

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1333

H.P. 927

House of Representatives, April 6, 2017

An Act To Enact the Drug Trafficking Offender Registration and Notification Act

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LOCKMAN of Amherst.
Cosponsored by Senator CYRWAY of Kennebec and
Representatives: CEBRA of Naples, GERRISH of Lebanon, HARRINGTON of Sanford,
HERRICK of Paris, JOHANSEN of Monticello, NADEAU of Winslow, SKOLFIELD of
Weld, STETKIS of Canaan.

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

2 **Sec. 1. 34-A MRSA c. 21** is enacted to read:

3 **CHAPTER 21**

4 **DRUG TRAFFICKING OFFENDER REGISTRATION AND NOTIFICATION**
5 **ACT**

6 **§11601. Short title**

7 This chapter may be known and cited as "the Drug Trafficking Offender Registration
8 and Notification Act." The purpose of this chapter is to protect the public from
9 potentially dangerous registrants and offenders by enhancing access to information
10 concerning those registrants and offenders and to help curb drug trafficking in the State.

11 **§11602. Application**

12 This chapter applies to:

13 **1. Maine.** A person who commits criminal conduct and is sentenced in this State on
14 or after October 1, 2017 as an adult or as a juvenile sentenced as an adult for that criminal
15 conduct and that criminal conduct is a Tier I offense or Tier II offense; and

16 **2. Other jurisdictions.** A person who commits criminal conduct and is sentenced in
17 another jurisdiction for that criminal conduct on or after October 1, 2017 as an adult or as
18 a juvenile sentenced as an adult for an offense that contains the essential elements of a
19 Tier I offense or Tier II offense.

20 **§11603. Definitions**

21 As used in this chapter, unless the context otherwise indicates, the following terms
22 have the following meanings.

23 **1. Another state.** "Another state" means each of the several states except Maine and
24 includes the District of Columbia, the Commonwealth of Puerto Rico, the United States
25 Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

26 **2. Bureau.** "Bureau" means the Department of Public Safety, Bureau of State
27 Police, State Bureau of Identification.

28 **3. Conditional release.** "Conditional release" means supervised release of a
29 registrant or an offender from institutional confinement for placement on probation,
30 parole, supervised community confinement, home release monitoring or release under
31 Title 15, section 104-A or Title 17-A, chapter 54-G.

32 **4. Discharge.** "Discharge" means unconditional release and discharge of a registrant
33 from institutional confinement upon the expiration of a sentence or upon discharge under
34 Title 15, section 104-A.

1 **5. Domicile.** "Domicile" means the place where a person has that person's
2 established, fixed, permanent or ordinary dwelling place or legal residence to which,
3 whenever the person is absent, the person has the intention of returning. A person may
4 have more than one residence but only one domicile.

5 **6. FBI.** "FBI" means the Federal Bureau of Investigation.

6 **7. Jurisdiction.** "Jurisdiction" means the Federal Government, including the
7 military, this State, another state or a tribe.

8 **8. Law enforcement agency having jurisdiction.** "Law enforcement agency
9 having jurisdiction" means the chief of police in the municipality where a registrant or an
10 offender expects to be or is domiciled. If the municipality does not have a chief of police,
11 "law enforcement agency having jurisdiction" means the sheriff of the county where the
12 municipality is located. "Law enforcement agency having jurisdiction" also means the
13 sheriff of the county in an unorganized territory.

14 **9. Motor vehicle.** "Motor vehicle" means a vehicle that is required to be registered
15 pursuant to Title 29-A, section 351.

16 **10. Offender.** "Offender" means a person to whom this chapter applies pursuant to
17 section 11602.

18 **11. Registrant.** "Registrant" means a Tier I registrant or Tier II registrant.

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

25 **13. Sentence.** "Sentence," in addition to any punishment alternatives, includes an
26 involuntary commitment under Title 15, section 103, or similar statute from another
27 jurisdiction, following a verdict of not criminally responsible by reason of insanity or
28 similar verdict in another jurisdiction.

29 **14. Tier I offense.** "Tier I offense" means a conviction for a violation of or for an
30 attempt, solicitation or conspiracy to commit a violation of:

31 A. Title 17-A, section 1103 and the drug trafficked was one of the following
32 Schedule W drugs:

33 (1) Methamphetamine as listed in Title 17-A, section 1102, subsection 1,
34 paragraph A;

35 (2) Cocaine as listed in Title 17-A, section 1102, subsection 1, paragraph F;

36 (3) Heroin as listed in Title 17-A, section 1102, subsection 1, paragraph I;

37 (4) Fentanyl as listed in Title 17-A, section 1102, subsection 1, paragraph I;

1 (5) A hallucinogenic drug or its salts, isomers and salts of isomers possible
2 within the chemical designations listed in Title 17-A, section 1102, subsection 1,
3 paragraph O; or

4 (6) Synthetic hallucinogenic drugs as listed in Title 17-A, section 1102,
5 subsection 1, paragraph P; or

6 B. Title 17-A, section 1124.

7 **15. Tier II offense.** "Tier II offense" means a conviction for violation of or for an
8 attempt or conspiracy to commit a violation of:

9 A. Title 17-A, section 1105-A; or

10 B. Title 17-A, section 1105-E.

11 **16. Tier I registrant.** "Tier I registrant" means a person who is an adult convicted
12 and sentenced or a juvenile convicted and sentenced as an adult for a Tier I offense.

13 **17. Tier II registrant.** "Tier II registrant" means a person who is an adult convicted
14 and sentenced or a juvenile convicted and sentenced as an adult for a Tier II offense.

15 **18. Tribe.** "Tribe" means the Passamaquoddy Tribe, the Penobscot Nation or the
16 Houlton Band of Maliseet Indians.

17 **§11604. Rulemaking**

18 The bureau may adopt rules necessary to implement this chapter. Rules adopted
19 pursuant to this section are routine technical rules as defined by Title 5, chapter 375,
20 subchapter 2-A.

21 **§11605. Maintenance of drug trafficking offender registry**

22 **1. Maintenance of registry.** The bureau shall establish and maintain a registry of
23 persons required to register pursuant to this chapter, referred to in this section as "the
24 registry." After initial registration, the registry must include the following information on
25 each registrant:

26 A. The registrant's name, aliases, date of birth, sex, race, height, weight, eye color,
27 land line and cellular telephone numbers, Internet identifiers, mailing address and
28 physical location of expected domicile and residence. For purposes of this paragraph,
29 "Internet identifiers" means e-mail addresses and other designations used for
30 self-identification or routing in Internet communication or posting;

31 B. Place of employment and college or school being attended, if applicable, and the
32 corresponding mailing address and physical location;

33 C. Offense history;

34 D. A current photograph and set of fingerprints;

35 E. A description of the offense for which the registrant was convicted, the date of
36 conviction and the sentence imposed;

37 F. Whether the registrant is a Tier I registrant or Tier II registrant;

1 G. A copy of any driver's license information and copy of the driver's license;

2 H. A copy of any professional license;

3 I. Passport and immigration documents and social security number;

4 J. Temporary lodging and dates of travel;

5 K. Information about motor vehicles owned, leased or used and registration and
6 location of those motor vehicles. For purposes of this paragraph, "lease" means a
7 transfer of the right to possession and use of a motor vehicle for a term of 30 days or
8 more in return for consideration; and

9 L. Any other information the bureau determines important.

10 **2. National or regional registry.** The bureau is authorized to make the registry
11 available to and accept files from a national or regional registry of registrants for the
12 purpose of sharing information.

13 **3. Registration form.** The bureau shall develop a standardized registration form to
14 be made available to the appropriate reporting authorities and persons required to register.

15 **4. Verification form.** The bureau shall develop and mail a nonforwardable
16 verification form to the last reported mailing address of each person required to meet the
17 verification requirements of this chapter.

18 **5. Distribution of information to department and law enforcement agencies.**
19 The bureau shall distribute information described in subsection 1 to the department and
20 law enforcement agencies having jurisdiction over the mailing address and physical
21 location of the registrant's domicile, residence, place of employment and college or
22 school being attended, if applicable.

23 **6. Criminal justice agency access to information.** The bureau shall provide access
24 to the information described in subsection 1 to criminal justice agencies. For purposes of
25 this subsection, "criminal justice agency" has the same meaning as in Title 16, section
26 703, subsection 4.

27 **7. Public access to registrant information.** After initial registration, the bureau
28 shall provide information to the public as follows.

29 A. The bureau shall post on the Internet for public inspection the following
30 information concerning a registrant who is a Tier I registrant or Tier II registrant:

31 (1) The registrant's name, aliases and date of birth and a current photograph;

32 (2) The registrant's city or town of domicile and residence;

33 (3) The registrant's place of employment and college or school being attended, if
34 applicable, and the corresponding mailing address and physical location;

35 (4) The statutory citation and name of the offense for which the registrant was
36 convicted;

37 (5) Whether the registrant is a Tier I registrant or a Tier II registrant;

1 (6) Verification requirements and date of last verification; and

2 (7) The registrant's address and its location on a map.

3 B. The bureau shall establish an e-mail notification system to alert a member of the
4 public who has subscribed annually to the e-mail notification system when a
5 registrant moves into the subscriber's geographic area.

6 C. Upon receiving a written request that includes the name and date of birth of a
7 registrant, the bureau shall provide the following information concerning a registrant
8 to the requestor:

9 (1) The registrant's name, aliases, date of birth, sex, race, height, weight, eye
10 color, mailing address and physical location of domicile and residence;

11 (2) The registrant's place of employment and college or school being attended, if
12 applicable, and the corresponding mailing address and physical location;

13 (3) A description of the offense for which the registrant was convicted, the date
14 of conviction and the sentence imposed; and

15 (4) The registrant's photograph.

16 **8. Registrant access to information.** The bureau shall provide all information
17 described in subsection 1 to a registrant who requests that person's own information.

18 **9. Registry information.** Registry information created, collected or maintained by
19 the bureau, including, but not limited to, information relating to the identity of persons
20 accessing the registry, is confidential except information provided to the public pursuant
21 to subsection 7.

22 **10. Maintenance by bureau.** Only the bureau is authorized to maintain a drug
23 trafficking offender registry on the Internet for purposes of public access.

24 **11. Law enforcement agency website.** Notwithstanding subsection 10, a law
25 enforcement agency may maintain its own drug trafficking offender website and may
26 make that information available for use by the public if:

27 A. A notice is prominently posted on the website that expressly states that the
28 website is not the official state drug trafficking offender registry under subsection 7,
29 paragraph A and that the law enforcement agency posting the website is solely
30 responsible for the website's content;

31 B. The website provides a link to the bureau's Internet drug trafficking offender
32 registry under subsection 7, paragraph A;

33 C. The website contains information regarding only registrants who are domiciled,
34 reside, attend college or school or work within the posting law enforcement agency's
35 jurisdiction; and

36 D. The information on the website is updated by the law enforcement agency as
37 frequently as available resources permit, but no less often than every 7 days. The law
38 enforcement agency shall also prominently post on the website the date and time of
39 the most recent update to the website.

1 **12. Access to registrant information existing in electronic form restricted.**
2 Notwithstanding Title 1, chapter 13:

3 A. The bureau may not disseminate in electronic form information about a registrant
4 that is created, collected or maintained in electronic form by or for the bureau, except
5 for the information provided pursuant to subsection 2 and made available to the
6 public through the bureau's website pursuant to subsection 7, paragraph A and made
7 available to the Background Check Center established pursuant to Title 22, chapter
8 1691; and

9 B. Except for information made available to the public through a website maintained
10 by a law enforcement agency pursuant to subsection 11, a law enforcement agency
11 may not disseminate in electronic form information about a registrant that is collected
12 or maintained in electronic form by or for that law enforcement agency.

13 **§11606. Duty of offender to register**

14 **1. Notification by court, department, bureau or law enforcement agency.** An
15 offender has a duty to register under this chapter after notification has been given to the
16 offender by a court of jurisdiction, the department, the bureau or a law enforcement
17 agency. The court shall notify the offender at the time of sentence of the duty to register
18 pursuant to this chapter. Notification of the duty to register under this chapter also may
19 be given to the offender at any time after the imposition of sentence.

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

25 **2. When duty to register must be exercised.** Following notification by a court, the
26 department, the bureau or a law enforcement agency under subsection 1, an offender shall
27 register as follows.

28 A. If the offender is sentenced to a wholly suspended sentence with probation or
29 administrative release, or to a punishment alternative not involving imprisonment, the
30 duty to register is triggered at the time the person commences in actual execution of
31 the wholly suspended sentence or at the time of sentence imposition when no
32 punishment alternative involving imprisonment is imposed, unless the court orders a
33 stay of execution, in which event the duty is triggered by the termination of the stay.

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

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

38 D. If the events stated in paragraphs A to C have passed, an offender must register
39 within 3 days after having received notice of that duty from a court, the department,
40 the bureau or a law enforcement agency.

1 E. Proof that the name and date of birth of the person notified of the duty to register
2 pursuant to this chapter are the same as those of a person who has been found not
3 guilty by reason of insanity or convicted of an offense requiring registration pursuant
4 to this chapter gives rise to a permissible inference under the Maine Rules of
5 Evidence, Rule 303 that the person notified of the duty to register is the same person
6 as that person convicted of the offense requiring registration.

7 **3. Duty to notify law enforcement agency.** An offender shall notify the law
8 enforcement agency having jurisdiction in those areas where the offender is domiciled,
9 resides, works or attends school within 24 hours of becoming a domiciliary or a resident
10 or beginning work or attending school. If the location is a municipality with an organized
11 municipal police department, the law enforcement agency having jurisdiction is the
12 municipal police department. If the location is a school having an organized police
13 department, the law enforcement agency having jurisdiction is the campus police
14 department. If the location is neither a municipality nor a school with an organized police
15 department, the law enforcement agency having jurisdiction is the sheriff's department.

16 **4. Responsibility of ensuring initial registration.** The department, the county jail
17 or the state mental health institute that has custody of an offender shall inform the
18 offender, prior to discharge or conditional release, of the duty to register. If an offender
19 does not serve a period of institutional confinement, the court shall inform the offender at
20 the time of sentencing of the duty to register. The department, county jail, state mental
21 health institute or court shall:

22 A. Inform the offender of the duty to register and obtain the information required for
23 the initial registration;

24 B. Inform the offender of the requirement to notify the law enforcement agency
25 having jurisdiction pursuant to subsection 3;

26 C. Inform the offender that if the offender changes domicile or changes residence,
27 place of employment or college or school being attended, the offender shall give the
28 new address to the bureau in writing within 3 days and shall notify the law
29 enforcement agency having jurisdiction within 24 hours;

30 D. Inform the offender that if that offender changes domicile to another jurisdiction,
31 the offender shall register the new address with the bureau and if the new jurisdiction
32 has a registration requirement, the offender shall register with a designated law
33 enforcement agency in the new state not later than 3 days after establishing domicile
34 in the new state;

35 E. Inform the offender that if that offender has part-time or full-time employment in
36 another state, with or without compensation, for more than 14 consecutive days or for
37 an aggregate period exceeding 30 days in a calendar year or if that offender enrolls in
38 any type of school in another state on a part-time or full-time basis, the offender shall
39 give the bureau the offender's place of employment or school to be attended in
40 writing within 3 days after beginning work or attending school and if the other state
41 has a registration requirement, shall register with the designated law enforcement
42 agency in the other state;

1 F. Obtain fingerprints and a current photograph of the offender. The court may order
2 the offender to submit to the taking of fingerprints and a photograph at a specified
3 law enforcement agency within 3 days if the fingerprints and photograph have not
4 already been obtained in connection with the offense that necessitates registration;
5 and

6 G. Enforce the requirement that the offender read and sign a form provided by the
7 bureau that states that the duty of the offender to register under this section has been
8 explained.

9 **5. Transfer of initial registration information to bureau and FBI.** The
10 department, county jail, state mental health institute or court within 3 days of receipt of
11 the information described in subsection 4 shall forward the information to the bureau. If
12 the court orders the offender to submit to the taking of fingerprints and a photograph at a
13 specified law enforcement agency, the law enforcement agency shall submit the
14 fingerprints and photograph to the bureau within 3 days. The bureau shall immediately
15 enter the information into the registration system, notify the law enforcement agencies
16 having jurisdiction where the offender expects to be domiciled and reside and transmit
17 the information to the FBI for inclusion in a national criminal history record database.

18 **6. Verification.** During the period a registrant is required to register, the bureau
19 shall require the registrant to verify all registration information unless verifications are
20 suspended. The following provisions govern the verification of registration information.

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

25 B. The registrant shall bring the completed verification form and a current
26 photograph of the registrant to the law enforcement agency having jurisdiction within
27 5 days of receipt of the form.

28 C. The law enforcement agency having jurisdiction shall verify the registrant's
29 identity, have the registrant sign the verification form, take the registrant's
30 fingerprints, complete the law enforcement portion of the verification form and
31 immediately forward the fingerprints, photograph and form to the bureau.

32 **7. Frequency of verification.** The frequency of in-person verification of
33 registration information is dependent upon the registrant's tier classification as follows.

34 A. A Tier II registrant shall register for the duration of the registrant's life and shall
35 verify registration information every 3 months after the registrant's initial registration
36 date.

37 B. A Tier I registrant shall register for 10 years and shall verify registration
38 information annually after the registrant's initial registration date.

39 **8. Change of domicile, residence, place of employment or college or school being**
40 **attended.** An offender or registrant shall notify the bureau in writing of a change of
41 residence, domicile, place of employment or college or school being attended within 3
42 days and shall notify the law enforcement agency having jurisdiction within 24 hours

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 **§11607. Duty of person establishing domicile or residence in this State to register**

16 A person who has been sentenced for a military, tribal or federal offense that includes
17 the essential elements of a Tier I offense or Tier II offense shall register as a Tier I
18 registrant or a Tier II registrant, whichever is applicable, within 3 days and shall notify
19 the law enforcement agency having jurisdiction within 24 hours of establishing domicile
20 or residence in this State. The person shall contact the bureau, which shall provide the
21 person with the registration form and direct the person to take the form and a current
22 photograph of the person to the law enforcement agency having jurisdiction. The law
23 enforcement agency shall supervise the completion of the form, take the person's
24 fingerprints and immediately forward the form, photograph and fingerprints to the
25 bureau.

26 **§11608. Duty of person employed or attending college or school in this State to**
27 **register**

28 The following provisions govern registration duties for a person not domiciled or
29 residing in this State but who is employed or attending college or school in this State.

30 **1. Time.** A person who has been sentenced for an offense that includes the essential
31 elements of a Tier I or Tier II offense shall register as a Tier I registrant or a Tier II
32 registrant, whichever is applicable, within 3 days and shall notify the law enforcement
33 agency having jurisdiction:

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

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

39 **2. Process for notifying bureau.** The person under subsection 1 shall contact the
40 bureau, which shall provide the person with a registration form and direct the person to
41 take the form and a current photograph of the person to the law enforcement agency

1 having jurisdiction. The law enforcement agency shall supervise the completion of the
2 form, take the person's fingerprints and immediately forward the form, photograph and
3 fingerprints to the bureau.

4 **§11609. Duration of registration**

5 The following provisions govern the duration of registration.

6 **1. Offender convicted and sentenced in State for Tier I offense.** An offender
7 convicted and sentenced in this State for a Tier I offense shall register for a period of 10
8 years. The 10-year period commences from the date the person initially registers once
9 the legal duty arises under section 11606, subsection 2.

10 **2. Offender convicted and sentenced in another jurisdiction for Tier I offense.**
11 An offender convicted and sentenced in another jurisdiction and required to register in
12 this State pursuant to section 11607 or 11608 shall register for a period of 10 years or as
13 provided in subsection 7. The following provisions apply.

14 A. A Tier I registrant shall register in this State for a period of 10 years if, pursuant
15 to the other jurisdiction's drug trafficking offender registration statute, the registration
16 period is for a period of no more than 10 years. The 10-year period commences from
17 the date the person initially registers in this State once the legal duty to register arises
18 under section 11607 or 11608. However, the Tier I registrant may receive
19 day-for-day credit for the time actually registered pursuant to the other jurisdiction's
20 drug trafficking offender registration statute prior to registering in this State upon
21 applying to the bureau for credit. The bureau may grant credit if the registrant
22 provides sufficient documentation in accordance with any rules adopted by the
23 bureau.

24 B. A Tier I registrant shall register for a period of 10 years if registration was not
25 required in that other jurisdiction and the person has been sentenced in that
26 jurisdiction for a crime that includes the essential elements of a Tier I offense. The
27 10-year period commences from the date the person initially registers in this State
28 once the legal duty to register arises under section 11607 or 11608. However, the
29 Tier I registrant may receive day-for-day credit from the time of sentencing in the
30 other jurisdiction to when the offender initially registers in this State once the legal
31 duty to register arises under section 11607 or 11608 and upon applying to the bureau
32 for credit. The bureau may grant credit if the registrant provides sufficient
33 documentation in accordance with any rules adopted by the bureau.

34 **3. Offender convicted and sentenced in State for Tier II offense.** An offender
35 convicted and sentenced in this State for a Tier II offense shall register for the duration of
36 the offender's life.

37 **4. Offender convicted and sentenced in another jurisdiction for Tier II offense.**
38 An offender convicted and sentenced in another jurisdiction and required to register in
39 this State pursuant to section 11607 or 11608 shall register for the duration of the
40 registrant's life.

1 A. A Tier II registrant shall register in this State for the duration of the registrant's
2 life if, pursuant to the other jurisdiction's drug trafficking offender registration statute,
3 the registration period is for the duration of the offender's life.

4 B. A Tier II registrant shall register in this State for the duration of the registrant's
5 life if registration was not required in that other jurisdiction and the person was
6 convicted and sentenced in that jurisdiction for a crime that includes the essential
7 elements of a Tier II offense.

8 **5. Additional offense.** Notwithstanding section 11603, subsection 14, a person who
9 has been convicted and sentenced at any time for 2 or more offenses each of which is a
10 Tier I offense or includes the essential elements of a Tier I offense is required to register
11 as a Tier II registrant. For purposes of this subsection, convictions that occur on the same
12 day count as separate offenses.

13 **6. Suspending verifications.** Notwithstanding any other provision of this section,
14 the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that
15 the registrant or offender verify registration information during any period in which a
16 registrant or offender:

17 A. Leaves this State, establishes a domicile or residence in another state and remains
18 physically absent from this State;

19 B. Is incarcerated; or

20 C. Is incapacitated or hospitalized.

21 **7. Relief from duty to register.** The following provisions apply to relief from the
22 duty to register.

23 A. An offender's or a registrant's duty to register is not required if the circumstances
24 triggering the registration requirements under section 11607 or 11608 no longer exist.

25 B. If the underlying conviction in this State or in another jurisdiction that triggers the
26 registration requirement is reversed, vacated or set aside or if the offender or
27 registrant is pardoned for the crime, registration is no longer required.

28 **§11610. Duty of person traveling beyond the jurisdiction of the United States**

29 An offender shall notify the bureau at least 21 days prior to travel beyond the
30 jurisdiction of the United States. The offender shall provide the bureau with information
31 about the date of departure from and return to the United States and the destination
32 beyond the jurisdiction of the United States.

33 **§11611. Fee**

34 The bureau may charge a \$25 annual fee to persons required to register under this
35 chapter. Registrants shall pay the fee at the time of initial registration and shall pay the
36 fee on each anniversary of their initial registration.

37 The fee must be credited to the General Fund and the Highway Fund in an amount
38 consistent with budgeted appropriations and allocations in the fiscal year of the credit.

1 **§11612. Violation**

2 **1. Failure to comply; first offense.** An offender who fails to comply with any duty
3 imposed under this chapter or a rule adopted pursuant to this chapter commits a Class D
4 crime for which the court shall impose a period of incarceration of at least 30 days, none
5 of which may be suspended by the court.

6 **2. Failure to comply; 2nd offense.** A person who has one prior conviction under
7 this section and who fails to comply with any duty imposed under this chapter or a rule
8 adopted pursuant to this chapter commits a Class C crime for which the court shall
9 impose a period of incarceration of at least 6 months, none of which may be suspended
10 by the court.

11 **3. Failure to comply; 3rd offense.** A person who has 2 or more prior convictions
12 under this section and who fails to comply with any duty imposed under this chapter or a
13 rule adopted pursuant to this chapter commits a Class B crime for which the court shall
14 impose a period of incarceration of at least one year, none of which may be suspended by
15 the court.

16 **4. Strict liability.** Violation of this section is a strict liability crime as defined in
17 Title 17-A, section 34, subsection 4-A.

18 **5. Prior convictions.** Title 17-A, section 9-A governs the use of prior convictions
19 when determining a sentence.

20 **6. Affirmative defense.** It is an affirmative defense that the failure to comply with a
21 duty imposed under this chapter or a rule adopted pursuant to this chapter resulted from
22 just cause.

23 **7. Permissible inference.** Proof that the name and date of birth of the person
24 charged with a violation of this section are the same as those of a person who has been
25 sentenced for an offense requiring registration pursuant to this chapter gives rise to a
26 permissible inference under the Maine Rules of Evidence, Rule 303 that the person
27 charged with a violation of this section is the same person as that person convicted of the
28 offense requiring registration.

29 **§11613. Certification by record custodian**

30 **1. Certificate admissible.** Notwithstanding any other law or rule of evidence, a
31 certificate by the custodian of the records of the bureau, when signed and sworn to by that
32 custodian, or the custodian's designee, is admissible in a judicial or administrative
33 proceeding as prima facie evidence of any fact stated in the certificate or in any
34 documents attached to the certificate.

35 **2. Qualified witness.** With 10 days' written notice to the prosecution, the defendant
36 may request that a qualified witness testify to the matters of which the certificate under
37 subsection 1 constitutes prima facie evidence. The notice must specify those matters
38 concerning which the defendant requests testimony. The certificate is not prima facie
39 evidence in those matters.

1 **§11614. Registrant's right against unreasonable search suspended; duty to notify**
2 **law enforcement official of suspension**

3 **1. Suspension of right against unreasonable searches.** During the duration of the
4 period of registration under section 11609, a registrant's right against unreasonable
5 searches under the United States Constitution, Amendment IV and the Constitution of
6 Maine, Article I, Section 5 is suspended and the registrant must submit to being searched
7 for illegal drugs at the request of a law enforcement officer at any time with or without
8 articulable suspicion, probable cause or a search warrant. A search under this section
9 may include:

10 A. The registrant's person;

11 B. The registrant's motor vehicle, residence and personal effects;

12 C. If the registrant is a passenger in a motor vehicle, that motor vehicle; and

13 D. If a registrant is present in the residence of a 3rd party and the 3rd party is aware
14 of the registrant's status as a registrant, the 3rd party's residence.

15 **2. Duty to notify law enforcement officer.** A registrant who comes in contact with
16 a law enforcement officer during the duration of registration under section 11609
17 immediately shall notify the law enforcement officer of the registrant's status as a
18 registrant and of the registrant's duty to submit to a search for illegal drugs upon request
19 of a law enforcement officer.

20 **§11615. Immunity from liability**

21 Neither the failure to perform the requirements of this chapter nor compliance with
22 this chapter subjects any state, municipal or county official or employee to liability in a
23 civil action. The immunity provided under this section applies to the release of relevant
24 information to other officials or employees or to the general public.

25 **§11616. Community education**

26 The department shall provide law enforcement agencies technical assistance
27 concerning community education curricula for purposes of notification to the public of a
28 registrant's conditional release or discharge.

29 **§11617. Mandatory notification of conditional release or discharge of registrants**

30 The department, county jails, state mental health institutes and the bureau are
31 governed by the following notice provisions when a registrant is conditionally released or
32 discharged.

33 **1. Duties.** The department, a county jail or a state mental health institute shall give
34 the bureau notice of the following:

35 A. The address where the registrant will be domiciled and reside;

36 B. The address where the registrant will work and attend college or school, if
37 applicable;

1 C. The mailing address of the registrant; and

2 D. The geographic area to which a registrant's conditional release is limited, if any.

3 **2. Duties of the bureau.** Upon receipt of the information concerning the conditional
4 release or discharge of a registrant pursuant to subsection 1, the bureau shall forward the
5 information to all law enforcement agencies that have jurisdiction in those areas where
6 the registrant may be domiciled, reside, work or attend college or school.

7 **§11618. Public notification**

8 **1. Department.** Upon the conditional release or discharge of a registrant from a
9 state correctional institution, the department shall give notice of the information under
10 section 11617, subsection 1 to members of the public the department determines
11 appropriate to ensure public safety.

12 **2. Law enforcement agencies.** Upon receipt of the information concerning the
13 conditional release or discharge of a registrant pursuant to section 11617, subsection 2, a
14 law enforcement agency shall notify members of the public that the law enforcement
15 agency determines appropriate to ensure public safety.

16 **SUMMARY**

17 This bill creates the Drug Trafficking Offender Registration and Notification Act,
18 structured like the Sex Offender Registration and Notification Act of 2013, for the
19 registration of persons convicted of certain drug trafficking offenses on or after October
20 1, 2017. This bill also suspends for the period of registration a registrant's rights against
21 unreasonable searches under the United States Constitution, Amendment IV.