

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
1999

CHAPTER 437

S.P. 597 - L.D. 1721

**An Act to Create the Sex Offender
Registration and Notification Act of
1999**

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

Sec. 1. 17-A MRSA §1204, sub-§1-C, as enacted by PL 1995, c. 680, §6, is amended to read:

1-C. The court shall attach as a condition of probation that the convicted sex offender, as defined under Title 34-A, section 11103, satisfy all responsibilities set forth in Title 34-A, chapter 13, the Sex Offender Registration and Notification Act and that the convicted sex offender, as defined under Title 34-A, section 11203, subsection 5, or the convicted sexually violent predator, as defined under Title 34-A, section 11203, subsection 8, satisfy all responsibilities set forth in Title 34-A, chapter 15, the Sex Offender Registration and Notification Act of 1999.

Sec. 2. 34-A MRSA c. 15 is enacted to read:

CHAPTER 15

**SEX OFFENDER REGISTRATION
AND NOTIFICATION ACT OF 1999**

SUBCHAPTER I

GENERAL PROVISIONS

§11201. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999."

§11202. Application

This chapter applies to a person sentenced as a sex offender or a sexually violent predator on or after the effective date of this chapter.

§11203. Definitions

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

1. Bureau. "Bureau" means the State Bureau of Identification.

2. Domicile. "Domicile" means the place where a person lives, resides or dwells.

3. FBI. "FBI" means the Federal Bureau of Investigation.

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

5. Sex offender. "Sex offender" means a person who is an adult convicted or a juvenile convicted as an adult of a sex offense.

6. Sex offense. "Sex offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

A. A violation under Title 17, section 2922;

B. A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 301, unless the actor is a parent of the victim; Title 17-A, section 302; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

C. A violation of an offense in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A or B.

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

A. A conviction for or an attempt to commit an offense under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; or Title 17-A, section 255, subsection 1, paragraph B, C, D or H; or

B. A conviction for or an attempt to commit an offense of the law in another jurisdiction, including, but not limited to, a state, federal, military or tribal court, that includes the essential elements of an offense listed in paragraph A.

8. Sexually violent predator. "Sexually violent predator" means a person who is an adult convicted or a juvenile convicted as an adult of a:

A. Sexually violent offense; or

B. Sex offense when the person has a prior conviction for which registration is required by this chapter.

SUBCHAPTER II

SEX OFFENDER REGISTRATION

§11221. Maintenance of sex offender registry

1. Maintenance of registry. The bureau shall establish and maintain a registry of persons required to register pursuant to this subchapter. The registry must include the following information on each registrant:

A. The sex offender's or sexually violent predator's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address, home address or expected domicile;

B. Place of employment or college or school being attended and the corresponding address and location;

C. Offense history;

D. Notation of any treatment received for a mental abnormality or personality disorder;

E. A photograph and set of fingerprints;

F. A description of the offense for which the sex offender or sexually violent predator was convicted, the date of conviction and the sentence imposed; and

G. Any other information the bureau determines important.

2. National or regional registry. The bureau is authorized to make the registry available to and accept files from a national or regional registry of sex offenders for the purpose of sharing information.

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

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

5. Sexually violent predator directory. The bureau shall develop and maintain a directory of sexually violent predators.

6. Distribution of information. The bureau shall distribute information to the department and law enforcement agencies having jurisdiction as required by this chapter.

7. Rules. The bureau may adopt rules that are necessary to administer its responsibilities pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

§11222. Duty of sex offender or sexually violent predator to register

1. Determination by court. The court shall determine at the time of conviction if a defendant is a sex offender or a sexually violent predator. A person who the court determines is a sex offender or a sexually violent predator shall register according to this subchapter.

2. Responsibility of ensuring initial registration. The department, the county jail or the state mental health institute that has custody of a sex offender or sexually violent predator required to register under this subchapter shall inform the sex offender or sexually violent predator, prior to discharge or conditional release, of the duty to register. If a sex offender or sexually violent predator does not serve a period of institutional confinement, the court shall inform the sex offender or sexually violent predator at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

A. Inform the sex offender or sexually violent predator of the duty to register and obtain the information required for the initial registration;

B. Inform the sex offender or sexually violent predator that if the sex offender or sexually violent predator changes domicile, the sex offender or sexually violent predator shall give the new address to the bureau in writing within 10 days;

C. Inform the sex offender or sexually violent predator that if that sex offender or sexually violent predator changes domicile to another state, the sex offender or sexually violent predator shall register the new address with the bureau and if the new state has a registration requirement, the sex offender or sexually violent predator shall register with a designated law enforcement agency in the new state not later than 10 days after establishing domicile in the new state;

D. Inform the sex offender or sexually violent predator that if that sex offender or sexually violent predator has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that sex offender or sexually violent predator enrolls in any type of school in another state on a part-time or full-time basis, the

sex offender or sexually violent predator shall give the bureau the registrant's place of employment or school to be attended in writing within 10 days after beginning work or attending school and if the other state has a registration requirement, shall register with the designated law enforcement agency in the other state;

E. Obtain fingerprints and a photograph of the sex offender or sexually violent predator or the court may order the sex offender or sexually violent predator to submit to the taking of fingerprints and a photograph at a specified law enforcement agency within 3 days if the fingerprints and photograph have not already been obtained in connection with the offense that necessitates registration; and

F. Enforce the requirement that the sex offender or sexually violent predator read and sign a form provided by the bureau that states that the duty of the sex offender or sexually violent predator to register under this section has been explained.

3. Transfer of initial registration information to bureau and FBI. The department, county jail, state mental health institute or court within 3 days of receipt of the information described in subsection 2 shall forward the information to the bureau. If the court orders the sex offender or sexually violent predator to submit to the taking of fingerprints and a photograph at a specified law enforcement agency, the law enforcement agency shall submit the fingerprints and photograph to the bureau within 3 days. The bureau shall immediately enter the information into the registration system, notify the law enforcement agency having jurisdiction where the sex offender or sexually violent predator expects to be domiciled and transmit the information to the FBI for inclusion in the national FBI sex offender database.

4. Verification. During the period a sex offender or sexually violent predator is required to register, the bureau shall verify a sex offender's or sexually violent predator's domicile. The bureau shall verify the domicile of a sex offender on each anniversary of the sex offender's initial registration date and shall verify a sexually violent predator's domicile every 90 days after that sexually violent predator's initial registration date. Verification of the domicile of a sex offender or sexually violent predator occurs as set out in this subsection.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the sex offender or sexually violent predator.

B. The verification form must state that the sex

offender or sexually violent predator still resides at the address last reported to the bureau.

C. The sex offender or sexually violent predator shall take the completed verification form and a photograph to the law enforcement agency having jurisdiction within 10 days of receipt of the form.

D. The law enforcement agency having jurisdiction shall verify the sex offender's or sexually violent predator's identity, have the sex offender or sexually violent predator sign the verification form, take the sex offender's or sexually violent predator's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

5. Change of domicile. A sex offender or sexually violent predator shall notify the bureau in writing of a change of domicile within 10 days after establishing that domicile.

A. If the sex offender or sexually violent predator establishes a new domicile in the State, the bureau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the sex offender or sexually violent predator was formerly domiciled and the law enforcement agency having jurisdiction where the sex offender or sexually violent predator is currently domiciled.

B. If the sex offender or sexually violent predator establishes a domicile in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the sex offender or sexually violent predator was formerly domiciled and the law enforcement agency having jurisdiction where the sex offender or sexually violent predator is currently domiciled.

For purposes of registration requirements pursuant to this subchapter, convictions that result from or are connected with the same act or result from offenses committed at the same time are considered as one conviction.

§11223. Duty of person establishing domicile to register

A person required under another jurisdiction to register as a sex offender or sexually violent predator, or who is convicted of a similar sex offense or sexually violent offense in another jurisdiction, shall register as a sex offender or sexually violent predator within 10 days of establishing domicile in this State. The person shall contact the bureau, which shall provide the person with the registration form and

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

§11224. Duty of person employed or attending school to register

A person who is required under another jurisdiction to register as a sex offender or sexually violent predator because the person is domiciled in another state or who is convicted of a similar sex offense or sexually violent offense in another jurisdiction shall register as a sex offender within 10 days of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or beginning school on a full-time or part-time basis in this State. The person shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

§11225. Duration of registration

1. Sex offender. A sex offender shall register for a period of 10 years from the initial date of registration pursuant to this chapter, except that a sex offender required to register because the sex offender established a domicile in this State subsequent to being declared a sex offender in another state or under another jurisdiction shall register for a maximum of 10 years from the date when the sex offender was first required to register in the other state or under another jurisdiction.

2. Sexually violent predator. A sexually violent predator shall register for the duration of the sexually violent predator's life.

3. Periods of incarceration or civil confinement. Notwithstanding subsections 1 and 2, the bureau may suspend the requirement that a sex offender register during periods of incarceration or civil confinement.

4. Relief from duty to register. If the underlying conviction for a sex offense or sexually violent offense is reversed, vacated or set aside, or if the registrant is pardoned for the offense, registration or continued registration as a sex offender or sexually violent predator is no longer required.

§11226. Fee

The bureau may charge a \$25 annual fee to persons required to register under this chapter. Sex offenders and sexually violent predators shall pay the fee at the time of initial registration and shall pay the fee on each anniversary of their initial registration.

The fee must be credited to the General Fund and the Highway Fund in an amount consistent with currently budgeted appropriations and allocations.

§11227. Violation

A sex offender or sexually violent predator who fails to register or update the information required under this chapter commits a Class D crime, except that a violation of this section when the sex offender or sexually violent predator has 2 or more prior convictions in this State for violation of this chapter is a Class C crime. For purposes of this section, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same day. The date of the conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of a prior offense is deemed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent. It is an affirmative defense that the failure to register or update information resulted from just cause.

SUBCHAPTER III

NOTIFICATION

§11251. Notification

The provisions regarding notification in chapter 13, subchapter III are applicable to a person determined to be a sex offender or sexually violent predator pursuant to this chapter.

§11252. Immunity from liability

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

Sec. 3. State mandate requirements. The Commissioner of Public Safety shall implement the requirements of the Maine Revised Statutes, Title 30-A, section 5685 and the Constitution of Maine to distribute funding to meet 90% of the additional local costs of this Act.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Positions - Legislative Count		(1,000)
Personal Services		\$19,500
All Other	\$6,000	
TOTAL	\$6,000	\$19,500
Provides funds for the General Fund share of one additional Supervisor position, to be established on August 1, 2000, and operating costs necessary to implement new sex offender registration and notification requirements.		

Sex Offender Registration - State Mandate Reimbursement		
All Other	\$1,500	\$3,000
Appropriates funds for the General Fund share of reimbursing municipalities for certain new sex offender registration and notification costs.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	\$7,500	\$22,500

Sec. 5. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

	1999-00	2000-01
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Personal Services		\$29,250
All Other	\$9,000	
TOTAL	\$9,000	\$29,250
Allocates funds for the Highway Fund's share of one additional Supervisor position and operating costs necessary to		

implement new sex offender registration and notification requirements.

Sex Offender Registration - State Mandate Reimbursement		
All Other	\$2,250	\$4,500
Allocates funds for the Highway Fund share of reimbursing municipalities for certain new sex offender registration and notification costs.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	\$11,250	\$33,750

Sec. 6. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Act.

	1999-00
PUBLIC SAFETY, DEPARTMENT OF	
State Police	
All Other	\$48,776
Allocates funds to purchase technology that is necessary for the implementation of a sex offender registration and notification program.	
DEPARTMENT OF PUBLIC SAFETY	
TOTAL	\$48,776

See title page for effective date.

CHAPTER 438

H.P. 1412 - L.D. 2019

**An Act to Remove the Statute of
Limitations for Unlawful Sexual
Contact and Sexual Abuse of Minors**

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

Sec. 1. 17-A MRSA §8, sub-§1, as amended by PL 1991, c. 585, §1, is further amended to read:

1. It is a defense that prosecution was commenced after the expiration of the applicable period of