

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

M
R.O.S.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

Date: 4-9-08

(Filing No. S-594)

CRIMINAL JUSTICE AND PUBLIC SAFETY

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
123RD LEGISLATURE
FIRST SPECIAL SESSION
Majority**

COMMITTEE AMENDMENT "A" to S.P. 147, L.D. 446, Bill, "An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness"

Amend the bill by striking out everything after the enacting clause and inserting the following:

PART A

Sec. A-1. 17-A MRSA §261, sub-§1, as enacted by PL 2007, c. 393, §1, is amended to read:

- 1. A person is guilty of prohibited contact with a minor if that person:
 - A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and
 - B. ~~Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~
 - C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class E crime.

Sec. A-2. 17-A MRSA §261, sub-§2, as amended by PL 2007, c. 518, §6, is further amended to read:

- 2. A person is guilty of prohibited contact with a minor in a sex offender restricted zone if that person:
 - A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another

COMMITTEE AMENDMENT

ROS

1 jurisdiction for conduct substantially similar to that contained in this chapter or
2 chapter 12 against another person who had not in fact attained 14 years of age; and
3 ~~B. Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~
4 C. Intentionally or knowingly has initiates direct or indirect contact in a sex offender
5 restricted zone with another person who has not in fact attained 14 years of age.

6 Violation of this subsection is a Class D crime.

7 **Sec. A-3. 17-A MRSA §1152, sub-§2-C**, as amended by PL 2003, c. 711, Pt. B,
8 §13, is repealed.

9 **Sec. A-4. 17-A MRSA §1204, sub-§1-C**, as amended by PL 2005, c. 488, §5, is
10 repealed.

11 **PART B**

12 **Sec. B-1. 34-A MRSA §11201**, as amended by PL 2003, c. 711, Pt. C, §4 and
13 affected by Pt. D, §2, is further amended to read:

14 **§11201. Short title**

15 This chapter may be known and cited as the "Sex Offender Registration and
16 Notification Act of 1999." The purpose of this chapter is to protect the public from
17 potentially dangerous registrants and offenders by enhancing access to information
18 concerning those registrants and offenders.

19 **Sec. B-2. 34-A MRSA §11202**, as repealed and replaced by PL 2005, c. 423, §1,
20 is repealed and the following enacted in its place:

21 **§11202. Application**

22 This chapter applies to:

23 1. Maine. A person sentenced in this State as an adult, or as a juvenile sentenced as
24 an adult, for a sex offense or a sexually violent offense:

25 A. On or after June 30, 1992; or

26 B. On or after January 1, 1982 and prior to June 30, 1992, if that person:

27 (1) Remained in execution of that sentence on September 1, 1998;

28 (2) Has more than one conviction in this State for a Class A sex offense or
29 sexually violent offense or more than one conviction in another jurisdiction for an
30 offense that contains the essential elements of a Class A sex offense or sexually
31 violent offense whether or not the convictions occurred on the same date;

32 (3) At the time of offense, had been previously sentenced in this State as an adult
33 or as a juvenile sentenced as an adult for a sex offense or a sexually violent
34 offense; or

1 (4) At the time of offense, had been previously sentenced in another jurisdiction
2 as an adult or as a juvenile sentenced as an adult for an offense that contains the
3 essential elements of a sex offense or a sexually violent offense; and

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

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

9 **B. On or after January 1, 1992, for an offense that contains the essential elements of**
10 **a sex offense or sexually violent offense;**

11 **C. On or after January 1, 1982 and prior to June 30, 1992, for an offense that**
12 **contains the essential elements of a sex offense or sexually violent offense if that**
13 **person:**

14 **(1) Remained in execution of that sentence on September 1, 1998;**

15 **(2) Has more than one conviction in this State for a Class A sex offense or**
16 **sexually violent offense or more than one conviction in another jurisdiction for an**
17 **offense that contains the essential elements of a Class A sex offense or sexually**
18 **violent offense whether or not the convictions occurred on the same date;**

19 **(3) At the time of offense, had been previously sentenced in this State as an adult**
20 **or as a juvenile sentenced as an adult for a sex offense or a sexually violent**
21 **offense; or**

22 **(4) At the time of offense, had been previously sentenced in another jurisdiction**
23 **as an adult or as a juvenile sentenced as an adult for an offense that contains the**
24 **essential elements of a sex offense or a sexually violent offense; or**

25 **D. At any time for a military, tribal or federal offense requiring registration pursuant**
26 **to:**

27 **(1) The Jacob Wetterling Crimes Against Children and Sexually Violent**
28 **Offender Registration Act, also known as the Jacob Wetterling Act, Section**
29 **170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public**
30 **Law 103-322, as amended; or**

31 **(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-**
32 **248.**

33 **Sec. B-3. 34-A MRS §11203, sub-§1-A, as amended by PL 2005, c. 423, §2, is**
34 **further amended to read:**

35 **1-A. Conditional release.** "Conditional release" means supervised release of a
36 registrant or an offender from institutional confinement for placement on probation,
37 parole, intensive supervision, supervised release for sex offenders, supervised community
38 confinement, home release monitoring or release under Title 15, section 104-A or Title
39 17-A, chapter 54-G.

1 **Sec. B-4. 34-A MRSA §11203, sub-§4**, as amended by PL 2003, c. 711, Pt. C,
2 §9 and affected by Pt. D, §2, is further amended to read:

3 **4. Law enforcement agency having jurisdiction.** "Law enforcement agency
4 having jurisdiction" means the chief of police in the municipality where a registrant or an
5 offender expects to be or is domiciled. If the municipality does not have a chief of police,
6 "law enforcement agency having jurisdiction" means the sheriff of the county where the
7 municipality is located. "Law enforcement agency having jurisdiction" also means the
8 sheriff of the county in an unorganized territory.

9 **Sec. B-5. 34-A MRSA §11203, sub-§4-A**, as amended by PL 2005, c. 423, §3, is
10 further amended to read:

11 **4-A. Risk assessment instrument.** "Risk assessment instrument" means an
12 instrument created and modified as necessary by reviewing and analyzing precursors to a
13 sex offense, victim populations of a registrant or an offender, living conditions and
14 environment of a registrant or an offender and other factors predisposing a person to
15 become a registrant or an offender, for the ongoing purpose of identifying risk factors.

16 **Sec. B-6. 34-A MRSA §11203, sub-§4-D**, as enacted by PL 2003, c. 711, Pt. C,
17 §11 and affected by Pt. D, §2, is amended to read:

18 **4-D. Residence.** "Residence" means that place or those places, other than a
19 domicile, in which a person may spend time living, residing or dwelling. Proof that an
20 offender has lived in the State for 14 days continuously or an aggregate of 30 days within
21 a period of one year gives rise to a permissible inference under the Maine Rules of
22 Evidence, Rule 303 that the person has established a residence for the purposes of
23 registration requirements imposed by this chapter.

24 **Sec. B-7. 34-A MRSA §11203, sub-§4-E** is enacted to read:

25 **4-E. Offender.** "Offender" means a person to whom this chapter applies pursuant to
26 section 11202.

27 **Sec. B-8. 34-A MRSA §11203, sub-§5**, as amended by PL 2003, c. 711, Pt. C,
28 §12 and affected by Pt. D, §2, is further amended to read:

29 **5. Ten-year registrant.** "Ten-year registrant" means a person who is has complied
30 with the initial duty to register under this chapter as an adult convicted and sentenced or a
31 juvenile convicted and sentenced as an adult of a sex offense.

32 **Sec. B-9. 34-A MRSA §11203, sub-§6, ¶B**, as repealed and replaced by PL
33 2003, c. 711, Pt. C, §13 and affected by Pt. D, §2, is amended to read:

34 B. A violation under former Title 17, section 2922; former Title 17, section 2923;
35 former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F,
36 G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1,
37 paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph
38 B or D if the crime was not elevated a class under former Title 17-A, section 255,
39 subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K,
40 L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A,
41 section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284;
42 Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor

2018

COMMITTEE AMENDMENT "A" to S.P. 147, L.D. 446

1 is a parent of the victim; ~~Title 17-A, section 302, unless the actor is a parent of the~~
2 ~~victim~~; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556;
3 Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

4 **Sec. B-10. 34-A MRSA §11203, sub-§6, ¶C**, as amended by PL 2005, c. 423,
5 §5, is further amended to read:

6 C. A violation in another jurisdiction that includes the essential elements of an
7 offense listed in paragraph B; or

8 **Sec. B-11. 34-A MRSA §11203, sub-§6, ¶D** is enacted to read:

9 D. A conviction for a military, tribal or federal offense requiring registration
10 pursuant to:

11 (1) The Jacob Wetterling Crimes Against Children and Sexually Violent
12 Offender Registration Act, also known as the Jacob Wetterling Act, Section
13 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public
14 Law 103-322, as amended; or

15 (2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-
16 248.

17 **Sec. B-12. 34-A MRSA §11203, sub-§7**, as amended by PL 2005, c. 423, §6, is
18 further amended to read:

19 **7. Sexually violent offense.** "Sexually violent offense" means:

20 A. A conviction for one of the offenses or for an attempt to commit one of the
21 offenses under former Title 17-A, section 252; under Title 17-A, section 253,
22 subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former
23 Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section
24 255, subsection 1, paragraph B or D, if the crime was elevated a class under former
25 Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1,
26 paragraph D, E, E-1, F, F-1, H, O or P; or

27 B. A conviction for an offense or for an attempt to commit an offense of the law in
28 another jurisdiction that includes the essential elements of an offense listed in
29 paragraph A; or

30 C. A conviction for a military, tribal or federal offense requiring registration
31 pursuant to:

32 (1) The Jacob Wetterling Crimes Against Children and Sexually Violent
33 Offender Registration Act, also known as the Jacob Wetterling Act, Section
34 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public
35 Law 103-322, as amended; or

36 (2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-
37 248.

38 **Sec. B-13. 34-A MRSA §11203, sub-§8**, as amended by PL 2005, c. 423, §7, is
39 further amended to read:

COMMITTEE AMENDMENT

ROPS

1 **8. Lifetime registrant.** "Lifetime registrant" means a person who is has complied
2 with the initial duty to register under this chapter as an adult convicted and sentenced or a
3 juvenile convicted and sentenced as an adult of a:

4 A. Sexually violent offense; or

5 B. Sex offense when the person has ~~a prior~~ another conviction for or an attempt to
6 commit an offense that includes the essential elements of a sex offense or sexually
7 violent offense. For purposes of this paragraph, ~~prior conviction means a conviction~~
8 ~~that occurred at any time. More than one conviction may occur on the same day.~~
9 ~~Multiple convictions that result from or are connected with the same act or that result~~
10 ~~from offenses committed at the same time are considered one conviction unless the~~
11 ~~offenses were committed against more than one victim.~~ "another conviction" means:

12 (1) For persons convicted and sentenced before September 17, 2005, a
13 conviction for an offense for which sentence was imposed prior to the occurrence
14 of the new offense; and

15 (2) For persons convicted and sentenced on or after September 17, 2005, a
16 conviction that occurred at any time. Convictions that occur on the same day
17 may be counted as other offenses for the purposes of classifying a person as a
18 lifetime registrant if:

19 (a) There is more than one victim; or

20 (b) The convictions are for offenses based on different conduct or arising
21 from different criminal episodes.

22 **Sec. B-14. 34-A MRSA §11222**, as amended by PL 2005, c. 683, Pt. B, §28, is
23 further amended to read:

24 **§11222. Duty of offender to register**

25 **1. Notification by court, the department, the bureau or a law enforcement**
26 **agency.** ~~The court shall determine at the time of sentencing if a defendant is a 10-year~~
27 ~~registrant or lifetime registrant. A person who the court determines is a 10-year registrant~~
28 ~~or lifetime registrant shall register according to this subchapter. An offender has a duty to~~
29 ~~register under this chapter after notification has been given to the offender by a court of~~
30 ~~jurisdiction, the department, the bureau or a law enforcement agency. A court shall~~
31 ~~notify the offender at the time of sentence of the duty to register pursuant to this chapter.~~
32 Notification of the duty to register under this chapter also may be given to the offender at
33 any time after the imposition of sentence.

34 At any time, the bureau may correct the term of a registration erroneously assigned to an
35 offender or registrant. In such instances, the bureau shall notify the offender or registrant,
36 the district attorney and court in the jurisdiction where the conviction occurred and the
37 law enforcement agency having jurisdiction where the offender or registrant is domiciled,
38 resides, is employed or attends college or school, if applicable.

39 **1-A. When duty to register must be exercised.** ~~Following determination by the~~
40 ~~notification by a court, the department, the bureau or a law enforcement agency under~~
41 ~~subsection 1, a registrant an offender shall register as follows.~~

Revis

1 A. If the registrant offender is sentenced to a wholly suspended sentence with
2 probation or administrative release, or to a punishment alternative not involving
3 imprisonment, the duty to register is triggered at the time the person commences in
4 actual execution of the wholly suspended sentence or at the time of sentence
5 imposition when no punishment alternative involving imprisonment is imposed,
6 unless the court orders a stay of execution, in which event the duty is triggered by the
7 termination of the stay.

8 B. If the registrant offender is sentenced to a straight term of imprisonment or to a
9 split sentence, the duty to register is triggered by discharge or conditional release.

10 C. If the registrant offender is committed under Title 15, section 103, the duty to
11 register is triggered by discharge or conditional release under Title 15, section 104-A.

12 D. If the events stated in paragraphs A to C have passed, an offender must register
13 within 5 days after having received notice of that duty from a court, the department,
14 the bureau or a law enforcement agency.

15 E. Proof that the name and date of birth of the person notified of the duty to register
16 pursuant to this chapter are the same as those of a person who has been convicted of
17 an offense requiring registration pursuant to this chapter gives rise to a permissible
18 inference under the Maine Rules of Evidence, Rule 303 that the person notified of the
19 duty to register is the same person as that person convicted of the offense requiring
20 registration.

21 **1-B. Duty to notify law enforcement agency.** ~~A registrant who has a duty to~~
22 ~~register pursuant to this subchapter~~ An offender shall notify the law enforcement agency
23 having jurisdiction in those areas where the registrant offender is domiciled, resides,
24 works or attends school within 24 hours of becoming a domiciliary or a resident or
25 beginning work or attending school. If the location is a municipality with an organized
26 municipal police department, the law enforcement agency having jurisdiction is the
27 municipal police department. If the location is a school having an organized police
28 department, the law enforcement agency having jurisdiction is the campus police
29 department. If the location is neither a municipality nor a school with an organized police
30 department, the law enforcement agency having jurisdiction is the sheriff's department.

31 **2. Responsibility of ensuring initial registration.** The department, the county jail
32 or the state mental health institute that has custody of ~~a registrant required to register~~
33 ~~under this subchapter~~ an offender shall inform the registrant offender, prior to discharge
34 or conditional release, of the duty to register. If a registrant offender does not serve a
35 period of institutional confinement, the court shall inform the registrant offender at the
36 time of sentencing of the duty to register. The department, county jail, state mental health
37 institute or court shall:

38 A. Inform the registrant offender of the duty to register and obtain the information
39 required for the initial registration;

40 A-1. Inform the registrant offender of the requirement to notify the law enforcement
41 agency having jurisdiction pursuant to subsection 1-B;

42 B. Inform the registrant offender that if the registrant offender changes domicile or
43 changes residence, place of employment or college or school being attended, the

1 registrant offender shall give the new address to the bureau in writing within 5 days
2 and shall notify the law enforcement agency having jurisdiction within 24 hours;

3 C. Inform the registrant offender that if that registrant offender changes domicile to
4 another state, the registrant offender shall register the new address with the bureau
5 and if the new state has a registration requirement, the registrant offender shall
6 register with a designated law enforcement agency in the new state not later than 5
7 days after establishing domicile in the new state;

8 D. Inform the registrant offender that if that registrant offender has part-time or full-
9 time employment in another state, with or without compensation, for more than 14
10 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if
11 that registrant offender enrolls in any type of school in another state on a part-time or
12 full-time basis, the registrant offender shall give the bureau the registrant's offender's
13 place of employment or school to be attended in writing within 5 days after beginning
14 work or attending school and if the other state has a registration requirement, shall
15 register with the designated law enforcement agency in the other state;

16 E. Obtain fingerprints and a photograph of the registrant offender or the court may
17 order the registrant offender to submit to the taking of fingerprints and a photograph
18 at a specified law enforcement agency within 3 days if the fingerprints and
19 photograph have not already been obtained in connection with the offense that
20 necessitates registration; and

21 F. Enforce the requirement that the registrant offender read and sign a form provided
22 by the bureau that states that the duty of the registrant offender to register under this
23 section has been explained.

24 **2-A. Duty of registrant sentenced from June 30, 1992 to September 17, 1999 to**
25 **register.** Notwithstanding subsection 1 and except as provided in subsection 2-B, a
26 person coming within the definition of a 10-year registrant or lifetime registrant who has
27 been sentenced on or after June 30, 1992 but before September 18, 1999 for a sex offense
28 or a sexually violent offense shall register either as a 10-year registrant or lifetime
29 registrant, whichever is applicable, ~~with the bureau by September 1, 2002~~ if the duty to
30 register has been triggered under subsection 1-A, paragraph A, B or C, ~~unless sooner~~
31 ~~notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the~~
32 ~~bureau, the department or a law enforcement officer, in which case the person and the~~
33 offender has been notified of the duty to register by a court of jurisdiction, the
34 department, the bureau or a law enforcement agency. The offender shall register with the
35 bureau within 5 days of notice.

36 **2-B. Duty to register for new crimes.** For a person otherwise subject to subsection
37 2-A who has been sentenced for a crime added by an amendment to the definition of sex
38 offense or sexually violent offense in section 11203 since September 1, 2002, if the duty
39 to register has been triggered under subsection 1-A, paragraph A, B or C, ~~that and the~~
40 offender has been notified of the duty to register by a court of jurisdiction, the
41 department, the bureau or a law enforcement agency, that person shall register as a 10-
42 year registrant or a lifetime registrant, whichever is applicable, ~~with the bureau by June 1,~~
43 ~~2005, unless sooner notified in writing of a duty to register under subsection 1-A,~~
44 ~~paragraph A, B or C by the bureau, the department or a law enforcement officer, in which~~
45 ~~case the person.~~ The offender shall register with the bureau within 5 days of notice.

PLoS

1 **2-C. Duty of registrant sentenced from January 1, 1982 to June 29, 1992 to**
2 **register.** Notwithstanding subsection 1, a person who meets the definition of a 10-year
3 registrant or a lifetime registrant who has been sentenced on or after January 1, 1982 but
4 before June 30, 1992 for a sex offense or a sexually violent offense shall register either as
5 a 10-year registrant or a lifetime registrant, whichever is applicable, ~~with the bureau by~~
6 ~~October 15, 2005~~ if the duty to register has been triggered under subsection 1-A,
7 paragraph A, B or C, ~~unless sooner notified in writing of a duty to register under~~
8 ~~subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement~~
9 ~~officer, in which case the person and the offender has been notified of the duty to register~~
10 by a court of jurisdiction, the department, the bureau or a law enforcement agency. The
11 offender shall register with the bureau within 5 days of notice.

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

22 **4. Verification.** During the period a registrant is required to register, the bureau
23 shall require the registrant to verify registration information including domicile,
24 residence, place of employment and college or school being attended. The bureau shall
25 verify the registration information of a 10-year registrant on each anniversary of the 10-
26 year registrant's initial registration date and shall verify a lifetime registrant's registration
27 information every 90 days after that lifetime registrant's initial registration date.
28 Verification of the registration information of a 10-year registrant or lifetime registrant
29 occurs as set out in this subsection.

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

34 C. The registrant shall take the completed verification form and a photograph of the
35 registrant to the law enforcement agency having jurisdiction within 5 days of receipt
36 of the form.

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

41 **5. Change of domicile, residence, place of employment or college or school being**
42 **attended.** A An offender or registrant shall notify the bureau in writing of a change of
43 residence, domicile, place of employment or college or school being attended within 5
44 days and shall notify the law enforcement agency having jurisdiction within 24 hours

PL 018

1 after changing that domicile, residence, place of employment or college or school being
2 attended.

3 A. If the offender or registrant establishes a new domicile, residence, place of
4 employment or college or school being attended in the State, the bureau shall notify,
5 within 3 days, both the law enforcement agency having jurisdiction where the
6 offender or registrant was formerly domiciled or resided or was employed or enrolled
7 and the law enforcement agency having jurisdiction where the offender or registrant
8 is currently domiciled, residing, employed or enrolled.

9 B. If the offender or registrant establishes a domicile, residence, place of
10 employment or college or school being attended in another state, the bureau shall
11 notify, within 3 days, the law enforcement agency having jurisdiction where the
12 offender or registrant was formerly domiciled or resided or was employed or enrolled
13 and the law enforcement agency having jurisdiction where the offender or registrant
14 is currently domiciled, residing, employed or enrolled.

15 **Sec. B-15. 34-A MRSA §11223**, as amended by PL 2005, c. 423, §19, is further
16 amended to read:

17 **§11223. Duty of person establishing domicile or residence to register**

18 A person sentenced at any time for a military, tribal or federal offense requiring
19 registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually
20 Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section
21 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law
22 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006,
23 Public Law 109-248; or in a jurisdiction other than this State who is required under that
24 jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or
25 would have been required to register if the person had remained in the jurisdiction or, if
26 not so required, who has been sentenced on or after January 1, 1982 for an offense that
27 includes the essential elements of a sex offense or a sexually violent offense shall register
28 as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and
29 shall notify the law enforcement agency having jurisdiction within 24 hours of
30 establishing domicile or residence in this State. The person shall contact the bureau,
31 which shall provide the person with the registration form and direct the person to take the
32 form and a photograph of the person to the law enforcement agency having jurisdiction.
33 The law enforcement agency shall supervise the completion of the form, take the person's
34 fingerprints and immediately forward the form, photograph and fingerprints to the
35 bureau.

36 **Sec. B-16. 34-A MRSA §11224, sub-§1**, as enacted by PL 2005, c. 423, §20, is
37 amended to read:

38 **1. Time.** A person who has been sentenced at any time for a military, tribal or
39 federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against
40 Children and Sexually Violent Offender Registration Act, also known as the Jacob
41 Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act
42 of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and
43 Safety Act of 2006, Public Law 109-248; or in a jurisdiction other than this State and who
44 is required under that jurisdiction to register pursuant to that jurisdiction's sex offender

PLS

1 registration statute or would have been required to register if the person had remained in
2 that jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982
3 for an offense that includes the essential elements of a sex offense or a sexually violent
4 offense shall register as a 10-year registrant or lifetime registrant, whichever is
5 applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

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

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

11 **Sec. B-17. 34-A MRSA §11225-A, sub-§6**, as enacted by PL 2005, c. 423, §22,
12 is amended to read:

13 **6. Relief from duty to register.** The following provisions apply to an offender's, a
14 10-year registrant's or a lifetime registrant's duty to register.

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

18 B. A An offender's or a lifetime registrant's duty to register for the duration of that
19 person's life pursuant to subsection 4 is not required if the circumstances triggering
20 the registration requirements under section 11223, section 11224 or both no longer
21 exist.

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

25 **Sec. B-18. 34-A MRSA §11227, sub-§6**, as repealed and replaced by PL 2005,
26 c. 423, §23, is amended to read:

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

32 **Sec. B-19. 34-A MRSA §11227, sub-§7** is enacted to read:

33 **7. Permissible inference.** Proof that the name and date of birth of the person
34 charged with a violation of this section are the same as those of a person who has been
35 convicted of an offense requiring registration pursuant to this chapter gives rise to a
36 permissible inference under the Maine Rules of Evidence, Rule 303 that the person
37 charged with a violation of this section is the same person as that person convicted of the
38 offense requiring registration.

39 **Sec. B-20. 34-A MRSA §11228**, as enacted by PL 2003, c. 371, §12, is amended
40 to read:

10/3

1 §11228. Certification by record custodian

2 Notwithstanding any other law or rule of evidence, a certificate by the custodian of
3 the records of the bureau, when signed and sworn to by that custodian, or the custodian's
4 designee, is admissible in a judicial or administrative proceeding as prima facie evidence
5 of any fact stated in the certificate or in any documents attached to the certificate.

6 Sec. B-21. Retroactivity. This Part applies retroactively to January 1, 1982.

7 PART C

8 Sec. C-1. Appropriations and allocations. The following appropriations and
9 allocations are made.

10 JUDICIAL DEPARTMENT

11 Courts - Supreme, Superior, District and Administrative 0063

12 Initiative: Appropriates one-time funds to contract for technology services.

13	GENERAL FUND	2007-08	2008-09
14	All Other	\$0	\$10,000
15			
16	GENERAL FUND TOTAL	\$0	\$10,000
17			

18 SUMMARY

19 This amendment replaces the bill and is the majority report of the Joint Standing
20 Committee on Criminal Justice and Public Safety.

21 Part A of the amendment makes the following changes to the Maine Criminal Code.

22 1. It amends the crime of prohibited contact with a minor by repealing the element
23 that the person has a duty to register under the Sex Offender Registration and Notification
24 Act of 1999 and by making the law applicable only to those persons convicted on or after
25 June 30, 1992.

26 2. It repeals from the sentencing provisions the directive that a court order a person
27 convicted of a sex offense or a sexually violent offense to satisfy all requirements of the
28 Sex Offender Registration and Notification Act of 1999. This change clarifies that the
29 Legislature determines that a duty to register exists based on the conviction and that the
30 court's duty is only to notify the person of that duty.

31 3. It repeals from the probation provisions the directive that a court attach as a
32 condition of probation that a person convicted of a sex offense or a sexually violent
33 offense satisfy all requirements of the Sex Offender Registration and Notification Act of
34 1999. The court has discretion to order any condition of probation reasonably related to
35 the rehabilitation of the convicted person or the public safety or security, including
36 satisfying registration requirements if appropriate.

COMMITTEE AMENDMENT "A" to S.P. 147, L.D. 446

1 Part B of the amendment makes the following changes to the Sex Offender
2 Registration and Notification Act of 1999.

3 1. It repeals and replaces the application section to specify that those persons
4 sentenced in Maine as an adult or as a juvenile sentenced as an adult for a sex offense or
5 sexually violent offense on or after January 1, 1982 but before June 30, 1992 must
6 continue to register if they remained in execution of their sentence on September 1, 1998;
7 if they have more than one conviction for a Class A sex offense or Class A sexually
8 violent offense whether or not the convictions were on the same date; if, at the time of
9 offense, they had been previously sentenced in this State as an adult or as a juvenile
10 sentenced as an adult for a sex offense or a sexually violent offense; or if, at the time of
11 offense, they had been previously sentenced in another jurisdiction as an adult or as a
12 juvenile sentenced as an adult for an offense that contains the essential elements of a sex
13 offense or a sexually violent offense. The application section continues to require all
14 persons sentenced on or after June 30, 1992 for a sex offense or a sexually violent offense
15 to comply with the registration requirements.

16 2. It repeals and replaces the application section to specify that those persons
17 sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult on or
18 after January 1, 1982 but before June 30, 1992 must register for an offense that contains
19 the essential elements of a sex offense or sexually violent offense if that person remained
20 in execution of that sentence on September 1, 1998; if that person has more than one
21 conviction for a Class A sex offense or sexually violent offense whether or not the
22 conviction was on the same date; if, at the time of offense, they had been previously
23 sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense
24 or a sexually violent offense; or if, at the time of offense, they had been previously
25 sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an
26 offense that contains the essential elements of a sex offense or a sexually violent offense.
27 The application section continues to require persons to register for a conviction,
28 regardless of the date, if registration is required in the jurisdiction of conviction pursuant
29 to that jurisdiction's sex offender registration laws or would have been required pursuant
30 to those laws had the person remained there. The statute continues to require registration
31 for those convicted on or after June 30, 1992 for an offense that contains the essential
32 elements of a sex offense or sexually violent offense. The amendment also clarifies that a
33 person must register if the person was sentenced for a specified military, tribal or federal
34 offense.

35 3. It defines the term "offender" as a person to whom the Sex Offender Registration
36 and Notification Act of 1999 applies.

37 4. For purposes of establishing a standard for residence and for establishing that the
38 name and birth of the person notified of the duty to register are the same as those of a
39 person convicted of an offense requiring registration, it identifies when specified
40 instances of proof give rise to permissible inferences under the Maine Rules of Evidence,
41 Rule 303.

42 5. It amends the definition of "sex offense" by removing criminal restraint and all
43 forms of kidnapping except kidnapping for which the actor knowingly restrains another
44 person with the intent to inflict bodily injury upon the other person or subject the other
45 person to sexual assaults prohibited pursuant to Title 17-A, chapter 11.

1 6. It amends the definition of "lifetime registrant" that pertains to persons classified
2 as lifetime registrants because of having multiple convictions for sex offenses to clarify
3 that the changes made by Public Law 2005, chapter 423 operate prospectively. For
4 persons convicted and sentenced on or after September 17, 2005, the definition remains
5 unchanged except for technical drafting changes. As used in that definition, the term
6 "another conviction" includes a conviction that occurred at any time. Convictions that
7 occur on the same day may be counted as other offenses for the purposes of classifying a
8 person as a lifetime registrant if there is more than one victim or the convictions are for
9 offenses based on different conduct or arising from different criminal episodes. Multiple
10 convictions that result from or are connected with the same act or that result from
11 offenses committed at the same time against one person are considered one conviction.
12 For persons convicted and sentenced before September 17, 2005, the amendment changes
13 the definition of "another conviction" to mean an offense for which sentence was imposed
14 prior to the occurrence of the new offense.

15 7. It clarifies that a duty to register is not triggered by a court determination, but by
16 and upon notification by a court, the Department of Corrections, the State Bureau of
17 Identification or a law enforcement agency that a person has a duty to register under the
18 Sex Offender Registration and Notification Act of 1999. In response to State v. Johnson,
19 2005 ME 46, the amendment also specifies that the State Bureau of Identification may
20 correct the term of a registration erroneously assigned to an offender or registrant, as
21 registration is not part of a criminal sentence. In such instances, the bureau shall notify
22 the offender or registrant, the district attorney and court in the jurisdiction where the
23 conviction occurred and the law enforcement agency having jurisdiction where the
24 offender or registrant is domiciled, resides, is employed or attends college or school, if
25 applicable.

26 8. It clarifies that an affirmative defense provided in the Sex Offender Registration
27 and Notification Act of 1999 may be raised for just cause, which may include that the
28 offender was not aware of the duty to register.

29 9. It clarifies that a certification made by the record custodian also may be made by
30 the record custodian's designee.

31 10. It makes these proposed changes retroactive to January 1, 1982.

32 Part C adds a one-time appropriation for technology services.

33 **FISCAL NOTE REQUIRED**

34 **(See attached)**



123rd MAINE LEGISLATURE

LD 446

LR 31(02)

An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness

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

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$10,000	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$10,000	\$0	\$0

Fiscal Detail and Notes

This legislation includes a General Fund appropriation to the Judicial Department of \$10,000 in fiscal year 2008-09 to contract for technology services to change the data courts transmit to the State Bureau of Identification regarding registration of sex offenders. Additional costs to the Department of Public Safety and the Department of Corrections associated with identifying and removing from the sex offender registry current registrants who no longer need to register can be absorbed within existing budgeted resources.