

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 1888

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H.P. 1398

House of Representatives, January 5, 2022

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**An Act To Amend the Laws Affecting Sex Offenders and Petitions  
for Child Custody**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT  
Clerk

Presented by Representative GRAMLICH of Old Orchard Beach.  
Cosponsored by Senator BAILEY of York and  
Representatives: Speaker FECTEAU of Biddeford, HARNETT of Gardiner, LOOKNER of  
Portland, RECKITT of South Portland, Senators: President JACKSON of Aroostook, MOORE  
of Washington, POULIOT of Kennebec.

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

2 **Sec. 1. 17-A MRSA §261, sub-§1**, as amended by PL 2009, c. 365, Pt. A, §1, is  
3 further amended to read:

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

5 A. ~~Was~~ That person's name appears on the sex offender registry of any state or that  
6 person was convicted on or after June 30, 1992 of an offense under this chapter or  
7 chapter 12 against another person who had not in fact attained 14 years of age or was  
8 convicted on or after June 30, 1992 in another jurisdiction for conduct substantially  
9 similar to that contained in this chapter or chapter 12 against another person who had  
10 not in fact attained 14 years of age; and

11 C. ~~Intentionally~~ That person intentionally or knowingly initiates direct or indirect  
12 contact with another person who has not in fact attained ~~14~~ 18 years of age except as  
13 provided under an order granted pursuant to Title 19-A, section 1653, subsection 6-A.

14 Violation of this subsection is a Class E crime.

15 **Sec. 2. 19-A MRSA §1653, sub-§6-A**, as amended by PL 2021, c. 360, §6, is  
16 further amended to read:

17 **6-A. Custody and contact limited; convictions for sexual offenses.** The award of  
18 primary residence and parent-child contact with a person who has been convicted of a child-  
19 related sexual offense or whose name appears on the sex offender registry of any state is  
20 governed by this subsection and subsection 6-B.

21 A. For the purposes of this section, "child-related sexual offense" means the following  
22 sexual offenses if, at the time of the commission of the offense, the victim was under  
23 18 years of age or the victim was a student enrolled in a private or public elementary,  
24 secondary or special education school, facility or institution and the person was a  
25 teacher, employee or other official having instructional, supervisory or disciplinary  
26 authority over the student or the person was a substitute teacher who had instructional,  
27 supervisory or disciplinary authority over the student at any time during the 12 months  
28 prior to the time of the commission of the offense:

29 (1) Sexual exploitation of a minor, under Title 17-A, section 282;

30 (2) Gross sexual assault, under Title 17-A, section 253;

31 (3) Sexual abuse of a minor, under Title 17-A, section 254;

32 (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section  
33 255;

34 (5) Visual sexual aggression against a child, under Title 17-A, section 256;

35 (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section  
36 258;

37 (6-A) Solicitation of a child to commit a prohibited act, under Title 17-A, section  
38 259-A; or

39 (7) An offense in another jurisdiction that involves conduct that is substantially  
40 similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For  
41 purposes of this subparagraph, "another jurisdiction" means the Federal

1 Government, the United States military, the District of Columbia, the  
2 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana  
3 Islands, the United States Virgin Islands, Guam, American Samoa and each of the  
4 several states except Maine. "Another jurisdiction" also means the Passamaquoddy  
5 Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1,  
6 paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to  
7 Title 30, section 6209-B, subsection 1, paragraph A or B.

8 B. A court may award primary residence of a minor child or parent-child contact with  
9 a minor child to a parent who has been convicted of a child-related sexual offense or  
10 whose name appears on the sex offender registry of any state only if the court finds  
11 that contact between the parent and child is in the best interest of the child and that  
12 adequate provision for the safety of the child can be made. A petitioner who is a parent  
13 who has been convicted of a child-related sexual offense or whose name appears on  
14 the sex offender registry of any state must attach to the petition for primary residence  
15 or parent-child contact a forensic risk assessment performed by a licensed clinical  
16 social worker, psychologist or psychiatrist for the purpose of obtaining primary  
17 residence or parent-child contact. For purposes of this paragraph, "forensic risk  
18 assessment" means a determination about the likelihood that a person will commit  
19 future offenses. Notwithstanding section 1772, subsection 1, the court may not assess  
20 the cost of the forensic risk assessment against the respondent parent.

21 C. In an order of parental rights and responsibilities, a court may require that parent-  
22 child contact between a minor child and a person convicted of a child-related sexual  
23 offense may occur only if there is another person or agency present to supervise the  
24 contact. If the court allows a family or household member to supervise parent-child  
25 contact, the court shall establish conditions to be followed during that contact.  
26 Conditions include, but are not limited to, those that:

- 27 (1) Minimize circumstances when the family of the parent who is a sex offender  
28 or sexually violent predator would be supervising visits;
- 29 (2) Ensure that contact does not damage the relationship with the parent with  
30 whom the child has primary physical residence;
- 31 (3) Ensure the safety and well-being of the child; and
- 32 (4) Require that supervision be provided by a person who is physically and  
33 mentally capable of supervising a visit and who does not have a criminal history  
34 or history of abuse or neglect.

## 35 SUMMARY

36 Current law prohibits a person who has committed certain sex offenses from initiating  
37 contact with a person under 14 years of age. This bill prohibits a person who has committed  
38 certain sex offenses or whose name appears on the sex offender registry of any state from  
39 initiating contact with a minor. The bill also requires a parent who has committed certain  
40 sex offenses or whose name appears on the sex offender registry of any state and who  
41 petitions for primary residence or parental contact with a minor child to submit to the court  
42 a forensic risk assessment. The bill extends the best interest of the child standard in  
43 deciding petitions for primary residence or parental contact to petitions in which a parent's

1 name appears on the sex offender registry of any state. The bill makes a technical  
2 clarification to the law governing petitions for primary residence or parental contact.