

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 568

H.P. 406

House of Representatives, February 17, 2009

An Act To Amend the Sex Offender Registration Laws

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SYKES of Harrison.
Cosponsored by Senator DIAMOND of Cumberland and
Representatives: HANLEY of Gardiner, HASKELL of Portland, PLUMMER of Windham,
ROSEN of Bucksport.

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

3 **Whereas,** sex offender registration and notification laws are intended to protect the
4 public from potentially dangerous persons by enhancing access to information concerning
5 those persons; and

6 **Whereas,** changes in this legislation to the existing Sex Offender Registration and
7 Notification Act of 1999 ensure that the registration and notification laws better meet the
8 intended public safety purpose; and

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

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

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

16 1. A person is guilty of prohibited contact with a minor if that person:

17 A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under
18 this chapter or chapter 12 against another person who had not in fact attained 14 years
19 of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another
20 jurisdiction for conduct substantially similar to that contained in this chapter or
21 chapter 12 against another person who had not in fact attained 14 years of age; and

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

23 C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact with another
24 person who has not in fact attained 14 years of age.

25 Violation of this subsection is a Class E crime.

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

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

30 A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under
31 this chapter or chapter 12 against another person who had not in fact attained 14 years
32 of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another
33 jurisdiction for conduct substantially similar to that contained in this chapter or
34 chapter 12 against another person who had not in fact attained 14 years of age; and

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

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

1 Violation of this subsection is a Class D crime.

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

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

6 **Sec. 5. 34-A MRSA §11203, sub-§8**, as amended by PL 2005, c. 423, §7, is
7 further amended to read:

8 **8. Lifetime registrant.** "Lifetime registrant" means a person who is an adult
9 convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

10 A. Sexually violent offense; or

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

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

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

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

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

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

30 SUMMARY

31 This bill implements recommendations for immediate legislative changes to the Sex
32 Offender Registration and Notification Act of 1999, as recommended by the Joint
33 Standing Committee on Criminal Justice and Public Safety in its Final Report of the
34 Criminal Justice and Public Safety Committee Study of Sex Offender Registration Laws
35 in November 2008.

36 The bill amends the crime of prohibited contact with a minor by repealing the
37 element that the person has a duty to register under the Sex Offender Registration and
38 Notification Act of 1999 and by making the law applicable only to those persons

1 convicted on or after June 30, 1992. The fact that a person must previously have been
2 convicted of a Maine Revised Statutes, Title 17-A, chapter 11 or chapter 12 offense
3 against a victim who had not attained 14 years of age is material to the commission of the
4 crime of prohibited contact with a minor. The bill also specifies that the person must
5 initiate the direct or indirect contact with another person who has not attained 14 years of
6 age.

7 The bill repeals from the sentencing provisions the directive that a court order a
8 person convicted of a sex offense or a sexually violent offense to satisfy all requirements
9 of the Sex Offender Registration and Notification Act of 1999. This change clarifies that
10 the Legislature determines that a duty to register exists based on the conviction and that
11 the court's duty is only to notify the person of that duty.

12 The bill repeals from the probation provisions the directive that a court attach as a
13 condition of probation that a person convicted of a sex offense or a sexually violent
14 offense satisfy all requirements of the Sex Offender Registration and Notification Act of
15 1999. The court has discretion to order any condition of probation reasonably related to
16 the rehabilitation of the convicted person or the public safety or security, including
17 satisfying registration requirements if appropriate.

18 The bill amends that part of the definition of "lifetime registrant" in the Sex Offender
19 Registration and Notification Act of 1999 that pertains to persons classified as lifetime
20 registrants because of having multiple convictions for sex offenses to clarify that the
21 changes made by Public Law 2005, chapter 423 operate prospectively. For persons
22 convicted and sentenced on or after September 17, 2005, the definition remains
23 unchanged except for technical drafting changes. For persons convicted and sentenced
24 before September 17, 2005, the amendment changes the definition of "another
25 conviction" to mean an offense for which sentence was imposed prior to the occurrence
26 of the new offense. This change would undo the expansion of 10-year registrants who
27 became lifetime registrants with the 2005 change, including those registrants whose duty
28 to register had ended prior to that change.