

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. 997, L.D. 1433, Bill, "An Act To Amend the Sex Offender Registration and Notification Act of 1999"

Amend the bill by striking out all of sections 1 and 2 and inserting in their 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Sec. 1. 34-A MRSA §11202, as repealed and replaced by PL 2003, c. 711, Pt.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 D, §2, is repealed and the following enacted in its place: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

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

2 **Sec. 2. 34-A MRSA §11203, sub-§1-A**, as amended by PL 2003, c.
3 711, Pt. C, §6 and affected by Pt. D, §2, is further amended to
4 read:

6 **1-A. Conditional release.** "Conditional release" means
7 supervised release of a registrant from institutional confinement
8 for placement on probation, parole, intensive supervision,
9 supervised release for sex offenders, supervised community
10 confinement, home release monitoring or release under Title 15,
11 section 104-A or Title 17-A, chapter 59 54-G.

12 **Sec. 3. 34-A MRSA §11203, sub-§4-A**, as amended by PL 2003, c.
13 711, Pt. C, §10 and affected by Pt. D, §2, is further amended to
14 read:

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

26 **Sec. 4. 34-A MRSA §11203, sub-§4-E** is enacted to read:

28 **4-E. Prior conviction.** "Prior conviction," for purposes of
29 registration requirements pursuant to this chapter, means
30 multiple convictions that result from or are connected with the
31 same act or that result from offenses committed at the same time
32 are considered one conviction unless the offenses were committed
33 against more than one victim. More than one prior conviction may
34 have occurred on the same day.'

36 Further amend the bill by striking out all of section 4 and
37 inserting in its place the following:

38 **Sec. 4. 34-A MRSA §11203, sub-§6, ¶C**, as enacted by PL 1999,
39 c. 437, §2, is amended to read:

42 C. A violation of ~~an--offense~~ in another jurisdiction,
43 ~~including,--but--not--limited--to,--a--state,--federal,--military--or~~
44 ~~tribal--court,~~ that includes the essential elements of an
45 offense listed in paragraph A ~~or~~ B.

46 **Sec. 5. 34-A MRSA §11203, sub-§7, ¶B**, as amended by PL 2001,
47 c. 553, §4, is further amended to read:

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2 B. A conviction for an offense or for an attempt to commit
an offense of the law in another jurisdiction, ~~including,~~
4 ~~but not limited to, a state, federal, military or tribal~~
court, that includes the essential elements of an offense
6 listed in paragraph A.

8 **Sec. 6. 34-A MRSA §11203, sub-§8, ¶B**, as amended by PL 2001,
c. 439, Pt. 000, §10, is further amended to read:

10 B. Sex offense when the person has a prior conviction for
or an attempt to commit an offense that includes the
12 essential elements of a sex offense or sexually violent
offense. For purposes of this paragraph, prior conviction
14 means a conviction that occurred at any time.

16 Further amend the bill by inserting after section 5 the
following:

18 **'Sec. 6. 34-A MRSA §11221, sub-§1, ¶A**, as amended by PL 2003,
20 c. 711, Pt. C, §17 and affected by Pt. D, §2, is further amended
to read:

22 A. The registrant's name, aliases, date of birth, sex,
24 race, height, weight, eye color, mailing address, ~~home~~
~~address or~~ and physical location of expected domicile and
26 residence;'

28 Further amend the bill by inserting after section 6 the
following:

30 **'Sec. 7. 34-A MRSA §11221, sub-§7**, as enacted by PL 1999, c.
32 437, §2, is repealed.

34 **Sec. 8. 34-A MRSA §11221, sub-§9, ¶B**, as amended by PL 2003,
c. 711, Pt. C, §20 and affected by Pt. D, §2, is further amended
36 to read:

38 B. Upon receiving a written request that includes the name
and date of birth of a registrant, the bureau shall provide
40 the following information concerning a registrant to the
requestor:

42 (1) The registrant's name, aliases, date of birth,
44 sex, race, height, weight, eye color, mailing address
and ~~home address or~~ physical location of domicile and
46 residence;

48 (2) The registrant's place of employment and college
or school being attended, if applicable, and the
50 corresponding address and location;

2 (3) A description of the offense for which the
registrant was convicted, the date of conviction and
4 the sentence imposed; and

6 (4) The registrant's photograph.'

8 Further amend the bill by striking out all of section 8 and
inserting in its place the following:

10 **'Sec. 8. 34-A MRSA §11222, sub-§1-A, ¶A,** as amended by PL
12 2003, c. 711, Pt. C, §21 and affected by Pt. D, §2, is further
amended to read:

14
16 A. If the registrant is sentenced to a wholly suspended
sentence with probation or administrative release, or to a
18 punishment alternative not involving imprisonment, the duty
to register is triggered at the time the person commences an
20 actual execution of the wholly suspended sentence or at the
time of sentence imposition when no punishment alternative
22 involving imprisonment is imposed, unless the court orders a
stay of execution, in which event the duty is triggered by
the termination of the stay.

24
26 **Sec. 9. 34-A MRSA §11222, sub-§1-B,** as enacted by PL 2003, c.
711, Pt. C, §21 and affected by Pt. D, §2, is amended to read:

28 **1-B. Duty to notify law enforcement agency.** A registrant
who has a duty to register pursuant to this subchapter shall
30 notify the law enforcement agency having jurisdiction in those
areas where the registrant is domiciled, resides, works or
32 attends school within 24 hours of becoming a domiciliary or a
resident or beginning work or attending school. If the location
34 is a municipality with an organized municipal police department,
the law enforcement agency having jurisdiction is the municipal
36 police department. If the location is a school having an
organized police department, the law enforcement agency having
38 jurisdiction is the campus police department. If the location is
neither a municipality nor a school with an organized police
40 department, the law enforcement agency having jurisdiction is the
sheriff's department.

42
44 **Sec. 10. 34-A MRSA §11222, sub-§2-C** is enacted to read:

46 2-C. Duty of registrant sentenced from January 1, 1982 to
June 29, 1992 to register. Notwithstanding subsection 1, a
48 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
50 violent offense shall register either as a 10-year registrant or

2 a lifetime registrant, whichever is applicable, with the bureau
3 by October 15, 2005 if the duty to register has been triggered
4 under subsection 1-A, paragraph A, B or C, unless sooner notified
5 in writing of a duty to register under subsection 1-A, paragraph
6 A, B or C by the bureau, the department or a law enforcement
7 officer, in which case the person shall register with the bureau
8 within 5 days of notice.

9
10 **Sec. 11. 34-A MRSA §11222, sub-§§3 and 4,** as amended by PL
11 2003, c. 711, Pt. C, §21 and affected by Pt. D, §2, are further
12 amended to read:

13
14 **3. Transfer of initial registration information to bureau**
15 **and FBI.** The department, county jail, state mental health
16 institute or court within 3 days of receipt of the information
17 described in subsection 2 shall forward the information to the
18 bureau. If the court orders the registrant to submit to the
19 taking of fingerprints and a photograph at a specified law
20 enforcement agency, the law enforcement agency shall submit the
21 fingerprints and photograph to the bureau within 3 days. The
22 bureau shall immediately enter the information into the
23 registration system, notify the law enforcement agency agencies
24 having jurisdiction where the registrant expects to be domiciled
25 and reside and transmit the information to the FBI for inclusion
26 in the national FBI sex offender database.

27
28 **4. Verification.** During the period a registrant is
29 required to register, the bureau shall ~~verify a registrant's~~
30 ~~domicile~~ require the registrant to verify registration
31 information including domicile, residence, place of employment
32 and college or school being attended. The bureau shall verify
33 the ~~domicile~~ registration information of a 10-year registrant on
34 each anniversary of the 10-year registrant's initial registration
35 date and shall verify a lifetime registrant's ~~domicile~~
36 registration information every 90 days after that lifetime
37 registrant's initial registration date. Verification of the
38 ~~domicile~~ registration information of a 10-year registrant or
39 lifetime registrant occurs as set out in this subsection.

40 A. At least 10 days prior to the required verification
41 date, the bureau shall mail a nonforwardable verification
42 form to the last reported mailing address of the
43 registrant. The verification form is deemed received 3 days
44 after mailing unless returned by postal authorities.

45 ~~B. The verification form must state that the registrant~~
46 ~~still resides at the address last reported to the bureau.~~

47
48 C. The registrant shall take the completed verification
49 form and a photograph of the registrant to the law
50

2 enforcement agency having jurisdiction within 5 days of
receipt of the form.

4 D. The law enforcement agency having jurisdiction shall
6 verify the registrant's identity, have the registrant sign
the verification form, take the registrant's fingerprints,
8 complete the law enforcement portion of the verification
form and immediately forward the fingerprints, photograph
and form to the bureau.'

10 Further amend the bill by striking out all of sections 10 to
12 14 and inserting in their place the following:

14 'Sec. 10. 34-A MRSA §11223, as amended by PL 2003, c. 711,
Pt. C, §22 and affected by Pt. D, §2, is further amended to read:

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

20 A person ~~required under another jurisdiction to register~~
pursuant to that jurisdiction's sex offender registration statute
22 ~~or, if not so required, who has been convicted and sentenced for~~
an offense that includes the essential elements of a sex offense
24 ~~or sexually violent offense~~ sentenced in a jurisdiction other
than this State who is required under that jurisdiction to
26 register pursuant to that jurisdiction's sex offender
registration statute or would have been required to register if
28 the person had remained in the jurisdiction or, if not so
required, who has been sentenced on or after January 1, 1982 for
30 an offense that includes the essential elements of a sex offense
or a sexually violent offense shall register as a 10-year
32 registrant or lifetime registrant, whichever is applicable,
within 5 days and shall notify the law enforcement agency having
34 jurisdiction with within 24 hours of establishing domicile or
residence in this State. The person shall contact the bureau,
36 which shall provide the person with the registration form and
direct the person to take the form and a photograph of the person
38 to the law enforcement agency having jurisdiction. The law
enforcement agency shall supervise the completion of the form,
40 take the person's fingerprints and immediately forward the form,
photograph and fingerprints to the bureau.

42 **Sec. 11. 34-A MRSA §11224,** as amended by PL 2003, c. 711,
44 Pt. C, §22 and affected by Pt. D, §2, is repealed and the
following enacted in its place:

46 **§11224. Duty of person employed or attending college or school**

48 The following provisions govern registration duties for a
50 person not domiciled or residing in this State but who is
employed or attending college or school in this State.

2 1. Time. A person who has been sentenced in a jurisdiction
3 other than this State and who is required under that jurisdiction
4 to register pursuant to that jurisdiction's sex offender
5 registration statute or would have been required to register if
6 the person had remained in that jurisdiction or, if not so
7 required, who has been sentenced on or after January 1, 1982 for
8 an offense that includes the essential elements of a sex offense
9 or a sexually violent offense shall register as a 10-year
10 registrant or lifetime registrant, whichever is applicable,
11 within 5 days and shall notify the law enforcement agency having
12 jurisdiction:

14 A. Within 24 hours of beginning full-time or part-time
15 employment, with or without compensation, for more than 14
16 consecutive days or for an aggregate period exceeding 30
17 days in a calendar year in this State; or

18 B. Within 24 hours of beginning college or school on a
19 full-time or part-time basis in this State.

22 2. Process for notifying bureau. The person under
23 subsection 1 shall contact the bureau, which shall provide the
24 person with a registration form and direct the person to take the
25 form and a photograph of the person to the law enforcement agency
26 having jurisdiction. The law enforcement agency shall supervise
27 the completion of the form, take the person's fingerprints and
28 immediately forward the form, photograph and fingerprints to the
29 bureau.

30 **Sec. 12. 34-A MRSA §11225**, as amended by PL 2003, c. 711, Pt.
31 C, §23 and affected by Pt. D, §2, is repealed.

34 **Sec. 13. 34-A MRSA §11225-A** is enacted to read:

36 **§11225-A. Duration of registration**

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

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

48 B. A 10-year registrant sentenced in this State on or after
49 June 30, 1992 whose duty to register must be exercised
50

2 pursuant to section 11222, subsection 2-A or 2-B or a
3 10-year registrant sentenced in this State on or after
4 January 1, 1982 whose duty to register must be exercised
5 pursuant to section 11222, subsection 2-C shall register for
6 a period of 10 years. The 10-year period is calculated as
7 follows.

8 (1) If the 10-year registrant was sentenced to a
9 wholly suspended sentence with probation or
10 administrative release or to a punishment alternative
11 not involving imprisonment, the 10-year period is
12 treated as having begun at the time the person
13 commenced an actual execution of the wholly suspended
14 sentence or at the time of sentence imposition when no
15 punishment alternative involving imprisonment was
16 imposed, unless the court ordered a stay of execution,
17 in which event the 10-year period is treated as having
18 begun at the termination of the stay.

19 (2) If the 10-year registrant was sentenced to a
20 straight term of imprisonment or to a split sentence,
21 the 10-year period is treated as having begun at the
22 time of discharge or conditional release.

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

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

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

36 A. A 10-year registrant shall register in this State for a
37 period of 10 years if, pursuant to the other jurisdiction's
38 sex offender registration statute, the registration period
39 is for a period of years rather than for a lifetime. The
40 10-year period commences from the date the person in fact
41 initially registers in this State once the legal duty to
42 register arises under section 11223, section 11224 or both.
43 However, the 10-year registrant may receive day-for-day
44 credit for the time actually registered pursuant to the
45 other jurisdiction's sex offender registration statutes
46 and section 11223, section 11224 or both.

2 prior to registering in this State upon applying to the
3 bureau for credit. The bureau may grant credit if the
4 registrant provides sufficient documentation in accordance
5 with any rules adopted by the bureau.

6 B. A 10-year registrant shall register for a period of 10
7 years if registration was not required in that other
8 jurisdiction and the person was sentenced on or after
9 January 1, 1982 in that jurisdiction for a crime that
10 includes the essential elements of a sex offense. The
11 10-year period is calculated by applying subsection 1,
12 paragraph B, subparagraphs (1) to (4) but interpreted and
13 applied to take into account substantially similar
14 sentencing alternatives imposed in the other jurisdiction.

15 3. Lifetime registrant convicted and sentenced in this
16 State. A lifetime registrant sentenced on or after January 1,
17 1982 in this State shall register for the duration of that
18 registrant's life.

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

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

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

37 5. Periods when domiciled or residing outside State.
38 Notwithstanding subsections 1 and 3, during any period in which
39 the 10-year registrant or lifetime registrant leaves this State,
40 establishes a domicile or residence in another state and remains
41 physically absent from this State, the bureau, pursuant to any
42 rules the bureau may adopt, may suspend the requirement that the
43 10-year registrant or lifetime registrant verify registration
44 information.

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

5 A. A 10-year registrant's duty to register for a period of
6 10 years pursuant to subsection 2 is not required if the
7 circumstances triggering the registration requirements under
8 section 11223, section 11224 or both no longer exist.

9 B. A lifetime registrant's duty to register for the
10 duration of that person's life pursuant to subsection 4 is
11 not required if the circumstances triggering the
12 registration requirements under section 11223, section 11224
13 or both no longer exist.

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

18 Sec. 14. 34-A MRSA §11227, as amended by PL 2003, c. 711, Pt.
19 C, §25 and affected by Pt. D, §2, is repealed and the following
20 enacted in its place:

21 **§11227. Violation**

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

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

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

34 4. Strict liability. Violation of this section is a strict
35 liability crime as defined in Title 17-A, section 34, subsection
36 4-A.

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

39 6. Affirmative defense. It is an affirmative defense that
40 the failure to comply with a duty imposed under this chapter or a
41 rule adopted pursuant to this chapter is excused because the
42 person was acting in the reasonable belief that the failure to
43 comply with the duty was necessary to avoid a substantial
44 and imminent danger of death or serious physical injury to
45 the person or another person.

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.

Sec. 15. Interim meetings authorized. The Joint Standing Committee on Criminal Justice and Public Safety is authorized to meet as needed, but at least 3 times, during the 2005 legislative interim to review the criminal sentencing laws for sex offenses and the public safety issues related to the Sex Offender Registration and Notification Act of 1999. At these meetings the committee shall seek information and data from public and private entities as necessary to examine and recommend changes to the current laws governing the sentencing, registration, release and supervision of sex offenders. The committee may submit legislation to the Second Regular Session of the 122nd Legislature based on these meetings.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment makes the following changes to the Sex Offender Registration and Notification Act of 1999.

1. It amends the application section to honor other jurisdictions' determinations with respect to the obligation of offenders to register.

2. It makes registration requirements retroactive to persons sentenced for sex offenses or sexually violent offenses on or after January 1, 1982 and adds language necessary to implement this change.

3. It adds references to the sentencing alternative of administrative release, which was authorized by Public Law 2003, chapter 711.

4. It clarifies the definition of "prior conviction" and references to jurisdiction.

5. It removes language regarding the purpose of a risk assessment instrument to clarify that other agencies besides the Department of Corrections use the tool.

6. It clarifies that a registrant's home address must be the physical location of domicile or residence.

2 7. It clarifies the registration process for persons
convicted and sentenced in the State and those convicted and
4 sentenced in another jurisdiction, including registration
requirements for persons required to register in the State who
6 are domiciled or residing outside the State.

8 8. It amends the violation and penalty section to specify
that failure to comply with a duty imposed under the Sex Offender
10 Registration and Notification Act of 1999 or rule adopted
pursuant to it is a Class D crime for a 1st offense, a Class C
12 crime for a 2nd offense and a Class B crime for a 3rd or
subsequent offense.

14 9. It adds a provision that authorizes the Joint Standing
16 Committee on Criminal Justice and Public Safety to meet as
needed, but at least 3 times, during the 2005 legislative interim
18 to review current laws governing the sentencing, registration,
release and supervision of sex offenders and report out
20 legislation to the Second Regular Session of the 122nd
Legislature.

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1433

LR 0377(02)

An Act To Amend the Sex Offender Registration and Notification Act of 1999

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

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund