

MAINE STATE LEGISLATURE

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No. 1550

H.P. 1091

House of Representatives, April 5, 2005

An Act To Establish the Arsonist Registration Act

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MAZUREK of Rockland.
Cosponsored by Senator SAVAGE of Knox and
Representatives: CROSBY of Topsham, HOGAN of Old Orchard Beach, MARLEY of
Portland, PARADIS of Frenchville, PINGREE of North Haven, RECTOR of Thomaston,
RICHARDSON of Warren, SAMPSON of Auburn.

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

4 **Sec. 1. 34-A MRSA c. 17** is enacted to read:

6 **CHAPTER 17**

8 **ARSONIST REGISTRATION ACT**

10 **§11301. Short title**

12 This chapter may be known and cited as "the Arsonist
14 Registration Act."

16 **§11302. Definitions**

18 As used in this chapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

20 1. Arsonist. "Arsonist" means a person who is convicted of
22 one of the following offenses or of an attempt or solicitation of
22 one of the following offenses:

24 A. A violation under Title 17-A, section 802, 803-A or 804
26 or chapter 41;

28 B. A violation under former Title 17, chapter 7, 8 or 21; or

30 C. An offense in another jurisdiction, including, but not
32 limited to, a state, federal, military or tribal court, that
32 includes the essential elements of an offense listed in
32 paragraph A or B;

34 For purposes of this subsection, "arsonist" also means a person
36 who was found not criminally responsible by reason of mental
36 disease or defect for an offense under paragraph A or B pursuant
38 to Title 17-A, section 40 or who was found not guilty by reason
38 of insanity or similar provision for an offense under paragraph
40 C. "Arsonist" includes a person adjudicated as a juvenile in the
40 State or another jurisdiction that includes the essential
42 elements of an offense listed in paragraph A or B.

44 2. Arson offense. "Arson offense" includes any offense
44 listed under subsection 1, paragraph A, B or C.

46 3. Bureau. "Bureau" means the State Bureau of
48 Identification.

50 4. Law enforcement agency having jurisdiction. "Law
50 enforcement agency having jurisdiction" means the chief of police

2 in each of the municipalities in which an arsonist intends to be
3 domiciled, work or attend school upon registration or the county
4 sheriff if an arsonist intends to be domiciled, work or attend
5 school upon registration in a municipality with no chief of
6 police or in the unorganized territory. If an arsonist attends or
7 is domiciled at a school that has an organized police department,
8 the law enforcement agency having jurisdiction is the campus
9 police department.

10 **§11303. Maintenance of arsonist registry**

12 **1. Maintenance of registry.** The bureau shall establish and
13 maintain a registry of arsonists required to register pursuant to
14 this chapter. The registry must include the following
15 information on each arsonist:

16 -
17 A. The arsonist's name, aliases, date of birth, sex, race,
18 height, weight, eye color, mailing address, home address or
19 expected domicile and residence;

20 B. Place of employment and college or school being
21 attended, if applicable, and the corresponding address and
22 location;

23 C. Offense history;

24 D. Notation of any treatment received for a mental
25 abnormality or personality disorder;

26 E. A photograph and set of fingerprints;

27 F. A description of the offense for which the arsonist was
28 convicted, the date of conviction and the sentence imposed;
29 and

30 G. Any other information the bureau determines important.

31
32 **2. National or regional registry.** The bureau is authorized
33 to make the registry available to and accept files from a
34 national or regional registry of arsonists for the purpose of
35 sharing information.

36
37 **3. Registration form.** The bureau shall develop a
38 standardized registration form to be made available to the
39 appropriate reporting authorities and arsonists required to
40 register.

41
42 **4. Verification form.** The bureau shall develop and mail a
43 nonforwardable verification form to the last reported mailing
44 address.

2 address of each arsonist required to meet the verification
3 requirements of subsection 8.

4 5. Distribution of information to department and law
5 enforcement agencies. The bureau shall distribute information
6 described in subsection 1 to the department and law enforcement
7 agencies having jurisdiction over the address and location of the
8 arsonist 's domicile, place of employment and college or school
9 being attended.

10
11 6. Criminal justice agency access to information. The
12 bureau shall provide access to the information described in
13 subsection 1 to a criminal justice agency. For purposes of this
14 subsection, "criminal justice agency" has the same meaning as in
15 Title 16, section 611, subsection 4.

16
17 7. Transfer of initial registration information to bureau
18 and FBI. The department, county jail, state mental health
19 institute or court within 3 days of receipt of the information
20 described in subsection 1 shall forward the information to the
21 bureau. If the court orders the arsonist to submit to the taking
22 of fingerprints and a photograph at a specified law enforcement
23 agency, the law enforcement agency shall submit the fingerprints
24 and photograph to the bureau within 3 days. The bureau shall
25 immediately enter the information into the registration system,
26 notify the law enforcement agency having jurisdiction where the
27 arsonist expects to be domiciled and transmit the information to
28 the Federal Bureau of Investigation for inclusion in the national
29 database of the Federal Bureau of Investigation.

30
31 8. Verification. During the period an arsonist is required
32 to register, the bureau shall verify an arsonist's domicile
33 pursuant to subsection 4. The bureau shall verify the domicile of
34 an arsonist on each anniversary of the arsonist's initial
35 registration date. Verification of the domicile of an arsonist
36 occurs as set out in this subsection.

37
38 A. At least 10 days prior to the required verification
39 date, the bureau shall mail a nonforwardable verification
40 form to the last reported mailing address of the arsonist.

41
42 B. The verification form must state that the arsonist is
43 still domiciled at the address last reported to the bureau.

44
45 C. The arsonist shall take the completed verification form
46 and a photograph to the law enforcement agency having
47 jurisdiction within 5 days of receipt of the form.

48
49 D. The law enforcement agency having jurisdiction shall
50 verify the arsonist's identity, have the arsonist sign the

2 verification form, take the arsonist's fingerprints,
3 complete the law enforcement portion of the verification
4 form and immediately forward the fingerprints, photograph
5 and form to the bureau.

6 9. Arsonist access to information. Pursuant to Title 16,
7 section 620, the bureau shall provide all information described
8 in subsection 1 to an arsonist who requests the arsonist's own
9 information.

10 10. Public access to information. The information gathered
11 under this section is confidential and may only be accessed by a
12 law enforcement agency or other authorized individual in the
13 State or in another state, except that the bureau shall furnish
14 the registration information to the Department of Public Safety,
15 State Fire Marshal's Office, which may post the information for
16 the public on the Internet or other medium.

17 **§11304. Duty to register**

18 1. Duty to register. An arsonist who has been convicted of
19 an arson offense within the past 10 years must register with the
20 law enforcement agency having jurisdiction in those areas where
21 the registrant is domiciled, works or attends school within 24
22 hours and the bureau within 5 days of becoming eligible under
23 subsection 2 or after changing domicile, employment or school.
24 Registration information must include the arsonist's current
25 address, place of employment, including the name and address of
26 the employer, and school.

27 2. When duty to register must be exercised. An arsonist
28 shall register as follows.

29 A. If the arsonist has been sentenced to a wholly suspended
30 sentence with probation or to a punishment alternative not
31 involving imprisonment, the duty to register is triggered at
32 the time the arsonist commences an actual execution of the
33 wholly suspended sentence or at the time of sentence
34 imposition when no punishment alternative involving
35 imprisonment is imposed, unless the court orders a stay of
36 execution, in which event the duty is triggered by the
37 termination of the stay.

38 B. If the arsonist is sentenced to a straight term of
39 imprisonment or to a split sentence, the duty to register is
40 triggered by discharge or conditional release.

41 C. If the arsonist is committed under Title 15, section
42 103, the duty to register is triggered by discharge or
43 conditional release under Title 15, section 104-A.

2 D. If the arsonist has been domiciled, employed or has been
4 attending school in another state, the duty to register is
6 triggered when the arsonist becomes domiciled in the State
or begins working or attending school in the State.

8 3. Specific requirements of duty of registration. An
arsonist who registers under this chapter shall:

10 A. If the arsonist changes domicile or changes residence,
12 place of employment or school being attended, give the new
14 address to the bureau in writing within 5 days and within 24
16 hours notify the law enforcement agencies having
jurisdiction over the arsonist's old and new domicile,
residence, place of employment or school;

18 B. If the arsonist changes domicile to another state,
20 register the new address with the bureau and if the new
22 state has a registration requirement, register with a
designated law enforcement agency in the new state not later
than 5 days after establishing domicile in the new state;

24 C. If the arsonist has part-time or full-time employment in
26 another state, with or without compensation, for more than
28 14 consecutive days or for an aggregate period exceeding 30
30 days in a calendar year or if that arsonist enrolls in any
32 type of school in another state on a part-time or full-time
basis, give the bureau the arsonist's place of employment or
school to be attended in writing within 5 days after
beginning work or attending school and, if the other state
has a registration requirement, register with the designated
law enforcement agency in the other state;

34 D. Provide fingerprints and a photograph of the arsonist or
36 submit to the taking of fingerprints and a photograph at a
38 specified law enforcement agency within 3 days if the
fingerprints and photograph have not already been obtained
in connection with the offense that necessitates
registration; and

40 E. Read and sign a form provided by the bureau that states
42 that the duty of the arsonist to register under this section
44 has been explained.

§11305. Notification

46 1. Notification. The department, the county jail or the
48 state mental health institute that has custody of an arsonist
required to register under this chapter shall inform the

2 arsonist, prior to discharge or conditional release, of the duty
3 to register. If an arsonist does not serve a period of
4 institutional confinement, the court shall inform the arsonist at
5 the time of sentencing of the duty to register.

6 2. Information. The department, county jail, state mental
7 health institute or court shall:

8
9 A. Inform the arsonist of the duty to register and obtain
10 the information required for the initial registration;

11 B. Inform the arsonist of the requirement to notify the law
12 enforcement agency having jurisdiction pursuant to section
13 11304; and

14
15 C. Inform the arsonist of the specific requirements of the
16 duty to register under section 11304, subsection 3.

17
18 **§11306. Duration of registration**

19
20 1. Ten-year registration period. An arsonist shall
21 register for a period of 10 years from the initial date of
22 registration pursuant to section 11304, subsection 2; this
23 provision applies also to an arsonist required to register
24 because that arsonist established a domicile in this State
25 subsequent to being convicted of an arson offense in another
26 jurisdiction. An arsonist who was sentenced before the effective
27 date of this Act shall register for a period of 10 years, to be
28 calculated as follows.

29
30 A. If the arsonist was sentenced to a wholly suspended
31 sentence with probation or to a punishment alternative not
32 involving imprisonment, the 10-year period is treated as
33 having begun at the time the arsonist commenced an actual
34 execution of the wholly suspended sentence or at the time of
35 sentence imposition when no punishment alternative involving
36 imprisonment was imposed, unless the court ordered a stay of
37 execution, in which event the 10-year period is treated as
38 having begun at the termination of the stay.

39
40 B. If the arsonist was sentenced to a straight term of
41 imprisonment or to a split sentence, the 10-year period is
42 treated as having begun at the time of discharge or
43 conditional release.

44
45 C. If the arsonist was committed under Title 15, section
46 103, the 10-year period is treated as having begun at the
47 time of discharge or conditional release under Title 15,
48 section 104-A.

49
50

2 D. If the arsonist's duty to register has not been
3 triggered before that time, the 10-year period commences
4 upon registration by the person in compliance with section
5 11304, subsection 2.

6 2. Periods when domiciled outside of State.
7 Notwithstanding subsection 1, during any period in which an
8 arsonist leaves the State, establishes a domicile in another
9 state or remains physically absent from the State the bureau may
10 toll the requirement that an arsonist register.

12 3. Periods of incarceration or civil confinement.
13 Notwithstanding subsection 1, the bureau may suspend the
14 requirement that an arsonist register during periods of
15 incarceration or civil confinement.

16 4. Relief from duty to register. If the underlying
17 conviction for an arson offense requiring registration under this
18 chapter is reversed, vacated or set aside, or if the arsonist is
19 pardoned for the offense, registration or continued registration
20 as an arsonist is no longer required.

22 **§11307. Fee**

24 The bureau may charge a \$25 annual fee to an arsonist
25 required to register under this chapter. An arsonist shall pay
26 the fee at the time of initial registration and shall pay the fee
27 on each anniversary of the arsonist's initial registration. The
28 fee must be credited to the General Fund and the Highway Fund in
29 an amount consistent with currently budgeted appropriations and
30 allocations.

32 **§11308. Violation**

34 1. Failure to register or update information. An arsonist
35 who fails to register or update the information required under
36 this chapter commits a Class D crime.

38 2. Failure to register or update information; 2nd offense.
39 An arsonist who fails to register or update the information
40 required under this chapter when the arsonist has one prior
41 conviction for failure to register or update the information
42 required under this chapter commits a Class D crime.

44 3. Failure to register or update information; 3rd or
45 subsequent offense. An arsonist who fails to register or update
46 the information required under this chapter when the arsonist has
47 2 or more prior convictions in this State for violation of this
48 chapter commits a Class C crime.

50

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

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

7 **§11309. Certification by record custodian**

8
9
10 Notwithstanding any other law or rule of evidence, a
11 certificate by the custodian of the records of the bureau, when
12 signed and sworn to by that custodian, is admissible in a
13 judicial or administrative proceeding as prima facie evidence of
14 any fact stated in the certificate or in any documents attached
15 to the certificate.

16 **§11310. Rules**

17
18
19 The bureau may adopt rules to carry out the purposes of this
20 chapter. Rules adopted pursuant to this section are routine
21 technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

22
23
24 **SUMMARY**

25
26 This bill creates the Arsonist Registration Act, which
27 requires a person convicted of an arson offense to register with
28 the State Bureau of Identification and the law enforcement agency
29 having jurisdiction over the arsonist's domicile, place of
30 employment and school. The information is available to law
31 enforcement agencies and registries in other jurisdictions and is
32 also provided to the Department of Public Safety, Office of the
33 State Fire Marshal, who may post this information for public
34 access on an Internet website or other medium. An arsonist
35 convicted of an arson offense must remain registered for 10 years
36 after the duty to register is incurred.