

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

Sec. 2. 25 MRSA §2803-B, sub-§1, ¶I is enacted to read:

I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations.

Sec. 3. 25 MRSA §2803-B, sub-§§2 and 3, as amended by PL 2001, c. 686, Pt. B, §1, are further amended to read:

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) ~~may~~ must be established no later than January 1, 2003 and policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003 and certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D must be made to the board no later than January 1, 2004 and certification for orientation and training with respect to policies regarding death investigations must be made to the board no later than January 1, 2005.

Sec. 4. 25 MRSA §2803-B, sub-§4, as enacted by PL 1993, c. 744, §5, is amended to read:

4. Penalty. An agency that fails to comply with any provision of subsection 3 commits a civil violation for which the State Government or local government entity whose officer or employee committed the violation may be adjudged a ~~forfeiture~~ fine not to exceed \$500.

See title page for effective date.

CHAPTER 371

H.P. 1107 - L.D. 1514

An Act To Amend the Sex Offender Registration and Notification Laws

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 34-A MRSA §11203, sub-§5, as enacted by PL 1999, c. 437, §2, is amended to read:

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

Sec. 2. 34-A MRSA §11203, sub-§6, ¶A, as enacted by PL 1999, c. 437, §2, is amended to read:

A. A violation under Title 17, section 2922, 2923 or 2924;

Sec. 3. 34-A MRSA §11203, sub-§8, as amended by PL 2001, c. 439, Pt. OOO, §10, is further amended to read:

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

A. Sexually violent offense; or

B. Sex offense when the person has a prior conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense.

Sec. 4. 34-A MRSA §11221, sub-§1, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

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

Sec. 5. 34-A MRSA §11221, sub-§5, as enacted by PL 1999, c. 437, §2, is repealed.

Sec. 6. 34-A MRSA §11221, sub-§6, as enacted by PL 1999, c. 437, §2, is repealed and the following enacted in its place:

6. Distribution of information to department and law enforcement agencies. The bureau shall distribute information described in subsection 1 to the department and law enforcement agencies having jurisdiction over the address and location of the sex offender's or sexually violent predator's domicile, place of employment and college or school being attended.

Sec. 7. 34-A MRSA §11221, sub-§§8 to 10 are enacted to read:

8. Criminal justice agency access to information. The bureau shall provide access to the information described in subsection 1 to criminal justice agencies. For purposes of this subsection, "criminal justice agency" has the same meaning as in Title 16, section 611, subsection 4.

9. Public access to information. The bureau shall provide information to the public as follows.

A. The bureau shall post on the Internet for public inspection the following information concerning a sex offender or sexually violent predator:

(1) The sex offender's or sexually violent predator's name, date of birth and photograph;

(2) The sex offender's or sexually violent predator's city or town of domicile;

(3) The sex offender's or sexually violent predator's place of employment and college or school being attended, if applicable, and the corresponding address and location; and

(4) The statutory citation and name of the offense for which the sex offender or sexually violent predator was convicted.

B. Upon receiving a written request that includes the name and date of birth of a sex offender or sexually violent predator, the bureau shall provide the following information concerning a sex offender or sexually violent predator to the requestor:

(1) The sex offender's or sexually violent predator's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and home address or domicile;

(2) The sex offender's or sexually violent predator's place of employment and college or school being attended, if applicable, and the corresponding address and location;

(3) 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

(4) The sex offender's or sexually violent predator's photograph.

10. Sex offender or sexually violent predator access to information. Pursuant to Title 16, section 620, the bureau shall provide all information described in subsection 1 to a sex offender or sexually violent predator who requests that person's own information.

Sec. 8. 34-A MRSA §11222, sub-§1, as enacted by PL 1999, c. 437, §2, is amended to read:

1. Determination by court. The court shall determine at the time of ~~conviction~~ sentencing 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.

Sec. 9. 34-A MRSA §11222, sub-§2, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. Inform the sex offender or sexually violent predator that if the sex offender or sexually violent predator changes domicile, place of employment or college or school being attended, the sex offender or sexually violent predator shall give the new address to the bureau in writing within 10 days;

Sec. 10. 34-A MRSA §11222, sub-§5, as enacted by PL 1999, c. 437, §2, is amended to read:

5. Change of domicile, place of employment or college or school being attended. A sex offender or sexually violent predator shall notify the bureau in writing of a change of domicile, place of employment or college or school being attended within 10 days after ~~establishing that domicile change.~~

A. If the sex offender or sexually violent predator establishes a new domicile, place of employment or college or school being attended 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, employed or enrolled and the law enforcement agency having jurisdiction where the sex offender or sexually violent predator is currently domiciled, employed or enrolled.

B. If the sex offender or sexually violent predator establishes a domicile, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the sex offender or sexually violent predator

predator was formerly domiciled, employed or enrolled and the law enforcement agency having jurisdiction where the sex offender or sexually violent predator is currently domiciled, employed or enrolled.

Sec. 11. 34-A MRSA §§11223 and 11224, as enacted by PL 1999, c. 437, §2, are amended to read:

§11223. Duty of person establishing domicile to register

A person required under another jurisdiction to register ~~as a sex offender or sexually violent predator, pursuant to that jurisdiction's sex offender registration statute or who is convicted and sentenced of a similar sex offense or sexually violent offense in another jurisdiction, that would require registration in this State~~ 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 college or school to register

A person who is required under another jurisdiction to register ~~as a sex offender or sexually violent predator pursuant to that jurisdiction's sex offender registration statute~~ because the person is domiciled in another state or who is convicted and sentenced of a ~~similar~~ sex offense or sexually violent offense ~~in another jurisdiction that would require registration in this State~~ 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 college or 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.

Sec. 12. 34-A MRSA §11228 is enacted to read:

§11228. Certification by record custodian

Notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the bureau, when signed and sworn to by that custodian, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

Sec. 13. 34-A MRSA §11254, as enacted by PL 2001, c. 439, Pt. OOO, §15, is amended to read:

§11254. Mandatory notification of conditional release or discharge of sex offenders

The department, county jails, state mental health institutes and the Department of Public Safety, State Bureau of Identification are governed by the following notice provisions when a sex offender or sexually violent predator is conditionally released or discharged.

1. Duties. The department, a county jail or a state mental health institute shall give the Department of Public Safety, State Bureau of Identification notice of the following:

- A. The address where the sex offender or sexually violent predator will reside;
- B. The address where the sex offender or sexually violent predator will work and attend college or school, if applicable;
- C. The geographic area to which a sex offender's or sexually violent predator's conditional release is limited, if any; and
- D. The status of the sex offender or sexually violent predator when released as determined by the risk assessment instrument, the offender's or predator's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the offender or predator.

2. Duties of the Department of Public Safety, State Bureau of Identification. Upon receipt of the information concerning the conditional release or discharge of a sex offender or sexually violent predator pursuant to subsection 1, the Department of Public Safety, State Bureau of Identification shall forward the information in subsection 1 to all law enforcement agencies that have jurisdiction in those areas where the sex offender or sexually violent predator may reside ~~or~~, work or attend college or school.

See title page for effective date.