

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
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cause to be taken; and, upon payment of a \$3 fee, ~~shall~~ may take or cause to be taken, the fingerprints or palm prints, or fingerprints and palm prints, of any person who requests that the person's fingerprints or palm prints, or fingerprints and palm prints, be taken.

Such fingerprints and palm prints ~~shall~~ must be taken on a form provided by the requesting person; or, if the person does not provide a form, upon the Noncriminal Fingerprint Record. Fingerprints ~~or~~, palm prints or demographic information taken or collected pursuant to this section, or copies thereof, ~~shall~~ may not be retained by the taker ~~or~~. The fingerprints, palm prints or demographic information must be forwarded to the State Bureau of Identification if required by statute or if the requestor requests that the fingerprints, palm prints or demographic information be forwarded to the State Bureau of Identification for the purpose of obtaining a criminal history record check.

See title page for effective date.

CHAPTER 553

H.P. 1518 - L.D. 2022

An Act to Clarify the Sex Offender Registration and Notification Act of 1999

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, statutory changes to the Sex Offender Registration and Notification Act of 1999 are necessary to ensure the efficient and effective registration of sex offenders and to reduce confusion about the registration requirements; and

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

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

Sec. 1. 34-A MRSA §11203, sub-§4-B is enacted to read:

4-B. Sentence. "Sentence," in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another jurisdiction, following a verdict of not criminally responsible by reason of mental disease or defect or similar verdict in another jurisdiction.

Sec. 2. 34-A MRSA §11203, sub-§7, ¶A, as enacted by PL 1999, c. 437, §2, is amended to read:

A. A conviction for one of the offenses or for an attempt to commit ~~an offense~~ one of the offenses 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

Sec. 3. 34-A MRSA §11203, sub-§7, ¶A, as amended by PL 2001, c. 383, §154 and affected by §156, is further amended to read:

A. A conviction for one of the offenses or for an attempt to commit ~~an offense~~ one of the offenses 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-A, subsection 1, paragraph C, D, E, F, G, H, O or P; or

Sec. 4. 34-A MRSA §11203, sub-§7, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. A conviction for an offense or for 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.

Sec. 5. 34-A MRSA §11222, sub-§1-A is enacted to read:

1-A. When duty to register must be exercised. Following determination by the court under subsection 1, a sex offender or a sexually violent predator shall register as follows.

A. If the sex offender or sexually violent predator is sentenced to a wholly suspended sentence with probation or to a punishment alternative not involving imprisonment, the duty to register is triggered at the time the person commences an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment is imposed, unless the court orders a stay of execution, in which event the duty is triggered by the termination of the stay.

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

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

Sec. 6. 34-A MRSA §11222, sub-§2-A, as enacted by PL 2001, c. 439, Pt. OOO, §11, is repealed and the following enacted in its place:

2-A. Duty of sex offender or sexually violent predator sentenced from June 30, 1992 to September 17, 1999 to register. Notwithstanding subsection 1, a person who has been sentenced on or after June 30, 1992 but before September 18, 1999 for a sex offense or a sexually violent offense shall register either as a sex offender or as a sexually violent predator, whichever is applicable, with the bureau by September 1, 2002 if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person shall register with the bureau within 10 days of notice.

Sec. 7. 34-A MRSA §11225, sub-§1, as amended by PL 2001, c. 439, Pt. OOO, §12, is further amended to read:

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. A sex offender ~~or sexually violent predator convicted~~ sentenced from June 30, 1992 to September 17, 1999 shall register for a period of 10 years from the date of conviction if the sex offender or sexually violent predator was not sentenced to a period of institutional confinement, or for 10 years from the date of discharge or conditional release if the sex offender or sexually violent predator was sentenced to a period of institutional confinement, to be calculated as follows.

A. If the sex offender was sentenced to a wholly suspended sentence with probation or to a punishment alternative not involving imprisonment, the 10-year period is treated as having begun at the time the person commenced an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment was imposed, unless the court ordered a stay of execution, in which event the 10-year period is treated as having begun at the termination of the stay.

B. If the sex offender was sentenced to a straight term of imprisonment or to a split sentence, the 10-year period is treated as having begun at the time of discharge or conditional release.

C. If the sex offender was committed under Title 15, section 103, the 10-year period is treated as having begun at the time of discharge or conditional release under Title 15, section 104-A.

D. If the sex offender's duty to register has not yet been triggered, the 10-year period will commence upon registration by the person in compliance with section 11222, subsection 1-A, paragraphs A, B or C.

Sec. 8. 34-A MRSA §11225, sub-§§2 and 3, as enacted by PL 1999, c. 437, §2, are amended to read:

2. Sexually violent predator. A sexually violent predator sentenced on or after June 30, 1992 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 or sexually violent predator register during periods of incarceration or civil confinement.

Sec. 9. 34-A MRSA §11227, as amended by PL 2001, c. 439, Pt. OOO, §13, is further amended to read:

§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, except that sex offenders and sexually violent predators ~~convicted~~ sentenced from June 30, 1992 to September 17, 1999 may not raise a defense under just cause that they were not aware of the registration requirement.

Sec. 10. Effective date. Section 3 of this Act takes effect January 31, 2003.

Emergency clause. In view of the emergency cited in the preamble, sections 1, 2 and 4 to 9 of this Act take effect when approved.

Effective March 25, 2002, unless otherwise indicated.

CHAPTER 554

H.P. 1521 - L.D. 2025

An Act to Make Certain Changes to the State's Child Support Enforcement Laws

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, compliance with federal child support requirements with regard to the National Medical Support Notice is essential for continued receipt by the State of federal child support funding; and

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

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

Sec. 1. 4 MRSA §807, sub-§3, ¶I, as amended by PL 1997, c. 669, §1, is further amended to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7; Title 18-A, section 5-204; and Title 19-A, section 2361, subsection 10;

Sec. 2. 18-A MRSA §5-204, 4th ¶, as enacted by PL 1999, c. 46, §1, is amended to read:

If a proceeding is brought under subsection (b) or subsection (c), the court may order a parent to pay child support in accordance with Title 19-A, Part 3. When the Department of Human Services provides child support enforcement services, the Commissioner of Human Services may designate employees of the department who are not attorneys to represent the department in court if a hearing is held. The commissioner shall ensure that appropriate training is provided to all employees who are designated to represent the department under this paragraph.

Sec. 3. 19-A MRSA §1605, sub-§2, ¶¶K and L, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department and the department accepts an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; ~~and~~

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

- (1) Refuses to submit to blood or tissue-typing tests; or
- (2) Fails to execute and deliver to the department an acknowledgment of paternity; and

Sec. 4. 19-A MRSA §1605, sub-§2, ¶M is enacted to read:

M. A statement that the department may require the alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity if it appears that there may be more than one alleged father, and may file the action in court if the alleged father refuses to submit to testing.

Sec. 5. 19-A MRSA §1608, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended by adding a new 2nd paragraph to read:

When the department initiates proceedings against one alleged father when there may be more than one alleged father, the department may require the parties to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity from the alleged father. If the alleged father refuses to participate in testing, the department may file the action in court.

Sec. 6. 19-A MRSA §1614, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§1614. Acknowledgment of paternity

If, prior to the filing in a court, the alleged father executes and delivers to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, and if the department does not require the alleged father to participate in blood or tissue-typing tests, the pro-