 unsuspended portion of that term has been calculated to achieve a  
41 specific projected release date.

44 15. It replaces the proposed language regarding community  
45 corrections funds and directs each county to provide  
46 documentation verifying to the Department of Corrections that 20%  
47 of its funds under the County Jail Prisoner Support and Community  
48 Corrections Fund were expended on community corrections in order  
49 to receive that 20% of its distribution in the following year.  
50 If a county cannot verify the required expenditure, that county's

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

20% will be distributed to the counties that are in compliance,  
2 based on the percentage distribution rate described in Title  
4 34-A, section 1210-A, subsection 3.

16. It gives the Commissioner of Corrections authority to  
6 place on supervised community confinement a prisoner with 2 years  
8 of incarceration remaining, if that prisoner meets all other  
10 eligibility requirements for supervised community confinement.  
12 However, the commissioner may not use this expanded authority  
14 until the average statewide probation case load is no more than  
16 90 probationers to one probation officer.

17. It amends the reporting requirements of the bill that  
14 direct the Department of Corrections and the Department of  
16 Behavioral and Developmental Services to create a plan of action  
18 to address mental illness in the criminal justice system. The  
20 amendment directs the departments to report to the Commission to  
22 Improve the Sentencing, Supervision, Management and Incarceration  
of Prisoners by July 1, 2004 and to report to the joint standing  
committee of the Legislature having jurisdiction over criminal  
justice and public safety matters by January 2005.

18. It removes from the bill language that proposed to  
24 place a one-year moratorium on changes to the Maine Criminal Code.

19. It removes from the bill language that proposed to  
26 require the Commission to Improve the Sentencing, Supervision,  
28 Management and Incarceration of Prisoners, in cooperation with  
30 the Criminal Law Advisory Commission, to review, assess and make  
32 recommendations regarding the impacts of sentencing and minimum  
mandatory sentences.

20. It requests that, by May 1, 2005, the courts and the  
34 district attorneys, within existing resources, report to the  
36 joint standing committee of the Legislature having jurisdiction  
38 over criminal justice and public safety matters the following:  
40 how often the sentencing alternatives of deferred disposition and  
42 administrative release were used and an assessment of the  
44 effectiveness of these alternatives in ensuring the  
46 accountability and rehabilitation of offenders, as well as any  
48 impact on recidivism rates; the impact of the use of deferred  
disposition and administrative release on the resources of the  
courts; the impact of the use of deferred disposition and  
administrative release on the resources of the district  
attorneys; and any recommendations regarding how to improve the  
procedures for imposing and enforcing the sentencing alternatives  
of deferred disposition and administrative release.

Parts B, C and D incorporate the recommendations of the  
50 Commission to Improve Community Safety and Sex Offender

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

Accountability and the proposed changes to L.D. 617, "An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register." Part B does the following.

1. It repeals the chapter dealing with sexual exploitation of minors, Title 17, chapter 93-B and reenacts it as Title 17-A, chapter 12 and corrects cross-references.

2. It raises the classification of sex crimes committed against children who have not attained 12 years of age. Without imposing new minimum mandatory sentences, the amendment provides courts, when victims are under 12 years of age, with an increased potential range of penalties by raising by one class the following crimes:

A. Unlawful sexual contact when the actor is at least 3 years older than the victim, from a Class C crime to a Class 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;

B. Visual sexual aggression against a child, only when the person acts for the purpose of arousing or gratifying sexual desire, from a Class D crime to a Class C crime;

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

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

E. Sexual exploitation of a minor, from a Class B crime to a Class A crime;

F. 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

G. 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.

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 amendment 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 Title 17-A, chapter 11 or 12 as follows:

- 2           A. For a person convicted of a Class A crime, a period of  
3           probation not to exceed 18 years;  
4  
5           B. For a person convicted of a Class B crime, a period of  
6           probation not to exceed 12 years; and  
7  
8           C. For a person convicted of a Class C crime, a period of  
9           probation not to exceed 6 years.

10  
11           4. It authorizes the court to sentence a person to  
12           probation for life if the person commits gross sexual assault  
13           against a person under 12 years of age and that person has a  
14           prior conviction for committing gross sexual assault, rape or  
15           gross sexual misconduct against a victim who had not attained 12  
16           years of age at the time of the offense. The amendment also  
17           requires the court to attach, as a condition of probation, the  
18           requirement that the person participate in counseling or  
19           treatment to the satisfaction of the probation officer.

20  
21           5. It requires the court, when exercising its sentencing  
22           discretion, to give serious consideration to the fact that a  
23           person convicted of a Class A crime of gross sexual assault also  
24           has a previous conviction for a Class B or Class C crime of  
25           unlawful sexual contact, if the State pleads and proves that fact.

26  
27           6. It requires the court, when exercising its sentencing  
28           discretion, to give serious consideration to the fact that a  
29           person convicted of a crime under Title 17-A, section 253,  
30           subsection 1, paragraph C or Title 17-A, section 282, subsection  
31           1, paragraph C or F committed the crime against a person who had  
32           not attained 12 years of age, if the State pleads and proves that  
33           fact.

34  
35           7. It renames "dangerous sexual offender," defined in Title  
36           17-A, section 1252, subsection 4-B, as "repeat sexual assault  
37           offender."

38  
39           Part C does the following.

40  
41           1. It changes the names of registration categories in the  
42           Sex Offender Registration and Notification Act of 1999, also  
43           known as the "SORNA of 1999," from "sexually violent predators"  
44           and "sex offenders" to "lifetime registrants" and "10-year  
45           registrants," respectively and corrects references in other  
46           titles.

47  
48           2. It moves the 2 Class D unlawful sexual contact offenses  
49           that currently require lifetime registration to the 10-year  
50           registration category.

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

2           3. In the SORNA of 1999 it amends the definition of  
3 "domicile" and creates the new definition "residence" for the  
4 purpose of better tracking and verifying the location of persons  
5 who must register. It amends the definitions of "sex offense"  
6 and "sexually violent offense" to more accurately comply with the  
7 federal registration guidelines, including adding to the list of  
8 registerable offenses the former crime of rape, restoring the  
9 former crimes of unlawful sexual contact and solicitation of a  
10 child by computer to commit a prohibited act, moving from the  
11 definition of "sex offense" to "sexually violent offense" the  
12 crimes of unlawful sexual contact that involve penetration and  
13 adding newly created offenses. It also specifies that for  
14 purposes of registration, criminal restraint and kidnapping  
15 committed by a parent are not registerable offenses. The  
16 amendment also adds the following new definitions: "another  
17 state," "registrant," "jurisdiction," and "tribe" to be more  
18 consistent with federal law.

20           4. It decreases the time period that registrants must  
21 register or update registration information with the State Bureau  
22 of Identification from 10 days to 5 and adds the requirement that  
23 a registrant must notify the law enforcement agency having  
24 jurisdiction where the person must register or update  
25 registration information within 24 hours.

26           5. It authorizes the State to suspend the requirement that  
27 a sex offender or sexually violent predator register during any  
28 period in which the registrant leaves the State, establishes a  
29 domicile in another state and remains physically absent from the  
30 State.

32           6. It leaves unchanged the annual fee paid by a person who  
33 must register under the SORNA of 1999.

34           Part D does the following.

36           1. It directs the Department of Behavioral and  
37 Developmental Services, the Department of Human Services, the  
38 Department of Corrections and the Department of Public Safety, in  
39 cooperation with the Child Abuse Action Network and the Maine  
40 Coalition Against Sexual Assault to:

42           A. Identify the subpopulation of potential offenders or  
43 young persons at risk of offending because they have been  
44 sexually or physically abused or face a significant mental  
45 health disability, with recognition of the fact that over  
46 95% of sex offenders are male;

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1903

- 2 B. Identify the types of prevention and treatment currently  
known to work with these young persons;
- 4 C. Coordinate prevention and education efforts with the  
6 goal of seeking coordinated services to transition at-risk  
youth to healthy adulthood; and
- 8 D. Report findings to the joint standing committees of the  
10 Legislature having jurisdiction over health and human  
services matters and criminal justice and public safety  
12 matters.
- 14 2. It incorporates the Criminal Law Advisory Commission's  
proposed changes to definitions under the Sex Offender  
Registration and Notification Act of 1999.
- 16 3. It makes all changes to the Sex Offender Registration  
18 and Notification Act of 1999 retroactive to June 30, 1992.

20  
22

**FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**

121st Maine Legislature  
Office of Fiscal and Program Review



LD 1903

An Act To Further Implement the Recommendations of the Commission  
To Improve the Sentencing, Supervision, Management and Incarceration  
of Prisoners

LR 2718(03)

Fiscal Note for Bill as Amended by Committee Amendment " "  
Committee: Criminal Justice and Public Safety  
Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$95,040	\$47,000	\$48,500
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$95,040	\$47,000	\$48,500

**Correctional and Judicial Impact Statements:**

Increase the class of crimes that involve victims under the age of 12; incurring correctional and judicial costs  
Establishes new Class A, Class B and Class C crimes

**Fiscal Detail and Notes**

The bill includes a one-time General Fund appropriation of \$55,040 in fiscal year 2004-05 to the Judicial Department to contract with a computer programmer to accommodate the new sentencing options. It also includes a General Fund appropriation of \$40,000 in fiscal year 2004-05, and requires future appropriations of \$47,000 in fiscal year 2005-06 and \$48,500 in fiscal year 2006-07 to contract for evaluation services to conduct a review and report on new sentencing alternatives for deferred disposition and administrative release. The Judicial Department has indicated that neither it nor the District Attorneys have the resources to conduct a study of such magnitude.

The anticipated reductions in length of imprisonments will result in a future cost avoidance to the Department of Corrections for not having to build or purchase bed space in the near future. This future cost avoidance will be partially offset by higher costs for proposed increased sentences for certain sex offenders. The net effect is expected to bring the correctional facilities population down to budgeted capacity, thus having no net current or future fiscal impact on the Department of Corrections.

The additional costs associated with directing the Department of Behavioral and Developmental Services and the Department of Corrections to develop a joint plan of action to address mental illness in the criminal justice community can be absorbed by the above mentioned agencies utilizing existing budgeted resources.

The Department of the Attorney General has indicated that there is insufficient information to determine the fiscal impact to the District Attorneys of monitoring defendants on administrative release and deferred disposition.



Current costs - Legislative Study

**Legislative Study**

The Legislature will require \$840 in fiscal year 2003-04 and \$2,520 in fiscal year 2004-05 to cover the projected legislative costs to extend the life of the Commission. These amounts are not appropriated in this bill and are not shown in the numbers on the front of this fiscal note because the Legislature has budgeted \$30,000 in fiscal year 2003-04 and \$20,000 in fiscal year 2004-05 for legislative studies. Whether these amounts are sufficient to fund all studies including this one will depend on the number of studies authorized by the Legislative Council and the Legislature. Other expenses attributable to the extension may be paid from the remaining balance of the original appropriation to the Department of Corrections for the Commission.