

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 518, L.D. 1491, Bill, "An Act To Create Child Safe Zones and To Increase the Use of Electronic Monitoring of High-risk Sex Offenders"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit Unauthorized Contact of Persons Convicted of Sex Offenses against Persons under 14 Years of Age with Persons under 14 Years of Age'

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

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

§261. Prohibited contact with a minor; sex offender restricted zone

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 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.

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

COMMITTEE AMENDMENT

1 A. Has previously been convicted of an offense under this chapter or chapter 12
2 against another person who had not in fact attained 14 years of age or has previously
3 been convicted in another jurisdiction for conduct substantially similar to that
4 contained in this chapter or chapter 12 against another person who had not in fact
5 attained 14 years of age;

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

7 C. Intentionally or knowingly has any direct or indirect contact in a sex offender
8 restricted zone with another person who has not in fact attained 14 years of age.

9 Violation of this subsection is a Class D crime.

10 3. It is an affirmative defense to prosecution under this section that the parent, foster
11 parent, guardian or other similar person responsible for the person who had not in fact
12 attained 14 years of age, knowing the conviction status described in subsections 1 and 2,
13 gave consent that the defendant initiate, have or continue direct or indirect contact. It is
14 also an affirmative defense to prosecution under this section that any contact is incidental
15 to and directly related to the defendant's employment.

16 4. For purposes of this section, "sex offender restricted zone" means the real property
17 comprising a public or private elementary or middle school; the real property comprising
18 a child care center, a child care facility, a day care operated by a family child care
19 provider, a nursery school or a small child care facility as defined under Title 22, section
20 8301-A; or an athletic field, park, playground, recreational facility, children's camp or
21 other place where children are the primary users.'

22 SUMMARY

23 This amendment changes the title and replaces the bill. The amendment creates a
24 new Class E crime of prohibited contact with a minor. A person is guilty of prohibited
25 contact with a minor if that person has previously been convicted of an offense under the
26 Maine Revised Statutes, Title 17-A, chapter 11 or 12 against another person who had not
27 in fact attained 14 years of age or has previously been convicted in another jurisdiction
28 for conduct substantially similar to that contained in those chapters against another person
29 who had not in fact attained 14 years of age and if that person has a duty to register as a
30 10-year or lifetime registrant under Title 34-A, chapter 15, subchapters 1 and 2 and that
31 person intentionally or knowingly has direct or indirect contact with another person who
32 has not in fact attained 14 years of age.

33 The amendment also creates a new Class D crime of prohibited contact with a minor
34 in a sex offender restricted zone if a person has previously been convicted of an offense
35 under Title 17-A, chapter 11 or 12 against another person who had not in fact attained 14
36 years of age or has previously been convicted in another jurisdiction for conduct
37 substantially similar to that contained in those chapters against another person who had
38 not in fact attained 14 years of age and if that person has a duty to register as a 10-year or
39 lifetime registrant under Title 34-A, chapter 15 and that person intentionally or
40 knowingly has any direct or indirect contact in a sex offender restricted zone with another
41 person who has not in fact attained 14 years of age. For purposes of this new crime, "sex
42 offender restricted zone" means the real property comprising a public or private
43 elementary or middle school; the real property comprising a child care center, a child care

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COMMITTEE AMENDMENT "A" to S.P. 518, L.D. 1491

1 facility, a day care operated by a family child care provider, a nursery school or a small
2 child care facility as defined under Title 22, section 8301-A; or an athletic field, park,
3 playground, recreational facility, children's camp or other place where children are the
4 primary users.

5 Because an element of both of these new crimes includes that the person has a duty to
6 register under Title 34-A, chapter 15, subchapter 1 and 2, once a person no longer has a
7 duty to register, a person cannot be guilty of these new crimes of prohibited contact with
8 a minor or prohibited contact with a minor in a sex offender restricted zone.

9 It is an affirmative defense to prosecution that the parent, foster parent, guardian or
10 other similar person responsible for the person who had not in fact attained 14 years of
11 age knowingly granted the defendant permission to initiate, have or continue direct or
12 indirect contact. It is also an affirmative defense to prosecution that the contact was
13 incidental to and directly related to employment.

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FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 1491

LR 2350(02)

An Act To Create Child Safe Zones and To Increase the Use of Electronic Monitoring of High-risk Sex Offenders

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

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Increases costs to county jails

Correctional and Judicial Impact Statements

This bill establishes new Class D and E crimes. Sentences for Class D and E crimes must be served in county jail. The average cost to a county for each Class D sentence is \$6,795 based on an average length of stay of 62 days. The average cost to a county for each Class E sentence is \$2,959 based on an average length of stay of 27 days. The collection of additional fines may also increase General Fund revenue by minor amounts.