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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "E" to COMMITTEE AMENDMENT "C" to H.P. 1224, L.D. 1717, Bill, "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

Amend the amendment by inserting after section 4 the following:

Sec. 5. 34-A MRSA §1402, sub-§12 is enacted to read:

12. Secure facilities for sexually violent predators. The commissioner, in cooperation with the Commissioner of Health and Human Services, shall maintain one or more secure facilities for sexually violent predators confined pursuant to Title 34-B, chapter 3, subchapter 6.

Sec. 6. 34-B MRSA §1203, sub-§10 is enacted to read:

10. Secure facilities for sexually violent predators. The commissioner, in cooperation with the Commissioner of Corrections, shall maintain one or more secure facilities for sexually violent predators confined pursuant to chapter 3, subchapter 6.

Sec. 7. 34-B MRSA c. 3, sub-c. 6 is enacted to read:

SUBCHAPTER 6

SEXUALLY VIOLENT PREDATORS

§3921. Definitions

As used in this subchapter, unless the context otherwise

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indicates, the following terms have the following meanings.

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1. Agency with jurisdiction. "Agency with jurisdiction" means the agency with authority to direct the release of a person serving a sentence or term of confinement and includes the Department of Corrections and the department.

2. Committed person. "Committed person" means a person who has been committed as a sexually violent predator under this subchapter.

3. Corrections supervisor. "Corrections supervisor" means an employee of the Department of Corrections assigned to supervise the case of a committed person.

4. Less restrictive alternative. "Less restrictive alternative" means court-ordered treatment in a setting that is less restrictive than total confinement.

5. Likely to engage in predatory acts of sexual violence. "Likely to engage in predatory acts of sexual violence" means it is more probable than not that a person will engage in predatory acts of sexual violence. If the person is not confined at the time a petition is filed under this subchapter, likelihood is demonstrated by a recent overt act of sexual violence.

6. Mental abnormality. "Mental abnormality" means a congenital or acquired condition affecting emotional or volitional capacity that predisposes a person to the commission of criminal sexual acts to the extent that the person is a threat to the health and safety of other persons.

7. Predatory. "Predatory" means engaging in acts directed at a person for the primary purpose of victimization.

8. Prosecuting attorney. "Prosecuting attorney" means a district attorney or the Attorney General.

9. Recent overt act. "Recent overt act" means an act that has the elements of a sexually violent offense or creates a reasonable fear of a sexually violent offense.

10. Secure facility. "Secure facility" means a facility identified by the commissioner as being capable of providing secure confinement, care and treatment of committed persons.

11. Sexually violent offense. "Sexually violent offense" means:

A. Gross sexual assault that is a Class A or Class B

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offense under Title 17-A, section 253;

B. Murder, felony murder, aggravated assault, stalking, kidnapping, burglary of a residence or criminal restraint that at the time of sentencing for the offense or during proceedings under this subchapter is determined to be sexually motivated;

C. An attempt, criminal solicitation or criminal conspiracy to commit an offense specified in paragraph A or B; or

D. Any comparable offense under the laws of the United States or another state.

12. Sexually violent predator. "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

§3922. Notice to district attorney

1. When notice required. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction over the person shall refer the person in writing to the district attorney of the district where the person was charged, 3 months before:

A. The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

B. The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

C. The release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to Title 15, chapter 5; or

D. The release of a person who has been found not guilty of a sexually violent offense by reason of mental disease or defect.

2. Information required. When providing the notice under subsection 1, the agency with jurisdiction shall provide the district attorney with all relevant information, including:

A. A complete copy of the institutional records compiled by

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the Department of Corrections relating to the person and any comparable out-of-state records that are available;

B. All records relating to the psychological or psychiatric evaluation and treatment of the person;

C. A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

D. A current mental health evaluation or mental health records review.

§3923. Petition

A prosecuting attorney may file a petition in the Superior Court alleging that a person is a sexually violent predator and containing sufficient facts to support the allegation if it appears that the person may be a sexually violent predator and:

1. Convicted person. The person was convicted of a sexually violent offense and is about to be released from confinement;

2. Juvenile. The person was adjudicated to have committed a juvenile crime involving a sexually violent offense and is about to be released from confinement;

3. Incompetent to stand trial. The person was charged with a sexually violent offense and was determined to be incompetent to stand trial and is about to be released or has been released from confinement;

4. Not guilty by reason of mental disease or defect. The person was found not guilty of a sexually violent offense by reason of mental disease or defect and is about to be released or has been released from confinement; or

5. Post-conviction release. The person was convicted of a sexually violent offense, has been released from total confinement and has committed a recent overt act.

§3924. Probable cause hearing; evaluation

1. Determination of probable cause. Upon the filing of a petition under this subchapter, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that probable cause exists, the judge shall direct that the person named in the petition be taken into custody by a law

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enforcement officer or by the department.

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2. Hearing. Within 72 hours after a person is taken into custody under subsection 1, the court shall give the person notice of and an opportunity to appear in person at a hearing to contest probable cause as to whether the person is a sexually violent predator. At the hearing, the court shall verify the person's identity and determine whether probable cause exists to believe that the person is a sexually violent predator.

3. Evidence. The prosecuting attorney may rely on the petition for determination of probable cause. The prosecuting attorney may supplement the information in the petition with additional documentary evidence or live testimony.

4. Rights of person charged. At the hearing required by this section, the person alleged to be a sexually violent predator has the right to:

- A. Be represented by counsel;
- B. Present evidence on the person's behalf;
- C. Cross-examine witnesses who testify against the person; and
- D. View and copy all petitions and reports in the court file.

5. Evaluation. If the judge makes a determination of probable cause, the judge shall direct that the person be transferred to an appropriate facility for an evaluation of whether the person is a sexually violent predator. The evaluation must be conducted by a person who is determined to be professionally qualified to conduct the evaluation pursuant to rules adopted by the department. When adopting rules regarding professional qualifications, the department shall consult with the Department of Corrections.

6. Confinement. If probable cause is found under this section, the person alleged to be a sexually violent predator may not be released from confinement prior to trial under section 3925.

§3925. Trial

1. Timing. Within 45 days after a determination of probable cause under section 3924, the court shall conduct a trial to determine if the person is a sexually violent predator. The trial may be continued upon the request of either party with

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2 a showing of good cause or by the court on its own motion when
3 the person alleged to be a sexually violent predator will not be
4 substantially prejudiced.

6 2. Right to counsel. A person alleged to be a sexually
7 violent predator is entitled to the assistance of counsel at all
8 stages of proceedings under this subchapter. If the person is
9 determined to be indigent, the court shall appoint counsel.

10 3. Confinement. The person alleged to be a sexually
11 violent predator must be confined in a secure facility for the
12 duration of the trial.

14 4. Right to examination. If a person is subjected to an
15 examination under this subchapter, the person may retain experts
16 or professional persons to perform an examination on the person's
17 behalf. If the person wishes to be examined by a qualified
18 expert or professional person of the person's choice, the
19 examiner may have reasonable access to the person for purposes of
20 the examination and to any relevant medical and psychological
21 records and reports. If a person is indigent, the court shall,
22 upon the person's request, assist the person in obtaining an
23 expert or professional person to perform an examination or
24 participate in the trial on the person's behalf.

26 5. Right to jury. The person, the prosecuting attorney or
27 the judge may demand that the trial be before a 12-person jury.
28 If no demand is made, the trial is before the court.

30 **§3926. Determination**

32 1. Determination; standard of proof. The court or jury
33 shall determine whether a person is a sexually violent predator.
34 The determination must be made beyond a reasonable doubt. A
35 determination made by a jury must be unanimous.

36 2. Proof of recent overt act. If the person alleged to be
37 a sexually violent predator was not in confinement on the date
38 the petition was filed, the State must prove beyond a reasonable
39 doubt that the person committed a recent overt act.

42 3. Proof of sexual motivation. If the State alleges that
43 the prior sexually violent offense that forms the basis for the
44 petition for commitment filed pursuant to section 3923 was an act
45 that was sexually motivated, the State must prove beyond a
46 reasonable doubt that the act was sexually motivated.

48 4. Commitment. If the court or jury determines that the
49 person is a sexually violent predator, the person must be
50 committed to the custody of the department for placement in a

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2 secure facility approved by the department for control, care and
3 treatment until such time as the person's mental abnormality or
4 personality disorder has changed so that it is safe to discharge
5 the person or release the person to a less restrictive
6 alternative. If the court orders that the person be committed,
7 the court may order that a corrections supervisor be assigned.

8 5. Release. If the court or jury is not satisfied beyond a
9 reasonable doubt that the person is a sexually violent predator,
10 the court shall direct the person's release.

12 **§3927. Persons who were incompetent to stand trial**

14 1. Determination on original charge. If the person charged
15 with a sexually violent offense was found incompetent to stand
16 trial and is about to be or has been released and the person's
17 commitment is sought pursuant to this subchapter, the court shall
18 first hear evidence and determine whether the person committed
19 the act or acts originally charged if the original court did not
20 enter a finding prior to dismissal that the person committed the
21 act or acts charged.

22 2. Procedures. The hearing required by this section must
23 comply with all the procedures specified in section 3926. In
24 addition the rules of evidence applicable in criminal cases
25 apply, and all constitutional rights available to defendants at
26 criminal trials other than the right not to be tried while
27 incompetent apply.

30 3. Findings. After hearing evidence on the question of
31 whether the person committed the act or acts originally charged,
32 the court shall make specific findings on:

34 A. Whether the person did commit the act or acts;

36 B. The extent to which the person's incompetence or
37 developmental disability affected the outcome of the
38 original hearing, including its effect upon the ability to
39 consult with and assist counsel and to testify on the
40 person's own behalf, and the extent to which the evidence
41 could be reconstructed without the assistance of the person;
42 and

44 C. The strength of the prosecution's case.

46 4. Effect of determination. If, after the conclusion of
47 the hearing on whether the person committed the act or acts
48 originally charged, the court finds beyond a reasonable doubt
49 that the person did commit the act or acts charged, the court
50 shall enter a final order and may proceed to consider whether the

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person should be committed pursuant to this subchapter.

§3928. Place of confinement

Confinement must be in a secure facility that is appropriate for persons confined as a result of criminal incompetency, except that confinement may be to a county jail or a correctional facility for up to 7 days pending proceedings under this subchapter.

§3929. Annual examination of confined person

A person committed under this subchapter must be examined at least once each year to determine the person's mental condition. A report of the examination must be submitted to the court that committed the person and must consider whether conditional release to a less restrictive alternative is in the best interest of the person and will adequately protect the community. The person may retain or, if the person is indigent and so requests, the court may appoint a qualified expert or a professional person to examine the person. The expert or professional person must have access to all records concerning the person.

§3930. Rights of committed person

1. Legal rights. A person whose liberty is restricted under this subchapter does not forfeit any legal right or suffer any legal disability as a result of any actions taken under this subchapter except as specifically provided in this subchapter.

2. Right to care and treatment. A person committed under this subchapter has the right to adequate care and individualized treatment. The department shall keep records of medical, expert and professional care and treatment received by a committed person and shall keep copies of all reports of periodic examinations made pursuant to this subchapter. Records kept by the department under this section must be made available to the committed person, the committed person's attorney, the prosecuting attorney, the court, the protection and advocacy agency designated under Title 5, chapter 511 or an expert or professional person who demonstrates a need for access to the records.

3. Safeguarding personal property. When a person is taken into custody or transferred to a secure facility pursuant to a petition under this subchapter, the person in charge of the facility shall take reasonable precautions to inventory and safeguard the personal property of the person detained or transferred. A copy of the inventory, signed by the person making it, must be given to the person detained and must be open

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2 to inspection by any responsible person, subject by conditions
3 imposed by the detained person. For purposes of this subsection,
4 "responsible person" includes the guardian, conservator,
5 attorney, spouse, parent, adult child or adult sibling of the
6 person detained. The facility may not disclose the contents of
7 the inventory to any person other than a responsible person
8 without the consent of the detained person or an order of the
9 court.

10 4. Seeking release. This subchapter does not prohibit a
11 person who has been committed from exercising any right otherwise
12 available for the purpose of obtaining release from confinement,
13 including the right to petition for a writ of habeas corpus.

14 **§3931. Petition for release**

15 1. Petition by commissioner. If the commissioner
16 determines that a committed person's mental abnormality or
17 personality disorder has changed so that the person is not likely
18 to engage in predatory acts of sexual violence if conditionally
19 released to a less restrictive alternative or unconditionally
20 discharged, the commissioner shall authorize the person to
21 petition the court for conditional release to a less restrictive
22 alternative or unconditional discharge as follows.

23 A. The petition must be served upon the court and the
24 prosecuting attorney.

25 B. The court, upon receipt of the petition for conditional
26 release to a less restrictive alternative or unconditional
27 discharge, shall order a hearing within 45 days.

28 C. The prosecuting attorney shall represent the State and
29 may have the petitioner examined by an expert or
30 professional person of the prosecuting attorney's choice.

31 D. The hearing must be before a jury if requested by either
32 the petitioner or the prosecuting attorney.

33 E. The burden of proof is on the prosecuting attorney to
34 show beyond a reasonable doubt that the petitioner's mental
35 abnormality or personality disorder remains such that it is
36 not safe to discharge the petitioner and that, if
37 conditionally released to a less restrictive alternative or
38 unconditionally discharged, the petitioner is likely to
39 engage in predatory acts of sexual violence.

40 2. Petition by committed person. The committed person may
41 petition the court for conditional release to a less restrictive
42 alternative or unconditional release without the commissioner's
43 approval.

approval.

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4 A. The commissioner shall provide the committed person with
6 written annual notice of the person's right to petition the
8 court for conditional release to a less restrictive
alternative or unconditional discharge over the
commissioner's objection. The notice must contain a waiver
of rights.

10 B. The commissioner shall forward the notice and waiver
12 form to the court with the annual report. If the person
14 does not affirmatively waive the right to petition, the
16 court shall set a preliminary hearing to determine whether
18 facts exist that warrant a hearing on whether the person's
condition has changed so that it is safe for the person to
be conditionally released to a less restrictive alternative
or to be unconditionally released.

20 C. The committed person has the right to have an attorney
22 represent the person at the preliminary hearing required in
paragraph B, but the person is not entitled to be present at
the preliminary hearing.

24 3. Hearing. If the court at the preliminary hearing
26 determines that probable cause exists to believe that the
28 person's mental abnormality or personality disorder has changed
30 so that the person is not likely to engage in predatory acts of
sexual violence if conditionally released to a less restrictive
alternative or unconditionally discharged, the court shall set a
hearing on the issue.

32 A. At the hearing, the committed person may be present and
34 has the same constitutional protections that are afforded at
the initial commitment proceeding.

36 B. The prosecuting attorney shall represent the State and
38 may request a jury trial and have the committed person
evaluated by experts chosen by the State.

40 C. The committed person has the right to have an expert
42 evaluation. The court shall appoint an expert if the person
is indigent and requests an appointment.

44 D. The burden of proof at the hearing is on the State to
46 prove beyond a reasonable doubt that the committed person's
48 mental abnormality or personality disorder remains such that
the person is likely to engage in predatory acts of sexual
violence if conditionally released to a less restrictive
alternative or unconditionally discharged.

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§3932. Court jurisdiction

The jurisdiction of the court over a person committed under this subchapter continues until the person is unconditionally discharged.

§3933. Conditional release to less restrictive alternative; proceedings

1. Finding. Before the court may enter an order directing conditional release to a less restrictive alternative, the court must find that:

A. The committed person will be treated by a treatment provider who is qualified to provide treatment;

B. The treatment provider has presented a specific course of treatment, has agreed to assume responsibility for the treatment, will report progress to the court on a regular basis and will report violations immediately to the department, the court, the prosecuting attorney and the corrections supervisor;

C. Housing exists that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the department and the court and immediately to report to the court, the prosecuting attorney and the corrections supervisor if the person leaves the housing to which the person has been assigned without authorization;

D. The committed person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and the court; and

E. The committed person is willing to comply with supervision requirements imposed by the Department of Corrections and the conditions of any period of supervised release imposed pursuant to Title 17-A, chapter 50.

2. Decision. The court shall direct as follows.

A. Upon the conclusion of the evidence in a hearing on a petition for conditional release to a less restrictive alternative, if the court finds that there is no legally sufficient evidentiary basis for a reasonable jury to find that the conditions for release have been met, the court shall grant a motion by the State for a judgment as a matter of law on the issue of conditional release to a less

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restrictive alternative.

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B. When the issue of conditional release to a less restrictive alternative is submitted to the jury, the court shall instruct the jury to return a verdict in substantially the following form: "Has the State proved beyond a reasonable doubt that the proposed less restrictive alternative is not in the best interest of the respondent or will not adequately protect the community? Answer: Yes or No."

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§3934. Conditional release to less restrictive alternative:
judgment; conditions

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1. Judgment. Conditional release to a less restrictive alternative is permitted if the court or jury determines that conditional release to a less restrictive alternative is in the best interest of the committed person and will adequately protect the community and if the court determines that the minimum conditions set forth in section 3933, subsection 1 have been met.

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2. Conditions for granting release. The court shall impose any additional conditions on release necessary to ensure compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the committed person's compliance with treatment and protect the community, the person must be remanded to the custody of the department for control, care and treatment in a secure facility.

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3. Service provider other than State. If the service provider designated to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a committed person's placement in a less restrictive alternative is other than the department or the Department of Corrections, that service provider must agree in writing to provide the treatment.

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4. Conditions of release. Before authorizing release to a less restrictive alternative, the court shall impose such conditions on the committed person as are necessary to ensure the safety of the community, including conditions imposed pursuant to Title 17-A, chapter 50. A copy of the conditions of release must be given to the person and the person's designated service provider. The court shall order the department or the Department of Corrections to investigate the less restrictive alternative and recommend any additional conditions to the court. These conditions include, but are not limited to, the following:

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A. Specification of residence;

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B. Prohibition of contact with potential or past victims;

2 C. Prohibition of alcohol or other drug use;

4 D. Participation in a specific course of inpatient or
6 outpatient treatment that may include monitoring by the use
of polygraph and plethysmograph;

8 E. Supervision by a corrections supervisor, including a
10 supervisor of conditions imposed pursuant to Title 17-A,
chapter 50;

12 F. A requirement that the person remain within the State
14 unless the person receives prior authorization from the
court to leave the State; and

16 G. Any other conditions that the court determines are in
18 the best interest of the person or others.

20 5. Report by service provider. A service provider
designated to provide inpatient or outpatient treatment shall
22 submit monthly, or as otherwise directed by the court, a report
stating whether the conditionally released person is complying
24 with the terms and conditions of the release to a less
restrictive alternative. The report must be submitted to the
26 department, the facility from which the person was released, the
prosecuting attorney and the person's corrections supervisor.

28 6. Review of release. The release of a conditionally
released person to a less restrictive alternative must be
30 reviewed by the court that released the person no later than one
year after the conditional release and annually thereafter until
32 the person is unconditionally discharged. Review may occur in a
shorter time or more frequently, if the court, in its discretion
34 on its own motion or on motion of the conditionally released
person, the commissioner or the prosecuting attorney determines a
36 shorter review time is desirable. The sole question to be
determined by the court is whether the conditional release to a
38 less restrictive alternative should be continued. The court in
making its determination must be aided by the periodic reports
40 filed pursuant to subsection 5 and the opinions of the
commissioner and other experts or professional persons.

42 **§3935. Revocation of conditional release**

44 1. Petition. The department, any service provider required
46 to submit reports pursuant to section 3934, the prosecuting
attorney or the corrections supervisor may petition the court to
48 schedule, or the court on its own motion may schedule, an
immediate hearing for the purpose of revoking or modifying the
50 terms of the person's conditional release to a less restrictive

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2 alternative if the petitioner or the court believes the released
3 person is not complying with the terms and conditions of the
4 release or is in need of additional care and treatment.

6 2. **Apprehension.** If the department, the prosecuting
7 attorney, the corrections supervisor or the court, based upon
8 information received, reasonably believes that a conditionally
9 released person is not complying with the terms and conditions of
10 the conditional release to a less restrictive alternative, the
11 court or corrections supervisor may order that the conditionally
12 released person be apprehended and taken into custody until a
13 hearing can be scheduled to determine whether the person's
14 conditional release should be revoked or modified. The court
15 must be notified of the person's apprehension before the close of
16 the next judicial day. Both the prosecuting attorney and the
17 conditionally released person may request an immediate mental
18 examination of the conditionally released person. If the
19 conditionally released person is indigent, the court, upon
20 request, shall assist the person in obtaining a qualified expert
21 or professional person to conduct the examination.

22 3. **Hearing.** The court, upon receiving notification of the
23 person's apprehension, shall promptly schedule a hearing. The
24 issue to be determined at the hearing is whether the State has
25 proven by a preponderance of the evidence that the conditionally
26 released person did not comply with the terms and conditions of
27 release. Hearsay evidence is admissible if the court finds that
28 it is reliable. At the hearing, the court shall determine
29 whether the person should continue to be conditionally released
30 on the same or modified conditions or whether conditional release
31 should be revoked and the person committed to total confinement.

32 **§3936. Reimbursement of department**

34 The department is responsible for all costs relating to the
35 evaluation and treatment of a committed person in the
36 department's custody whether the person is confined to a secure
37 facility or released to a less restrictive alternative. The
38 department may require reimbursement of those costs to the extent
39 that the committed person is able to pay.

42 **§3937. Record check for employees of secure facility**

44 The commissioner shall require a criminal record check of
45 each employee working at a secure facility where committed
46 persons are confined under this subchapter. Both state and
47 federal criminal records must be checked. Fingerprints may be
48 required. The department shall pay the costs of the record
49 check. Information obtained may be used only in making the
50 initial employment decision or a decision to assign an employee

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to work in a secure facility.

§3938. Release of information

The commissioner may release any relevant information obtained under this subchapter if the commissioner determines that the release is necessary to protect the public.

§3939. Notice of conditional release, discharge or escape

1. Standard notice. At the earliest possible time, and no later than 30 days before conditional release or unconditional discharge, the department shall send written notice of conditional release, unconditional discharge or escape to the following:

A. The State Police;

B. The local law enforcement agency in the municipality in which the committed person will reside;

C. The sheriff of the county where the committed person will reside;

D. The sheriff of the county where the person was last convicted of a sexually violent offense if the department does not know where the person will reside; and

E. If the committed person has escaped, the local law enforcement agency and sheriff for the location in which the committed person resided immediately before commitment as a sexually violent predator or immediately before incarceration for the person's most recent offense.

2. Requested notice. The department shall provide notice in the same manner as required under subsection 1 upon the request of:

A. A victim of a sexually violent offense or the victim's next of kin if the offense included a homicide;

B. A witness who testified against the person in commitment proceedings; or

C. Any person specified in writing by the prosecuting attorney.

3. Confidentiality of request. Information regarding persons requesting notice under subsection 2 and the notice are confidential and may not be disclosed to any person, including

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the committed person.

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4. Recapture. If the committed person is recaptured, the department shall notify a person receiving notice under this section as soon as possible, but no later than 2 working days after the department learns of the recapture.

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5. Child. If the person to be notified under this section is under 18 years of age, the notice required by this section must be sent to the person with custody of the child.

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6. Where notice sent. The department shall send the notice required by this section to the last address provided to the department by the person requesting notice.

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§3940. Escorted leave

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1. Escorted leave authorized. The person in charge of a facility to which a committed person is confined under this subchapter may grant, subject to approval of the commissioner, an escorted leave of absence to that committed person for the following purposes:

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A. To go to the bedside of that committed person's spouse or parent or other member of that committed person's immediate family who is seriously ill;

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B. To attend the funeral of a member of that committed person's immediate family; or

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C. To receive necessary medical or dental care that is not available in the facility where the committed person is confined.

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2. Conditions. A committed person granted an escorted leave of absence under this section must be under the continuous supervision of an escort. The escort must be a correctional officer or other person approved by the commissioner. The escort shall be in visual or auditory contact with the person at all times. Contact may not be aided by any electronic or other device.

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3. Notice. A committed person may not begin an escorted leave of absence until the commissioner has notified the law enforcement agency with jurisdiction in the area of the person's destination.

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4. Restricted to State. A committed person granted an escorted leave of absence may not leave the State unless approved by the court.

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2 5. Reimbursement of costs. The commissioner may seek
3 reimbursement from the committed person or members of the family
4 of the committed person for the costs of an escorted leave of
5 absence unless the committed person and the committed person's
6 family members are indigent and without resources sufficient to
7 reimburse the State for the costs of the leave of absence.

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9 **Sec. 8. Appropriations and allocations.** The following
10 appropriations and allocations are made.

11 **CORRECTIONS, DEPARTMENT OF**

12 **Maine State Prison 0144**

13 Initiative: Appropriates capital construction funds to construct
14 a special management security facility at the Maine State Prison
15 to house sexually violent prisoners. This facility will require
16 \$1,400,000 in fiscal year 2007-08 and annually thereafter as
17 ongoing funds for the annual operating costs of the project.

22	GENERAL FUND	2005-06	2006-07
23	Capital Expenditures	\$0	\$4,800,000
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25	GENERAL FUND TOTAL	\$0	\$4,800,000

26 **CORRECTIONS, DEPARTMENT OF**
27 **DEPARTMENT TOTALS**

28		2005-06	2006-07
29	GENERAL FUND	\$0	\$4,800,000
30			
31	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$4,800,000

32 **JUDICIAL DEPARTMENT**

33 **Courts - Supreme, Superior, District & Administrative 0063**

34 Initiative: Appropriates funds for additional services by active
35 retired Superior Court Justices, increased court security, court
36 reporters, court clerks and jury expenses to handle the increase
37 in workload.

38	GENERAL FUND	2005-06	2006-07
39	All Other	\$0	\$75,000
40			
41	GENERAL FUND TOTAL	\$0	\$75,000

42 **JUDICIAL DEPARTMENT**
43 **DEPARTMENT TOTALS**

44		2005-06	2006-07
45			

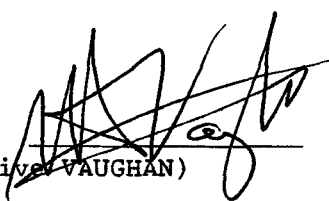
208

HOUSE AMENDMENT "E" to COMMITTEE AMENDMENT "C" to H.P. 1224,
L.D. 1717

2	GENERAL FUND	\$0	\$75,000
4	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$75,000
6	SECTION TOTALS	2005-06	2006-07
8	GENERAL FUND	\$0	\$4,875,000
10	SECTION TOTAL - ALL FUNDS	\$0	\$4,875,000

SUMMARY

14 This amendment provides a procedure for the commitment of a
 16 person determined to be a sexually violent predator if a court
 18 finds that the person has a mental abnormality or personality
 20 disorder that makes it likely that the person will engage in
 22 predatory acts of sexual violence if not confined in a secure
 24 facility. Protections are provided to a person subject to
 26 commitment. Care and treatment must be provided and the
 28 commitment is subject to annual review. Notice of release or
 30 discharge is required for victims, witnesses and other persons
 identified by the prosecuting attorney. This amendment
 designates the Commissioner of Corrections and the Commissioner
 of Health and Human Services as responsible for providing secure
 facilities for sexually violent predators. This amendment
 coordinates release from a secure facility for sexually violent
 predators with supervised release for sex offenders under the
 Maine Revised Statutes, Title 17-A, chapter 50. The amendment
 adds an appropriations and allocations section.

34
 36 SPONSORED BY: 
 (Representative VAUGHAN)

38 TOWN: Durham

40 FISCAL NOTE REQUIRED
(See attached)

HOUSE AMENDMENT



122nd MAINE LEGISLATURE

LD 1717

LR 2770(23)

An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age

Fiscal Note for House Amendment 'E' to Committee Amendment 'C'

Sponsor: Rep. Vaughan

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$4,875,000	\$1,475,000	\$1,475,000
Appropriations/Allocations				
General Fund	\$0	\$4,875,000	\$1,475,000	\$1,475,000

Fiscal Detail and Notes

This bill requires a General Fund appropriation to the Department of Corrections in the amount of \$4,800,000 in fiscal year 2006-07 and \$1,400,000 in fiscal year 2007-08. This appropriation will provide capital construction funds in fiscal year 2006-07 to construct a special management security facility at the Maine State Prison to house certain sexually violent predators. The appropriation in fiscal year 2007-08 and thereafter will provide ongoing funds for the annual operating costs of the project. This bill also requires a General Fund appropriation to the Judicial Department in the amount of \$75,000 annually. This appropriation will provide funds for additional services by active retired Superior Court Justices, increased court security, court reporters, court clerks and jury expenses to handle the increased workload.