

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 390, Bill, "An Act To Improve Maine's Sex Offender Notification Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 34-A MRSA §11202, as repealed and replaced by PL 2003, c. 711, Pt. C, §5 and affected by Pt. D, §2, is repealed and the following enacted in its place:

§11202. Application

This chapter applies to:

1. Maine. A person sentenced in this State on or after January 1, 1982 for a sex offense or a sexually violent offense as an adult or as a juvenile sentenced as an adult; and

2. Other jurisdictions. A person sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult:

A. At any time of an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there; or

R.O/S

COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 390

B. On or after January 1, 1982, of an offense that contains the same essential elements of a sex offense or sexually violent offense.

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

2-C. Duty of registrant sentenced from January 1, 1982 to June 29, 1992 to register. Notwithstanding subsection 1, a person who meets the definition of a 10-year registrant or a lifetime registrant who has been sentenced on or after January 1, 1982 but before June 30, 1992 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or a lifetime registrant, whichever is applicable, with the bureau by October 15, 2005 if the duty to register has been triggered under subsection 1-A, paragraph A, B 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 department or a law enforcement officer, in which case the person shall register with the bureau within 5 days of notice.

Sec. 3. 34-A MRSA §11225-A is enacted to read:

§11225-A. Duration of registration

1. Ten-year registrant convicted and sentenced in State. The following provisions apply to a 10-year registrant convicted and sentenced in this State.

A. A 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 1-A shall register for a period of 10 years. The 10-year period commences from the date the person in fact initially registers once the legal duty arises under section 11222, subsection 1-A.

B. A 10-year registrant sentenced in this State on or after June 30, 1992 whose duty to register must be exercised pursuant to section 11222, subsection 2-A or 2-B or a 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 2-C shall register for a period of 10 years. The 10-year period is calculated as follows.

(1) If the 10-year registrant was sentenced to a wholly suspended sentence with probation or administrative release 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.

(2) If the 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.

(3) If the 10-year registrant was committed under Title 15, section 103, the 10-year period is treated as having begun at the time of discharge or conditional release under Title 15, section 104-A.

(4) If the 10-year registrant's duty to register has not yet been triggered, the 10-year period commences upon registration by the person in compliance with section 11222, subsection 1-A, paragraph A, B or C.

2. Ten-year registrant convicted and sentenced in another jurisdiction. The following provisions apply to a 10-year registrant convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11223, section 11224 or both.

A. A 10-year registrant shall register in this State for a period of 10 years if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for a period of years rather than for a lifetime. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11223, section 11224 or both. However, the 10-year registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statutes prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with any rules adopted by the bureau.

B. A 10-year registrant shall register for a period of 10 years if registration was not required in that other jurisdiction and the person was sentenced on or after January 1, 1982 in that jurisdiction for a crime that includes the essential elements of a sex offense. The 10-year period is calculated by applying subsection 1, paragraph B, subparagraphs (1) to (4) but interpreted and

H. of S.

COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 390

applied to take into account substantially similar sentencing alternatives imposed in the other jurisdiction.

3. Lifetime registrant convicted and sentenced in this State. A lifetime registrant sentenced on or after January 1, 1982 in this State shall register for the duration of that registrant's life.

4. Lifetime registrant convicted and sentenced in another jurisdiction. The following provisions apply to a lifetime registrant convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11223, section 11224 or both.

A. A person shall register in this State for the duration of that person's life if, pursuant to that other jurisdiction's sex offender registration statute, the registration period is for a lifetime.

B. A person shall register in this State for the duration of that person's life if no registration was required in that other jurisdiction and the person was sentenced on or after January 1, 1982 in that jurisdiction for a crime that includes the essential elements of a sexually violent offense or the person has 2 or more prior convictions in that or any other jurisdiction for an offense or for an attempted offense that includes the essential elements of a sex offense or a sexually violent offense.

5. Periods when domiciled or residing outside State. Notwithstanding subsections 1 and 3, during any period in which a 10-year registrant or lifetime registrant leaves this State, establishes a domicile or residence in another state and remains physically absent from this State, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the 10-year registrant or lifetime registrant verify registration information.

6. Relief from duty to register. The following provisions apply to a 10-year registrant's or lifetime registrant's duty to register.

A. A 10-year registrant's duty to register for a period of 10 years pursuant to subsection 2 is not required if the circumstances triggering the registration requirements under section 11223, section 11224 or both no longer exist.

B. A lifetime registrant's duty to register for the duration of that person's life pursuant to subsection 4 is not required if the circumstances triggering the

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COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 390

registration requirements under section 11223, section 11224 or both no longer exist.

C. If the underlying conviction in this State or in another jurisdiction that triggers the registration requirement is reversed, vacated or set aside, or if the registrant is pardoned for the crime, registration is no longer required.

Sec. 4. 34-A MRSA §11227, as amended by PL 2003, c. 711, Pt. C, §25 and affected by Pt. D, §2, is repealed and the following enacted in its place:

§11227. Violation

1. Failure to comply; first offense. A person to whom this chapter applies pursuant to section 11202 who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class D crime.

2. Failure to comply; 2nd offense. A person who has one prior conviction under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class C crime.

3. Failure to comply; 3rd offense. A person who has 2 or more prior convictions under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class B crime.

4. Strict liability. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

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

6. Affirmative defense. It is an affirmative defense that the failure to comply with a duty imposed under this chapter or a rule adopted pursuant to this chapter resulted from just cause, except that a person to whom section 11222, subsection 2-A, 2-B or 2-C applies may not raise a defense under just cause that the person was not aware of the registration requirement.'

SUMMARY

This amendment replaces the bill. The amendment applies the requirements of the Sex Offender Registration and Notification Act of 1999 to persons sentenced in Maine on or after January 1, 1982 for sex offenses or sexually violent offenses as adults or

R.S.

COMMITTEE AMENDMENT "A" to H.P. 292, L.D. 390

as juveniles sentenced as adults and to persons sentenced in another jurisdiction as adults or as juveniles sentenced as adults at any time for offenses that require registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws, or that would have required registration had the persons remained there, or on or after January 1, 1982 for offenses that contain the same essential elements of a sex offense or sexually violent offense. The amendment also changes the penalty section to specify that failure to comply with any duty imposed under the Sex Offender Registration and Notification Act of 1999 or a rule adopted pursuant thereto commits a Class D crime, for a 2nd violation a Class C crime and for a 3rd or subsequent violation a Class B crime.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



Approved: 05/27/05 *MAC*

122nd MAINE LEGISLATURE

LD 390

LR 1453(02)

An Act to Improve Maine's Sex Offender Notification Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
Current biennium revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class B, C and D crimes; increases judicial and correctional costs
The collection of additional fines may increase General Fund revenue

No appropriation-allocation section to add.