

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 423

H.P. 339

House of Representatives, January 29, 2007

### **An Act To Ensure the Safety of the Public and of Victims of Sexual Assault**

(EMERGENCY)

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative JACOBSEN of Waterboro.  
Cosponsored by Senator COURTNEY of York and  
Representatives: DUPREY of Hampden, HOLMAN of Fayette, McLEOD of Lee, MOORE of  
Standish.

1       **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3       **Whereas,** the Legislature finds that the current criminal justice system does not  
4 provide adequate notice and protection to victims of sexual assault and to other members  
5 of the public regarding convicted sex offenders in the community; and

6       **Whereas,** this legislation provides immediate additional protections to victims and  
7 others in the community; and

8       **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
9 the meaning of the Constitution of Maine and require the following legislation as  
10 immediately necessary for the preservation of the public peace, health and safety; now,  
11 therefore,

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

13       **Sec. 1. 17-A MRSA §261** is enacted to read:

14 **§261. Standing criminal restraining order**

15       1. As part of the sentence for a violation of an offense under this chapter or under  
16 chapter 12, the court shall issue a standing criminal restraining order under this section.

17       2. A standing criminal restraining order takes effect when a person is released from  
18 confinement or at the time of sentencing if no period of confinement is ordered.

19       3. A standing criminal restraining order must include, but is not limited to, enjoining  
20 a person from:

21           A. Residing within 10 miles of the victim's residence;

22           B. Residing within 10 miles of where the offense was committed; and

23           C. If the person resides in a community with fewer than 30,000 residents, residing  
24 within 1,000 feet of the real property comprising:

25                   (1) A public or private elementary or secondary school;

26                   (2) A child care facility licensed pursuant to Title 22, section 8301-A; or

27                   (3) A playground or other place where persons under 16 years of age are likely  
28 to gather.

29       4. A standing criminal restraining order remains in effect until modified or revoked  
30 by the court for good cause shown.

31       5. Violation of a standing criminal restraining order is a Class D crime.

32       6. A standing criminal restraining order must contain the following language: "This  
33 order remains in effect until modified or revoked by the court for good cause shown. In

1 accordance with the Maine Revised Statutes, Title 17-A, section 261, violation of a  
2 standing criminal restraining order is a Class D crime."

3 **Emergency clause.** In view of the emergency cited in the preamble, this  
4 legislation takes effect when approved.

5 **SUMMARY**

6 This bill is an emergency bill that requires the court to issue a standing criminal  
7 restraining order that applies to persons convicted of sex offenses under the Maine  
8 Revised Statutes, Title 17-A, chapters 11 and 12. The standing criminal restraining order  
9 takes effect when the defendant is released from confinement or at the time of sentencing  
10 if no confinement is ordered and continues until modified or revoked by the court for  
11 good cause shown. The order must include, but is not limited to, enjoining the defendant  
12 from residing within 10 miles of the victim's residence, within 10 miles of where the  
13 offense occurred and within 1,000 feet of a school, day care or playground if there are  
14 fewer than 30,000 residents in that community. Violation of the order is a Class D crime.