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Date: 4-9-08

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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

COMMITTEE AMENDMENT "B" 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 convicted 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 convicted 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;~~

~~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; and:

(1) Was convicted on or after January 1, 1982 of a Class B, C, D or E offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or was convicted on or after January 1, 1982 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; or

(2) Was convicted of a Class A offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or was convicted in another jurisdiction for conduct substantially similar to that contained in this

Reqs

1 chapter or chapter 12 against another person who had not in fact attained 14 years
2 of age.

3 Violation of this subsection is a Class E crime.

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

6 2. A person is guilty of prohibited contact with a minor in a sex offender restricted
7 zone if that person:

8 ~~A. Has previously been convicted of an offense under this chapter or chapter 12~~
9 ~~against another person who had not in fact attained 14 years of age or has previously~~
10 ~~been convicted in another jurisdiction for conduct substantially similar to that~~
11 ~~contained in this chapter or chapter 12 against another person who had not in fact~~
12 ~~attained 14 years of age;~~

13 ~~B. Has a duty to register under Title 34 A, chapter 15, subchapters 1 and 2; and~~

14 C. Intentionally or knowingly ~~has initiates~~ direct or indirect contact in a sex offender
15 restricted zone with another person who has not in fact attained 14 years of age; ~~and:~~

16 (1) Was convicted on or after January 1, 1982 of a Class B, C, D or E offense
17 under this chapter or chapter 12 against another person who had not in fact
18 attained 14 years of age or was convicted on or after January 1, 1982 in another
19 jurisdiction for conduct substantially similar to that contained in this chapter or
20 chapter 12 against another person who had not in fact attained 14 years of age; or

21 (2) Was convicted of a Class A offense under this chapter or chapter 12 against
22 another person who had not in fact attained 14 years of age or was convicted in
23 another jurisdiction for conduct substantially similar to that contained in this
24 chapter or chapter 12 against another person who had not in fact attained 14 years
25 of age.

26 Violation of this subsection is a Class D crime.

27 **Sec. A-3.** 17-A MRSA §1152, sub-§2-C, as amended by PL 2003, c. 711, Pt. B,
28 §13, is repealed.

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

31 **PART B**

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

34 **§11201. Short title**

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

10/2/05

1 **Sec. B-2. 34-A MRSA §11202, sub-§2**, as enacted by PL 2005, c. 423, §1, is
2 amended to read:

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

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

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

10 C. At any time for a military, tribal or federal offense requiring registration pursuant
11 to:

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

16 (2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-
17 248.

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

20 **1-A. Conditional release.** "Conditional release" means supervised release of a
21 registrant or an offender from institutional confinement for placement on probation,
22 parole, intensive supervision, supervised release for sex offenders, supervised community
23 confinement, home release monitoring or release under Title 15, section 104-A or Title
24 17-A, chapter 54-G.

25 **Sec. B-4. 34-A MRSA §11203, sub-§4**, as amended by PL 2003, c. 711, Pt. C,
26 §9 and affected by Pt. D, §2, is further amended to read:

27 **4. Law enforcement agency having jurisdiction.** "Law enforcement agency
28 having jurisdiction" means the chief of police in the municipality where a registrant or an
29 offender expects to be or is domiciled. If the municipality does not have a chief of police,
30 "law enforcement agency having jurisdiction" means the sheriff of the county where the
31 municipality is located. "Law enforcement agency having jurisdiction" also means the
32 sheriff of the county in an unorganized territory.

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

35 **4-A. Risk assessment instrument.** "Risk assessment instrument" means an
36 instrument created and modified as necessary by reviewing and analyzing precursors to a
37 sex offense, victim populations of a registrant or an offender, living conditions and
38 environment of a registrant or an offender and other factors predisposing a person to
39 become a registrant or an offender, for the ongoing purpose of identifying risk factors.

40 **Sec. B-6. 34-A MRSA §11203, sub-§4-D**, as enacted by PL 2003, c. 711, Pt. C,
41 §11 and affected by Pt. D, §2, is amended to read:

PLS

1 4-D. Residence. "Residence" means that place or those places, other than a
2 domicile, in which a person may spend time living, residing or dwelling. Proof that an
3 offender has lived in the State for 14 days continuously or an aggregate of 30 days within
4 a period of one year gives rise to a permissible inference under the Maine Rules of
5 Evidence, Rule 303 that the person has established a residence for the purposes of
6 registration requirements imposed by this chapter.

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

8 4-E. Offender. "Offender" means a person to whom this chapter applies pursuant to
9 section 11202.

10 Sec. B-8. 34-A MRSA §11203, sub-§5, as amended by PL 2003, c. 711, Pt. C,
11 §12 and affected by Pt. D, §2, is further amended to read:

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

15 Sec. B-9. 34-A MRSA §11203, sub-§6, ¶B, as repealed and replaced by PL
16 2003, c. 711, Pt. C, §13 and affected by Pt. D, §2, is amended to read:

17 B. A violation under former Title 17, section 2922; former Title 17, section 2923;
18 former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F,
19 G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1,
20 paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph
21 B or D if the crime was not elevated a class under former Title 17-A, section 255,
22 subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K,
23 L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A,
24 section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284;
25 Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor
26 is a parent of the victim; ~~Title 17-A, section 302, unless the actor is a parent of the~~
27 victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556;
28 Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

29 Sec. B-10. 34-A MRSA §11203, sub-§6, ¶C, as amended by PL 2005, c. 423,
30 §5, is further amended to read:

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

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

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

36 (1) The Jacob Wetterling Crimes Against Children and Sexually Violent
37 Offender Registration Act, also known as the Jacob Wetterling Act, Section
38 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public
39 Law 103-322, as amended; or

40 (2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-
41 248.

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

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

4 A. A conviction for one of the offenses or for an attempt to commit one of the
5 offenses under former Title 17-A, section 252; under Title 17-A, section 253,
6 subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former
7 Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section
8 255, subsection 1, paragraph B or D, if the crime was elevated a class under former
9 Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1,
10 paragraph D, E, E-1, F, F-1, H, O or P; or

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

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

16 (1) The Jacob Wetterling Crimes Against Children and Sexually Violent
17 Offender Registration Act, also known as the Jacob Wetterling Act, Section
18 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public
19 Law 103-322, as amended; or

20 (2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-
21 248.

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

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

27 A. Sexually violent offense; or

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

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

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

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

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

4 **Sec. B-14. 34-A MRSA §11221, sub-§9-A** is enacted to read:

5 **9-A. Exception to public access to information.** Notwithstanding subsection 9,
6 paragraph A, the bureau may not post a registrant's information on the Internet for public
7 inspection or, notwithstanding subsection 9, paragraph B, provide a registrant's
8 information upon receiving a written request for information concerning a registrant
9 unless that registrant:

10 A. Is sentenced in this State as an adult or as a juvenile sentenced as an adult for a
11 sex offense or a sexually violent offense:

12 (1) On or after June 30, 1992; or

13 (2) On or after January 1, 1982 and prior to June 30, 1992, if that person:

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

15 (b) 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
17 for an offense that contains the essential elements of a Class A sex offense or
18 sexually violent offense whether or not the convictions occurred on the same
19 date;

20 (3) And at the time of offense the person had been previously sentenced in this
21 State as an adult or as a juvenile sentenced as an adult for a sex offense or a
22 sexually violent offense; or

23 (4) And at the time of offense the person had been previously sentenced in
24 another jurisdiction as an adult or as a juvenile sentenced as an adult for an
25 offense that contains the essential elements of a sex offense or a sexually violent
26 offense; or

27 B. Is sentenced in another jurisdiction as an adult or as a juvenile sentenced as an
28 adult:

29 (1) At any time for an offense that requires registration in the jurisdiction of
30 conviction pursuant to that jurisdiction's sex offender registration laws or that
31 would have required registration had the person remained there;

32 (2) On or after June 30, 1992 for an offense that contains the essential elements
33 of a sex offense or sexually violent offense;

34 (3) On or after January 1, 1982 and prior to June 30, 1992 for an offense that
35 contains the essential elements of a sex offense or sexually violent offense if that
36 person:

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

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

6 (c) At the time of offense, had been previously sentenced in this State as an
7 adult or as a juvenile sentenced as an adult for a sex offense or a sexually
8 violent offense; or

9 (d) At the time of offense, had been previously sentenced in another
10 jurisdiction as an adult or as a juvenile sentenced as an adult for an offense
11 that contains the essential elements of a sex offense or a sexually violent
12 offense; or

13 (4) At any time for a military, tribal or federal offense requiring registration
14 pursuant to:

15 (a) The Jacob Wetterling Crimes Against Children and Sexually Violent
16 Offender and Registration Act, also known as the Jacob Wetterling Act,
17 Section 170101 of the Violent Crime Control and Law Enforcement Act of
18 1994, Public Law 103-322, as amended; or

19 (b) The Adam Walsh Child Protection and Safety Act of 2006, Public Law
20 109-248.

21 **Sec. B-15. 34-A MRSA §11222**, as amended by PL 2005, c. 683, Pt. B, §28, is
22 further amended to read:

23 **§11222. Duty of offender to register**

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

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

38 **1-A. When duty to register must be exercised.** ~~Following determination by the~~
39 ~~notification by a court, the department, the bureau or a law enforcement agency under~~
40 subsection 1, ~~a registrant~~ an offender shall register as follows.

Re/s

COMMITTEE AMENDMENT “ B ” to S.P. 147, L.D. 446

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

COMMITTEE AMENDMENT

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.~~

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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

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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-16. 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-17. 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

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

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-18. 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-19. 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-20. 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-21. 34-A MRSA §11228**, as enacted by PL 2003, c. 371, §12, is amended
40 to read:

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-22. 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	JUDICIAL DEPARTMENT		
18	DEPARTMENT TOTALS	2007-08	2008-09
19			
20	GENERAL FUND	\$0	\$10,000
21			
22	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$10,000

23 **PUBLIC SAFETY, DEPARTMENT OF**

24 **State Police 0291**

25 Initiative: Provides an appropriation and allocation on a one-time basis to expand the sex
 26 offender registry to include a law-enforcement-only database.

27	GENERAL FUND	2007-08	2008-09
28	All Other	\$0	\$20,000
29			
30	GENERAL FUND TOTAL	\$0	\$20,000

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1	HIGHWAY FUND	2007-08	2008-09
2	All Other	\$0	\$30,000
3			
4	HIGHWAY FUND TOTAL	<hr/>	<hr/>
		\$0	\$30,000
5	PUBLIC SAFETY, DEPARTMENT OF		
6	DEPARTMENT TOTALS	2007-08	2008-09
7			
8	GENERAL FUND	\$0	\$20,000
9	HIGHWAY FUND	\$0	\$30,000
10			
11	DEPARTMENT TOTAL - ALL FUNDS	<hr/>	<hr/>
		\$0	\$50,000
12	SECTION TOTALS	2007-08	2008-09
13			
14	GENERAL FUND	\$0	\$30,000
15	HIGHWAY FUND	\$0	\$30,000
16			
17	SECTION TOTAL - ALL FUNDS	<hr/>	<hr/>
		\$0	\$60,000

18

19

SUMMARY

20 This amendment replaces the bill and is the minority report of the Joint Standing
 21 Committee on Criminal Justice and Public Safety. The amendment makes the same
 22 changes to the Maine Criminal Code in Part A as the majority report, except that it also
 23 amends the Maine Revised Statutes, Title 17-A, section 261 to specify that the law
 24 applies to persons who were convicted on or after January 1, 1982 of a Class B, C, D or E
 25 offense and without restriction as to time of conviction for persons convicted of a Class A
 26 offense.

27 Part B of this amendment also makes many of the same changes to the Sex Offender
 28 Registration and Notification Act of 1999 as the majority report, except for the following.

29 Instead of removing registrants from the sex offender registry altogether, the
 30 amendment removes those persons identified in the majority report who would be eligible
 31 for removal from the registry and maintains those registrants' information in a manner
 32 that may be accessed only by law enforcement. The amendment prohibits the State
 33 Bureau of Identification from posting the names of these registrants on the Internet and
 34 from providing specific registration information about these registrants upon receiving a
 35 written request from a member of the public. Specifically, this means that
 36 notwithstanding Title 34-A, section 11221, subsection 9, paragraph A the State Bureau of

COMMITTEE AMENDMENT

1 Identification may not post a registrant's information on the Internet for public inspection
2 and, notwithstanding subsection 9, paragraph B, the bureau may not provide a registrant's
3 information upon receiving a written request for a registrant unless that registrant is
4 sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense
5 or a sexually violent offense on or after June 30, 1992; on or after January 1, 1982 and
6 prior to June 30, 1992, if that person remained in execution of that sentence on September
7 1, 1998 or has more than one conviction in this State for a Class A sex offense or sexually
8 violent offense or more than one conviction in another jurisdiction for an offense that
9 contains the essential elements of a Class A sex offense or sexually violent offense
10 whether or not the convictions occurred on the same date and at the time of offense, the
11 person had been previously sentenced in this State as an adult or as a juvenile sentenced
12 as an adult for a sex offense or a sexually violent offense and at the time of offense, the
13 person had been previously sentenced in another jurisdiction as an adult or as a juvenile
14 sentenced as an adult for an offense that contains the essential elements of a sex offense
15 or a sexually violent offense or unless the registrant is sentenced in another jurisdiction as
16 an adult or as a juvenile sentenced as an adult at any time for an offense that requires
17 registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender
18 registration laws or that would have required registration had the person remained there;
19 on or after June 30, 1992 for an offense that contains the essential elements of a sex
20 offense or sexually violent offense; on or after January 1, 1982 and prior to June 30, 1992
21 for an offense that contains the essential elements of a sex offense or sexually violent
22 offense if that person remained in execution of that sentence on September 1, 1998, has
23 more than one conviction in this State for a Class A sex offense or sexually violent
24 offense or more than one conviction in another jurisdiction for an offense that contains
25 the essential elements of a Class A sex offense or Class A sexually violent offense
26 whether or not the convictions occurred on the same date, at the time of offense had been
27 previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a
28 sex offense or a sexually violent offense or at the time of offense had been previously
29 sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an
30 offense that contains the essential elements of a sex offense or a sexually violent offense;
31 or at any time for a military, tribal or federal offense requiring registration.

32 Part C of this amendment adds an appropriations and allocations section.

33 **FISCAL NOTE REQUIRED**
34 (See attached)



123rd MAINE LEGISLATURE

LD 446

LR 31(03)

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 "B"
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	\$30,000	\$0	\$0
Highway Fund	\$0	\$30,000	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$30,000	\$0	\$0
Highway Fund	\$0	\$30,000	\$0	\$0

Fiscal Detail and Notes

This legislation includes a General Fund appropriation to the Department of Public Safety of \$20,000 and a Highway Fund allocation of \$30,000 in fiscal year 2008-09 to expand the sex offender registry to create a law-enforcement-only website. It also 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 Corrections can be absorbed within existing budgeted resources.