

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

eligible employment position and who has met other eligibility criteria established by rules of the authority.

2. Matching funds. An eligible employer must provide funds to match the amount provided by the authority for program loan repayments under this section. The employer's match must be paid to the authority for payment to the financial institution holding the employee's student loan and must be in an amount equal to the amount of the program loan repayment to be provided by the authority.

§12527. Payment provisions

The authority shall enter into a program loan repayment agreement with an eligible individual on terms and conditions that are acceptable to the authority and that at a minimum must require the eligible individual and the eligible individual's employer to certify annually, before payment of any installment by the authority under the program loan agreement, that the eligible individual has been employed in an eligible employment position for the preceding 12-month period. Payment of any installment by the authority, including matching funds provided to the authority by the employer, must be made directly for credit to the eligible individual's account at the financial institution certified by the eligible individual as responsible for administration of that person's student loans.

§12528. Nonlapsing revolving fund

1. Creation of fund. The Maine Engineers Recruitment and Retention Program Fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this chapter. The fund must be deposited with, maintained and administered by the authority. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests, loans and donations in addition to money appropriated or allocated by the State. Money received by the authority on behalf of the fund, except interest income, must be used for the purposes of this chapter; interest income may be used for the purposes of this chapter or to pay administrative costs incurred by the authority, as determined appropriate by the authority.

2. Administrative expenses. Costs and expenses of maintaining, servicing and administering the fund and administering the program may be paid out of amounts in the fund.

§12529. Rules

The authority shall adopt rules to implement this chapter. Rules adopted by the authority pursuant to

this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 711

H.P. 1409 - L.D. 1903

An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability

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

PART A

Sec. A-1. 4 MRSA §422, sub-§1, as enacted by PL 1999, c. 780, §1, is repealed and the following enacted in its place:

1. Coordinator of Diversion and Rehabilitation Programs. The judicial branch shall employ a Coordinator of Diversion and Rehabilitation Programs. The Coordinator of Diversion and Rehabilitation Programs is responsible for helping the judicial branch establish, staff, coordinate, operate and evaluate diversion and rehabilitation programs in the courts.

Sec. A-2. 4 MRSA §422, sub-§2, as enacted by PL 1999, c. 780, §1 and amended by PL 2001, c. 354, §3, is further amended to read:

2. Pass-through services. The Administrative Office of the Courts, with the assistance of the ~~Drug Court~~ Coordinator of Diversion and Rehabilitation Programs, may enter into cooperative agreements or contracts with:

A. The Department of Behavioral and Developmental Services, Office of Substance Abuse or other federal-licensed treatment providers or state-licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the alcohol and drug treatment programs must access existing substance abuse treatment resources for alcohol and drug treatment program participants;

B. The Department of Corrections, Division of Community Corrections or other appropriate or-

ganizations to provide for supervision of alcohol and drug treatment program participants;

C. The Department of Corrections or other appropriate organizations to provide for drug testing of alcohol and drug treatment program participants;

D. Appropriate organizations to provide for a drug court manager at each alcohol and drug treatment program location; ~~and~~

E. Appropriate organizations and agencies for training of alcohol and drug treatment program staff and for evaluation of alcohol and drug treatment program operations;

F. Appropriate local, county and state governmental entities and other appropriate organizations and agencies to encourage the development of diversion and rehabilitation programs; and

G. Appropriate organizations and agencies for the provision of medical, educational, vocational, social and psychological services, training, counseling, residential care and other rehabilitative services designed to create, improve or coordinate diversion or rehabilitation programs.

Sec. A-3. 15 MRSA §1004, as amended by PL 1999, c. 788, §1, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229 or post-conviction review proceedings under sections 2121 to 2132, probation revocation proceedings under Title 17-A, sections 1205 to 1207 ~~or~~ supervised release revocation proceedings under Title 17-A, section 1233 or administrative release revocation proceedings under Title 17-A, sections 1349 to 1349-F, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively.

Sec. A-4. 17-A MRSA §405, as enacted by PL 1989, c. 263, is repealed and the following enacted in its place:

§405. Burglary of motor vehicle

1. A person is guilty of burglary of a motor vehicle if:

A. The person enters a motor vehicle, knowing that the person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A, and the person forcibly enters a motor vehicle that is locked. Violation of this paragraph is a Class C crime.

2-A. As used in subsection 1, "forcibly" means with the use of a burglar's tool or by the use of physical force that damages or destroys the motor vehicle. "Burglar's tool" means any device described in section 403, subsection 1, paragraph A.

Sec. A-5. 17-A MRSA §755, sub-§1-A, ¶A, as enacted by PL 2001, c. 383, §91 and affected by §156, is amended to read:

~~A. Fails to appear for work, for school or for a meeting with the person's Intensive Supervision Program officer or otherwise intentionally violates~~ Violates a curfew, time or travel restriction. Violation of this paragraph is a Class C crime; or

Sec. A-6. 17-A MRSA §755, sub-§1-B, ¶A, as enacted by PL 2001, c. 383, §92 and affected by §156, is amended to read:

~~A. Fails to appear for work, for school or for a meeting with that person's supervising officer or intentionally fails~~ Fails to return to the correctional facility from which transfer was made upon the direction of the Commissioner of Corrections or otherwise intentionally violates a curfew, residence, time or travel restriction. Violation of this paragraph is a Class C crime; or

Sec. A-7. 17-A MRSA §1152, sub-§2, ¶H, as amended by PL 1995, c. 136, §2, is further amended to read:

H. A county jail reimbursement fee as authorized by chapter 54-B; ~~or~~

Sec. A-8. 17-A MRSA §1152, sub-§2, ¶I, as enacted by PL 1995, c. 136, §3, is amended to read:

I. A specified number of hours of community service work as authorized by chapter 54-C;

Sec. A-9. 17-A MRSA §1152, sub-§2, ¶¶J to L are enacted to read:

J. Deferred disposition as authorized by chapter 54-F;

K. A fine, suspended in whole or in part, with, at the court's discretion, administrative release as authorized by chapter 54-G; or

L. A suspended term of imprisonment with administrative release as authorized by chapter 54-G.

Sec. A-10. 17-A MRSA §1201, sub-§1, ¶¶A-1 and A-2 are enacted to read:

A-1. The conviction is for a Class D or Class E crime other than any Class D crime committed against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758; any Class D or Class E crime in chapter 11 or 12; a Class D or Class E crime under section 556, 854, excluding subsection 1, paragraph A, subparagraph (1), or 855; and the Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B. As used in this paragraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4;

A-2. The court sentences the person to a sentencing alternative under section 1152 that includes a period of administrative release;

Sec. A-11. 17-A MRSA §1202, sub-§1, as repealed and replaced by PL 1985, c. 821, §5, is amended to read:

1. A person convicted of a Class A crime may be placed on probation for a period not to exceed 6 4 years; for a Class B or Class C crime, for a period of probation not to exceed 4 3 years; and for a Class C crime, for a period of probation not to exceed 2 years; and for Class D and Class E crimes, for a period not to exceed one year.

Sec. A-12. 17-A MRSA §1202, sub-§1-A, ¶A-1 is enacted to read:

A-1. If the State pleads and proves that the person was convicted of committing against a family or household member a crime under chapter 9 or 13 or section 554 or if the person was convicted under chapter 11 or 12 or section 556, the period of probation may not exceed:

(1) Six years for a Class A crime; or

(2) Four years for a Class B or Class C crime.

As used in this paragraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; and

Sec. A-13. 17-A MRSA §1202, sub-§2-A is enacted to read:

2-A. Once the period of probation has commenced, on application of the probation officer, or of the person on probation, or on the court's own motion, the court may convert at any time a period of probation for a Class D or Class E crime to a period of administrative release. A conversion to administrative release may not be ordered upon the motion of the person on probation unless notice of the motion is given to the probation officer by the person on probation. The provisions of chapter 54-G apply when probation is converted to administrative release. Conversion to administrative release serves to relieve the person on probation of any obligations imposed by the probation conditions.

Sec. A-14. 17-A MRSA §1202, sub-§3, as amended by PL 1991, c. 258, is further amended to read:

3. ~~On~~ Once the period of probation has commenced, on application of the probation officer, or of the person on probation, or on its own motion, the court may terminate at any time a period of probation and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsection 1, if warranted by the conduct of such person. A termination and discharge may not be ordered upon the motion of the person on probation unless notice of the motion is given to the probation officer by the person on probation. Such termination and discharge ~~shall serve~~ serves to relieve the person on probation of any obligations imposed by the sentence of probation.

Sec. A-15. 17-A MRSA §1253, sub-§2, ¶A is enacted to read:

A. For any person who commits a crime on or after August 1, 2004, is subsequently sentenced to a term of imprisonment for that crime and is entitled to receive a day-for-day deduction pursuant to this subsection, up to 2 additional days per calendar month may be credited to that deduction if the person's conduct during that period of detention was such that the credit is determined to be warranted in the discretion of the chief administrative officer of the facility in which the person has previously been detained.

Credits under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum credit available</u>
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<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

The sheriff or other person required to furnish a statement showing the length of detention shall

also furnish a statement showing the number of days credited pursuant to this paragraph.

Detention awaiting trial, during trial, post-trial awaiting sentencing or post-sentencing prior to the date on which a sentence commences to run is not punishment.

Sec. A-16. 17-A MRSA §1253, sub-§6-A, as amended by PL 1995, c. 433, §2, is further amended to read:

6-A. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the person for the same offense, day-for-day credit must be accorded on the new sentence both for each day the person served in execution of the initial sentence and for all previously earned deductions specified in subsections 4, 5 ~~and~~ 8, 9 and 10 and Title 30-A, section 1606. Prior to the day-for-day credit being given on the new sentence, the new sentence must, after first having been reduced by any deductions specified in subsection 2 previously or subsequently received, have applied to it the controlling deduction specified in either subsection 3 or 3-B, if applicable.

Sec. A-17. 17-A MRSA §1253, sub-§7, as repealed and replaced by PL 1995, c. 433, §3, is amended to read:

7. Notwithstanding the fact that subsections 3, 3-B and 4 directly address only persons who are committed to the custody of the Department of Corrections, they apply also to persons who are committed to the custody of a sheriff. Subsection 5 ~~does~~ and subsection 10, paragraph B do not apply to persons who are committed to the custody of a sheriff.

Sec. A-18. 17-A MRSA §1253, sub-§§9 to 13 are enacted to read:

9. Time may be deducted from a term of imprisonment as a result of conduct in accordance with this subsection.

A. For a person who commits a crime, except for a crime set forth in subparagraphs (1) to (6), on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime, up to 4 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's conduct during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail. Deductions under this

paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 7 days</u>	<u>up to 1</u>
<u>8 to 15 days</u>	<u>up to 2</u>
<u>16 to 23 days</u>	<u>up to 3</u>
<u>24 to 31 days</u>	<u>up to 4</u>

B. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence.

C. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph B if the person's later conduct is such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff.

10. Time may be deducted from a term of imprisonment as a result of fulfillment of assigned responsibilities in accordance with this subsection.

A. In addition to the days of deduction provided for in subsection 9, paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6) on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime, up to 3 days per calendar month may be deducted from that

term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 10 days</u>	<u>up to 1</u>
<u>11 to 20 days</u>	<u>up to 2</u>
<u>21 to 31 days</u>	<u>up to 3</u>

B. In addition to the days of deduction provided for in paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6), on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime to a state facility, up to 2 days per calendar month may also be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for community work, education or rehabilitation programs during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;

(4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);

(5) A crime under chapter 12; or

(6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

C. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence.

D. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph C if the person's later conduct and fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff.

11. As used in this section, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.

12. Subsections 9 and 10 supersede subsections 3, 3-B, 4, 5, 6 and 8 for a person who commits a crime other than murder and for a person who commits a crime under chapter 11 or 12; under section 556; under section 854, excluding subsection 1, paragraph A, subparagraph (1); or against a family or household member under chapter 9 or 13, section 506-B, 554, 555 or 758, on or after August 1, 2004.

13. If a court imposes a sentencing alternative pursuant to section 1152 that includes a term of imprisonment, in setting the appropriate length of that term, as well as an unsuspended portion of that term, if any, the court may not consider the potential impact of

deductions under subsections 2, 3, 3-B, 4, 5, 8, 9 and 10 except in the context of a plea agreement in which both parties are recommending to the court a particular disposition under the Maine Rules of Criminal Procedure, Rule 11-A.

Sec. A-19. 17-A MRSA cc. 54-F and 54-G are enacted to read:

CHAPTER 54-F

DEFERRED DISPOSITION

§1348. Eligibility for deferred disposition

A person who has pled guilty to a Class C, Class D or Class E crime, except a crime expressly providing that one or more punishment alternatives it authorizes may not be suspended, and who consents to a deferred disposition in writing, is eligible for a deferred disposition.

§1348-A. Deferred disposition

1. Following the acceptance of a plea of guilty for a crime for which a person is eligible for a deferred disposition under section 1348, the court may order sentencing deferred to a date certain or determinable and impose requirements upon the person, to be in effect during the period of deferment, considered by the court to be reasonable and appropriate to assist the person to lead a law-abiding life. The court-imposed deferment requirements must include a requirement that the person refrain from criminal conduct. In exchange for the deferred sentencing, the person shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the requirements are immediately in effect.

2. During the period of deferment and upon application of the person granted deferred disposition pursuant to subsection 1 or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or relieve the person of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the person.

§1348-B. Court hearing as to final disposition

1. Unless a court hearing is sooner held under subsection 2, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1348-A shall return to court for a hearing on final disposition. If the court finds that the person has complied with the court-imposed deferment requirements, the court shall impose a sentence of unconditional discharge under section 1346, unless the attorney for the State, prior to

sentence imposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the defendant, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the court finds by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

3. A hearing under this section or section 1348-A must be held in the court that ordered the deferred disposition. The hearing need not be conducted by the justice or judge who originally ordered the deferred disposition.

4. The person at a hearing under this section or section 1348-A must be afforded the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person who was granted deferred disposition pursuant to section 1348-A can not afford counsel, the court shall appoint counsel for the person. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Criminal Procedure.

5. A summons must be used to order a person who was granted deferred disposition pursuant to section 1348-A to appear for a hearing under this section. If the person can be located and served with a summons, the attorney for the State may not commence a hearing under this section by having the person arrested, except that a person who fails to appear as required may be arrested pursuant to a bench warrant or an order of arrest.

6. If a person who was granted deferred disposition pursuant to section 1348-A can not, with due diligence, be located, the attorney for the State shall file a written notice of this fact with the court that ordered the deferred disposition. If the hearing is for a final disposition at the conclusion of the period of deferment, and the person fails to appear at that hearing, the person may be arrested pursuant to a bench warrant or an order of arrest. If the hearing is to determine whether the person has inexcusably failed to comply with a court-imposed deferment requirement, the attorney for the State shall apply for a warrant of arrest in accordance with Rule 41 of the Maine Rules of Criminal Procedure.

§1348-C. Limited review by appeal

A person is precluded from seeking to attack the legality of a deferred disposition, including a final disposition, except that a person who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has been sentenced to an alternative authorized for the crime may appeal to the Law Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

CHAPTER 54-G

ADMINISTRATIVE RELEASE

§1349. Eligibility for sentence alternative that includes period of administrative release

A person who has been convicted of a Class D or Class E crime may be sentenced to a sentence alternative under section 1152 that includes a period of administrative release, unless:

A. The statute that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized therein;

B. The court sentences the person to a sentencing alternative under section 1152 that includes a period of probation; or

C. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted.

§1349-A. Period of administrative release

1. A person who has been convicted of a Class D or Class E crime may be placed on administrative release for a period not to exceed one year.

2. During the period of administrative release and upon application of a person placed on administrative release or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or release the person of any requirement imposed by the court that, in the court's opinion, imposes on the person an unreasonable burden.

3. On application of the attorney for the State or of the person placed on administrative release or on the court's own motion, the court may terminate a period of administrative release and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsection 1 if warranted by the conduct of such person. The court may not order a termination of the period of administrative release and discharge upon the motion of the person placed on administrative release unless notice of the motion is given to the attorney for the State by the person placed on administrative release. The termination of the period of administrative release and discharge relieves the person placed on administrative release of any obligations imposed by the sentence of administrative release.

4. A justice, in order to comply with section 1256, subsection 8, may terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment. A judge may terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment if that judge has jurisdiction over each of the sentences involved.

§1349-B. Suspended sentence with administrative release

1. The court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for the Class D or Class E crime, suspend the entire term of imprisonment and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

2. The court may sentence a person to a fine, not to exceed the maximum fine authorized for the Class D or Class E crime, suspend the fine in whole or in part and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

3. A sentence imposed under subsection 1 or subsection 2 commences on the date the person goes into actual execution of the sentence.

§1349-C. Requirements of administrative release

1. If the court imposes a suspended sentence with administrative release under section 1349-B, the court shall attach requirements of administrative release, as authorized by this section, as the court determines to be reasonable and appropriate to help ensure accountability and rehabilitation of the person. The court-imposed requirements of administrative release must include a requirement that the convicted person refrain from criminal conduct.

2. In addition to a requirement that the convicted person refrain from criminal conduct and a requirement that the convicted person pay all assessments, surcharges, fees and costs required by law, the court in its sentence may require the convicted person:

A. To pay any fine imposed by the court as part of the sentence;

B. To make any restitution to each victim of the crime imposed by the court;

C. To perform any community service work imposed by the court as part of the sentence; or

D. To satisfy any other requirement reasonably related to helping ensure the accountability and rehabilitation of the person.

3. The convicted person must be given an opportunity to address the court on the requirements that are proposed to be attached and must, after the sentencing, be given a written statement setting forth the specific requirements on which the person is being administratively released.

§1349-D. Commencement of administrative release revocation proceeding

1. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may file a motion with the court seeking to revoke administrative release and cause a summons to be delivered to the person placed on administrative release ordering that person to appear for a court hearing on the alleged violation. The motion must set forth the facts underlying the alleged violation. The summons must be in the same form as a summons under section 1205-B, subsection 2 except that the summons must include the signature of a law enforcement officer other than a probation officer.

2. A person placed on administrative release appearing on a motion to revoke administrative release pursuant to a summons must be afforded an initial appearance as provided in section 1205-C, subsection 4.

3. If the person placed on administrative release fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest of the person, the court shall afford the person a preliminary hearing as provided in section 1205, subsection 4, and, if retained in custody, section 1205-C, subsection 3 applies.

4. If the person placed on administrative release can be located and served a summons, the attorney for the State may not commence the administrative release proceeding by having the person arrested. However, if the person can not, with due diligence, be located, the attorney for the State shall file a written notice of this fact with the court and obtain a warrant of arrest under Rule 41 of the Maine Rules of Criminal Procedure. Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within 14 days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in section 1205-C, subsections 5 and 6.

§1349-E. Court hearing on administrative release revocation

The hearing on a motion to revoke administrative release is as provided under section 1206, except that subsections 7-B and 9 do not apply.

§1349-F. Review

Review of a revocation of administrative release pursuant to section 1349-E must be by appeal. The appeal is as provided under section 1207.

Sec. A-20. 34-A MRSA §1210-A, sub-§5, as enacted by PL 1997, c. 753, §2, is repealed and the following enacted in its place:

5. Community corrections program account. Each county treasurer shall place 20% of the funds received from the department pursuant to this section into a separate community corrections program account. A county may use funds placed in this account only for adult or juvenile community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the department shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of

its distribution from the County Jail Prisoner Support and Community Corrections Fund. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

Sec. A-21. 34-A MRSA §3036-A, sub-§2, ¶C, as enacted by PL 1991, c. 845, §4, is amended to read:

C. A Except as provided in paragraph C-1, a prisoner may not be transferred to supervised community confinement unless the prisoner has no more than one year remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

Sec. A-22. 34-A MRSA §3036-A, sub-§2, ¶C-1 is enacted to read:

C-1. If the commissioner determines that the average statewide probation case load is no more than 90 probationers to one probation officer, then a prisoner may be transferred to supervised community confinement if that prisoner has no more than 2 years remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

Sec. A-23. Addressing mental illness in prisons and jails. No later than July 1, 2004, the Department of Corrections and the Department of Behavioral and Developmental Services shall develop a joint plan of action to address mental illness in the criminal justice community. In developing the plan the departments shall invite the Maine Sheriffs' Association to participate. The plan will be delivered to the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners. No later than January 1, 2005, the Department of Corrections and the Department of Behavioral and Developmental Services shall present the plan to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Sec. A-24. Review of probation case load. No later than July 1, 2004, the Department of Corrections, Adult Community Services Division shall direct each probation officer to review that officer's own case load to identify and proceed with those cases appro-

priate for early termination. An application for early termination must include the reasons for recommending early termination. The victim and the prosecuting attorney must be notified of the filing of the application. Judges and prosecutors are urged to give deference to these applications. The department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by February 1, 2005 on the numbers of applications for early termination that were filed, the number of cases that were reviewed by the court and the number of cases terminated from July 1, 2004 to December 31, 2004.

Sec. A-25. Review and report regarding deferred disposition and administrative release. By February 1, 2005, the Office of Substance Abuse, within the Department of Behavioral and Developmental Services or a successor agency, and the Department of Public Safety, in consultation with the district attorneys, shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding matters associated with the implementation of this Part. This report is preliminary and may be presented orally or in writing at a time scheduled by the committee and must be prepared within available existing resources. The Legislature requests that by September 30, 2005 the courts, in consultation with the district attorneys, report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters:

1. How often the sentencing alternatives of deferred disposition and administrative release were used and an assessment of the effectiveness of these alternatives in ensuring the accountability and rehabilitation of offenders, as well as any impact on recidivism rates;
2. The impact of the use of deferred disposition and administrative release on the resources of the courts;
3. The impact of the use of deferred disposition and administrative release on the resources of the district attorneys; and
4. Any recommendations regarding how to improve the procedures for imposing and enforcing the sentencing alternatives of deferred disposition and administrative release.

PART B

Sec. B-1. 17 MRSA c. 93-B, as amended, is repealed.

Sec. B-2. 17-A MRSA §253, sub-§1, as amended by PL 2001, c. 383, §14 and affected by §156, is further amended to read:

1. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime; or

B. The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or

C. The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

Sec. B-3. 17-A MRSA §255-A, sub-§1, ¶¶E-1 and F-1 are enacted to read:

E-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class B crime;

F-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class A crime;

Sec. B-4. 17-A MRSA §256, as enacted by PL 1995, c. 72, §1, is repealed and the following enacted in its place:

§256. Visual sexual aggression against child

1. A person is guilty of visual sexual aggression against a child if:

A. For the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age. Violation of this paragraph is a Class D crime; or

B. For the purpose of arousing or gratifying sexual desire, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class C crime.

Sec. B-5. 17-A MRSA §258, sub-§1, as enacted by PL 1997, c. 143, §1, is amended to read:

1. A person is guilty of sexual misconduct with a child under 14 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained the age of 14 years, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class D crime.

Sec. B-6. 17-A MRSA §258, sub-§1-A is enacted to read:

1-A. A person is guilty of sexual misconduct with a child under 12 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained 12 years of age, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class C crime.

Sec. B-7. 17-A MRSA §258, sub-§2, as enacted by PL 1997, c. 143, §1, is amended to read:

2. As used in this section, "sexually explicit materials" means any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material that the person knows or should know depicts a person, minor or adult, engaging in sexually explicit conduct, as that term is defined in ~~Title 17, section 2921, subsection 5~~ 281.

Sec. B-8. 17-A MRSA §258, sub-§3, as enacted by PL 1997, c. 143, §1, is repealed.

Sec. B-9. 17-A MRSA §259, sub-§1-A, as enacted by PL 2001, c. 383, §25 and affected by §156, is amended to read:

1-A. A person is guilty of soliciting a child by a computer to commit a prohibited act if:

A. The actor:

- (1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;
- (2) Is at least 16 years of age;
- (3) Knows or believes that the other person is less than 14 years of age; and
- (4) Is at least 3 years older than the expressed age of the other person; and

B. The actor has the intent to engage in any one of the following prohibited acts with the other person:

(1) ~~A sexual act as defined in section 251, subsection 1, paragraph C;~~

(2) ~~Sexual contact as defined in section 251, subsection 1, paragraph D; or~~

(3) ~~Sexual exploitation of a minor pursuant to Title 17, section 2922 282.~~

Violation of this subsection is a Class D crime.

Sec. B-10. 17-A MRSA §259, sub-§1-B is enacted to read:

1-B. A person is guilty of soliciting a child by a computer to commit a prohibited act if:

A. The actor:

(1) Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with the actor;

(2) Is at least 16 years of age;

(3) Knows or believes that the other person is less than 12 years of age; and

(4) Is at least 3 years older than the expressed age of the other person; and

B. The actor has the intent to engage in any one of the following prohibited acts with the other person:

(1) A sexual act;

(2) Sexual contact; or

(3) Sexual exploitation of a minor pursuant to section 282.

Violation of this subsection is a Class C crime.

Sec. B-11. 17-A MRSA §259, sub-§3, as enacted by PL 1999, c. 349, §3, is repealed.

Sec. B-12. 17-A MRSA c. 12 is enacted to read:

CHAPTER 12

SEXUAL EXPLOITATION OF MINORS

§281. Definitions

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

1. "Disseminate" means to manufacture, publish, send, promulgate, distribute, exhibit, issue, furnish,

sell or transfer or to offer or agree to do any of these acts.

2. "Minor" means a person who has not attained 18 years of age.

3. "Photograph" means to make, capture, generate or save a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.

4. "Sexually explicit conduct" means any of the following acts:

A. A sexual act;

B. Bestiality;

C. Masturbation;

D. Sadomasochistic abuse for the purpose of sexual stimulation;

E. Lewd exhibition of the genitals, anus or pubic area of a person. An exhibition is considered lewd if the exhibition is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; or

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area.

§282. Sexual exploitation of minor

1. A person is guilty of sexual exploitation of a minor if:

A. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct. Violation of this paragraph is a Class B crime;

B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class A crime;

C. The person violates paragraph A and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime;

D. Being a parent, legal guardian or other person having care or custody of another person who is in fact a minor, that person knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the

conduct will be photographed. Violation of this paragraph is a Class B crime;

E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions for violating this section. Violation of this paragraph is a Class A crime; or

F. The person violates paragraph D and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

2. The following mandatory minimum terms of imprisonment apply to sexual exploitation of a minor.

A. A court shall impose upon a person convicted under subsection 1, paragraph A or D a sentencing alternative involving a term of imprisonment of at least 5 years.

B. A court shall impose upon a person convicted under subsection 1, paragraph B or E a sentencing alternative involving a term of imprisonment of at least 10 years.

The court may not suspend a minimum term of imprisonment imposed under this section unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if the court is of the opinion that the exceptional features of the case justify the imposition of another sentence. Section 9-A governs the use of prior convictions when determining a sentence.

§283. Dissemination of sexually explicit material

1. A person is guilty of dissemination of sexually explicit material if:

A. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who the person knows or has reason to know is a minor engaging in sexually explicit conduct. Violation of this paragraph is a Class C crime;

B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class B crime;

C. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative,

slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who is less than 12 years of age who the person knows or has reason to know is a minor less than 12 years of age engaging in sexually explicit conduct. Violation of this paragraph is a Class B crime; or

D. The person violates paragraph C and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class A crime.

Section 9-A governs the use of prior convictions when determining a sentence.

2. For the purposes of this section, possession of 10 or more copies of any of the materials as described in subsection 1 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person possesses those items with intent to disseminate.

§284. Possession of sexually explicit material

1. A person is guilty of possession of sexually explicit material if that person:

A. Intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 14 years of age; or

(2) The person knows or has reason to know that the other person has not attained 14 years of age;

Violation of this paragraph is a Class D crime;

B. Violates paragraph A and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class C crime;

C. Intentionally or knowingly transports, exhibits, purchases or possesses any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 12 years of age; or

(2) The person knows or has reason to know that the other person has not attained 12 years of age.

Violation of this paragraph is a Class C crime; or

D. Violates paragraph C and, at the time of the offense, has one or more prior convictions for violating this section. Violation of this paragraph is a Class B crime.

Section 9-A governs the use of prior convictions when determining a sentence.

2. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.

3. The age of the person depicted may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age of the person depicted.

4. Any material that depicts a person who has not attained 14 years of age engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.

§285. Forfeiture of equipment used to facilitate violations

1. Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an attorney for the State may, in writing, move the court for an order requiring the forfeiture to the State of any equipment, including computers, that may have facilitated the commission of the offense. Notice of the motion must be made by the State to the defendant and any party of interest; this notice must be done by registered mail.

2. If contesting the forfeiture, the defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding must be before the court.

3. At the jury trial or court hearing, the State has the burden of proving to the fact finder by a preponderance of the evidence that the equipment was used in violation of this chapter.

4. Upon a finding by a preponderance of the evidence that the equipment was used to facilitate the commission of a violation of this chapter, the court shall order the equipment forfeited and may, upon the written recommendation of the attorney for the State, provide in its order for the disposition or use of the equipment by any state, county or municipal law enforcement agency that made a substantial contribu-

tion to the investigation or prosecution of the case. Any equipment forfeited that is not transferred to an investigating or prosecuting agency must be sold and the proceeds deposited in the General Fund.

5. The Attorney General may adopt by rule guidelines regulating the disposition and use of property forfeited or sought for forfeiture under this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-13. 17-A MRSA §1152, sub-§2-C, as amended by PL 2001, c. 439, Pt. 000, §2, is further amended to read:

2-C. ~~As part of~~ At the time the court imposes a sentence, the court shall order every natural person who is a convicted sex offender or sexually violent predator, of a sex offense or a sexually violent offense as defined under Title 34-A, section 11203 to satisfy all requirements set forth in the Sex Offender Registration and Notification Act of 1999.

Sec. B-14. 17-A MRSA §1202, sub-§1-A, ¶A, as enacted by PL 1999, c. 788, §2, is repealed and the following enacted in its place:

A. If the State pleads and proves that at the time of the crime the victim had not attained 12 years of age, the period of probation for a person convicted under chapter 11 or 12 may not exceed:

- (1) Eighteen years for a Class A crime;
- (2) Twelve years for a Class B crime; and
- (3) Six years for a Class C crime;

Sec. B-15. 17-A MRSA §1202, sub-§1-A, ¶B, as enacted by PL 1999, c. 788, §2, is amended to read:

B. The period of probation for a person sentenced as a ~~dangerous repeat~~ sexual assault offender pursuant to section 1252, subsection 4-B is any term of years; and

Sec. B-16. 17-A MRSA §1202, sub-§1-A, ¶C is enacted to read:

C. In the case of a crime of gross sexual assault, if the State pleads and proves that at the time of the crime the victim had not attained 12 years of age and that the defendant has previously been convicted and sentenced for committing gross sexual assault, rape or gross sexual misconduct against a victim who had not attained 12 years of age, the period of probation may be life or any term of years. In addition to any conditions imposed under section 1204, the court shall attach as a condition of probation that the convicted

person participate in counseling or treatment to the satisfaction of the probation officer.

Sec. B-17. 17-A MRSA §1203, sub-§1-A, ¶B, as enacted by PL 1999, c. 788, §4, is amended to read:

B. The court may revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a ~~dangerous~~ repeat sexual assault offender, pursuant to section 1252, subsection 4-B, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections.

Sec. B-18. 17-A MRSA §1231, sub-§2, ¶A, as enacted by PL 1999, c. 788, §7, is amended to read:

A. Any period of years for a person sentenced as a ~~dangerous~~ repeat sexual assault offender pursuant to section 1252, subsection 4-B; and

Sec. B-19. 17-A MRSA §1252, sub-§4-B, as enacted by PL 1999, c. 788, §8, is amended to read:

4-B. If the State pleads and proves that the defendant is a ~~dangerous~~ repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "~~dangerous~~ repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of the United States or any other state.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in other jurisdictions is satisfied if the sentencing

court at the time of sentence imposition makes such a finding.

Sec. B-20. 17-A MRSA §1252, sub-§§4-C and 4-D are enacted to read:

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 253, subsection 1, paragraph C or under section 282, subsection 1, paragraph C or F was committed against a person who had not attained 12 years of age at the time of the offense, the age of the victim must be given serious consideration by the court in exercising its sentencing discretion.

PART C

Sec. C-1. 19-A MRSA §1653, sub-§6-A, ¶A, as enacted by PL 2001, c. 665, §4, is amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

- (1) Sexual exploitation of a minor, under Title ~~17~~ 17-A, section ~~2922~~ 282;
- (2) Gross sexual assault, under Title 17-A, section 253;
- (3) Sexual abuse of a minor, under Title 17-A, section 254;
- (4) Unlawful sexual contact, under former Title 17-A, section 255;
- (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258; or
- (7) An offense in another jurisdiction, including, but not limited to, that of a state, federal, military or tribal court, that includes the essential elements of an offense listed in subparagraph (1), (2), (3), (4), (5) or (6).

Sec. C-2. 30-A MRSA §288, last ¶, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

Therefore district attorneys, their assistants and employees and other law enforcement officials shall refrain from any unnecessary pretrial public disclosure of information that may identify a minor victim of an offense under ~~Title 17, chapter 93-B~~, Title 17-A, chapter 11 or 12 or Title 17-A, section 556.

Sec. C-3. 30-A MRSA §289, first ¶, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

Unless a written agreement exists between a law enforcement agency and a district attorney concerning primary responsibility for investigating any of the following offenses, the district attorney may direct the investigation of any offense under ~~Title 17, chapter 93-B~~, and Title 17-A, chapter 11 or 12, or Title 17-A, sections 207, 208 and 556, when a victim may not have attained ~~his~~ the victim's 18th birthday, and may designate, by geographical boundaries or otherwise, a particular law enforcement agency to have primary responsibility for that investigation.

Sec. C-4. 34-A MRSA §11201, as amended by PL 2001, c. 439, Pt. OOO, §6, is further amended to read:

§11201. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999." The purpose of this chapter is to protect the public from potentially dangerous ~~sex offenders and sexually violent predators~~ registrants by enhancing access to information concerning ~~sex offenders and sexually violent predators~~ those registrants.

Sec. C-5. 34-A MRSA §11202, as amended by PL 2001, c. 439, Pt. OOO, §7, is repealed and the following enacted in its place:

§11202. Application

This chapter applies to a person defined as a 10-year registrant or lifetime registrant who has been sentenced on or after June 30, 1992.

Sec. C-6. 34-A MRSA §11203, sub-§§1-A and 1-B, as enacted by PL 2001, c. 439, Pt. OOO, §8, are amended to read:

1-A. Conditional release. "Conditional release" means supervised release of a ~~sex offender or sexually violent predator~~ registrant from institutional confinement for placement on probation, parole, intensive

supervision, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 50.

1-B. Discharge. "Discharge" means unconditional release and discharge of a ~~sex offender or sexually violent predator~~ registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

Sec. C-7. 34-A MRSA §11203, sub-§§1-C and 3-A are enacted to read:

1-C. Another state. "Another state" means each of the several states except Maine, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

3-A. Jurisdiction. "Jurisdiction" means the Federal Government, including the military, this State or another state or tribe.

Sec. C-8. 34-A MRSA §11203, sub-§2, as enacted by PL 1999, c. 437, §2, is repealed and the following enacted in its place:

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

Sec. C-9. 34-A MRSA §11203, sub-§4, as enacted by PL 1999, c. 437, §2, is amended to read:

4. Law enforcement agency having jurisdiction. "Law enforcement agency having jurisdiction" means the chief of police in the municipality where a ~~sex offender~~ registrant 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 ~~were~~ where the municipality is located. "Law enforcement agency having jurisdiction" also means the sheriff of the county in an unorganized territory.

Sec. C-10. 34-A MRSA §11203, sub-§4-A, as enacted by PL 2001, c. 439, Pt. OOO, §8, is amended to read:

4-A. Risk assessment instrument. "Risk assessment instrument" means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a ~~sex offender or sexually violent predator~~ registrant, living conditions and environment of a ~~sex offender or sexually violent predator~~ registrant and other factors predisposing a person to become a ~~sex offender, repeat sex offender or sexually violent predator~~ registrant, for

the ongoing purpose of identifying risk factors used to provide notification of a ~~sex offender's or sexually violent predator's~~ registrant's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public.

Sec. C-11. 34-A MRSA §11203, sub-§§ 4-C and 4-D are enacted to read:

4-C. Registrant. "Registrant" means a 10-year registrant or a lifetime registrant or, when appropriate, both a 10-year registrant and a lifetime registrant.

4-D. Residence. "Residence" means that place or those places, other than a domicile, in which a person may spend time living, residing or dwelling.

Sec. C-12. 34-A MRSA §11203, sub-§5, as amended by PL 2003, c. 371, §1, is further amended to read:

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

Sec. C-13. 34-A MRSA §11203, sub-§6, ¶B, as amended by PL 2001, c. 383, §153 and affected by §156 and amended by c. 439, Pt. OOO, §9, is repealed and the following enacted in its place:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, unless the actor is a parent of the victim; Title 17-A, section 302, unless the actor is a parent of the victim; 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

Sec. C-14. 34-A MRSA §11203, sub-§7, ¶A, as amended by PL 2001, c. 553, §3 and affected by §10, is repealed and the following enacted in its place:

A. A conviction for one of the offenses or for an attempt to commit one of the offenses under former Title 17-A, section 252; under Title 17-A,

section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section 255, subsection 1, paragraph B or D, if the crime was elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph D, E, E-1, F, F-1, H, O or P; or

Sec. C-15. 34-A MRSA §11203, sub-§8, as amended by PL 2003, c. 371, §3, is further amended to read:

8. Lifetime registrant. "~~Sexually violent predator~~ Lifetime registrant" 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. C-16. 34-A MRSA §11203, sub-§9 is enacted to read:

9. Tribe. "Tribe" means the Passamaquoddy Tribe or the Penobscot Nation.

Sec. C-17. 34-A MRSA §11221, sub-§1, ¶¶A and F, as enacted by PL 1999, c. 437, §2, are amended to read:

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

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

Sec. C-18. 34-A MRSA §11221, sub-§2, as enacted by PL 1999, c. 437, §2, is amended to read:

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~~ registrants for the purpose of sharing information.

Sec. C-19. 34-A MRSA §11221, sub-§6, as repealed and replaced by PL 2003, c. 371, §6, is amended to read:

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 or sexually violent predator's~~ registrant's domicile, place of employment and college or school being attended.

Sec. C-20. 34-A MRSA §11221, sub-§§9 and 10, as enacted by PL 2003, c. 371, §7, are amended to read:

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~~ registrant:

- (1) The ~~sex offender's or sexually violent predator's~~ registrant's name, date of birth and photograph;
- (2) The ~~sex offender's or sexually violent predator's~~ registrant's city or town of domicile and residence;
- (3) The ~~sex offender's or sexually violent predator's~~ registrant'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~~ registrant was convicted.

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

- (1) The ~~sex offender's or sexually violent predator's~~ registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and home address or domicile and residence;
- (2) The ~~sex offender's or sexually violent predator's~~ registrant'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~~ registrant was convicted, the date of conviction and the sentence imposed; and

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

10. Registrant 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~~ registrant who requests that person's own information.

Sec. C-21. 34-A MRSA §11222, as amended by PL 2003, c. 371, §§8 to 10, is further amended to read:

§11222. Duty of registrant

1. Determination by court. The court shall determine at the time of sentencing if a defendant is a ~~sex offender 10-year registrant or a sexually violent predator lifetime registrant~~. A person who the court determines is a ~~sex offender 10-year registrant or a sexually violent predator lifetime registrant~~ shall register according to this subchapter.

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~~ registrant shall register as follows.

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

1-B. Duty to notify law enforcement agency. A registrant who has a duty to register pursuant to this subchapter shall notify the law enforcement agency having jurisdiction in those areas where the registrant resides, works or attends school within 24 hours of becoming a resident or beginning work or attending school. If the location is a municipality with an organized municipal police department, the law

enforcement agency having jurisdiction is the municipal police department. If the location is a school having an organized police department, the law enforcement agency having jurisdiction is the campus police department. If the location is neither a municipality nor a school with an organized police department, the law enforcement agency having jurisdiction is the sheriff's department.

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~~ registrant required to register under this subchapter shall inform the ~~sex offender or sexually violent predator~~ registrant, prior to discharge or conditional release, of the duty to register. If a ~~sex offender or sexually violent predator~~ registrant does not serve a period of institutional confinement, the court shall inform the ~~sex offender or sexually violent predator~~ registrant 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~~ registrant of the duty to register and obtain the information required for the initial registration;

A-1. Inform the registrant of the requirement to notify the law enforcement agency having jurisdiction pursuant to subsection 1-B;

B. Inform the ~~sex offender or sexually violent predator~~ registrant that if the ~~sex offender or sexually violent predator~~ registrant changes domicile or changes residence, place of employment or college or school being attended, the ~~sex offender or sexually violent predator~~ registrant shall give the new address to the bureau in writing within ~~40 days~~ 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours;

C. Inform the ~~sex offender or sexually violent predator~~ registrant that if that ~~sex offender or sexually violent predator~~ registrant changes domicile to another state, the ~~sex offender or sexually violent predator~~ registrant shall register the new address with the bureau and if the new state has a registration requirement, the ~~sex offender or sexually violent predator~~ registrant shall register with a designated law enforcement agency in the new state not later than ~~40~~ 5 days after establishing domicile in the new state;

D. Inform the ~~sex offender or sexually violent predator~~ registrant that if that ~~sex offender or sexually violent predator~~ registrant has part-time or full-time employment in another state, with or without compensation, for more than 14 con-

secutive days or for an aggregate period exceeding 30 days in a calendar year or if that ~~sex offender or sexually violent predator~~ registrant enrolls in any type of school in another state on a part-time or full-time basis, the ~~sex offender or sexually violent predator~~ registrant shall give the bureau the registrant's place of employment or school to be attended in writing within ~~40~~ 5 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~~ registrant or the court may order the ~~sex offender or sexually violent predator~~ registrant 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~~ registrant read and sign a form provided by the bureau that states that the duty of the ~~sex offender or sexually violent predator~~ registrant to register under this section has been explained.

2-A. Duty of registrant sentenced from June 30, 1992 to September 17, 1999 to register. Notwithstanding subsection 1 and except as provided in subsection 2-B, a person coming within the definition of a 10-year registrant or lifetime registrant 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~~ 10-year registrant or as ~~a sexually violent predator~~ lifetime registrant, 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 ~~40~~ 5 days of notice.

2-B. Duty to register for new crimes. For a person otherwise subject to subsection 2-A who has been sentenced for a crime added by an amendment to the definition of sex offense or sexually violent offense in section 11203 since September 1, 2002, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, that person shall register as a 10-year registrant or a lifetime registrant, whichever is applicable, with the bureau by June 1, 2005, 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 5 days of notice.

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~~ registrant 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~~ registrant 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~~ registrant is required to register, the bureau shall verify a ~~sex offender's or sexually violent predator's~~ registrant's domicile. The bureau shall verify the domicile of a ~~sex offender 10-year registrant~~ on each anniversary of the ~~sex offender's 10-year registrant's~~ initial registration date and shall verify a ~~sexually violent predator's lifetime registrant's~~ domicile every 90 days after that ~~sexually violent predator's lifetime registrant's~~ initial registration date. Verification of the domicile of a ~~sex offender 10-year registrant or sexually violent predator lifetime registrant~~ 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~~ verification form to the last reported mailing address of the ~~sex offender or sexually violent predator~~ registrant.

B. The verification form must state that the ~~sex offender or sexually violent predator~~ registrant still resides at the address last reported to the bureau.

C. The ~~sex offender or sexually violent predator~~ registrant shall take the completed verification form and a photograph to the law enforcement agency having jurisdiction within ~~10~~ 5 days of receipt of the form.

D. The law enforcement agency having jurisdiction shall verify the ~~sex offender's or sexually violent predator's~~ registrant's identity, have the ~~sex offender or sexually violent predator~~ registrant sign the verification form, take the ~~sex offender's or sexually violent predator's~~ registrant'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, residence, place of employment or college or school being attended. A ~~sex offender or sexually violent predator~~ registrant shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within ~~10~~ 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours after that change changing that domicile, residence, place of employment or college or school being attended.

A. If the ~~sex offender or sexually violent predator~~ registrant establishes a new domicile, residence, 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~~ registrant was formerly domiciled; or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant is currently domiciled, residing, employed or enrolled.

B. If the ~~sex offender or sexually violent predator~~ registrant establishes a domicile, residence, 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~~ registrant was formerly domiciled; or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the ~~sex offender or sexually violent predator~~ registrant is currently domiciled, residing, employed or enrolled.

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.

Sec. C-22. 34-A MRSA §§11223 and 11224, as amended by PL 2003, c. 371, §11, are further amended to read:

§11223. Duty of person establishing domicile to register

A person required under another jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or, if not so required, who is has been convicted and sentenced for an offense that includes the essential elements of a sex offense or sexually violent offense that would require registration in this State shall register as a ~~sex offender 10-year registrant or sexually violent predator lifetime~~

registrant, whichever is applicable, within 40 5 days and shall notify the law enforcement agency having jurisdiction with 24 hours 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 pursuant to that jurisdiction's sex offender registration statute because the person is domiciled in another state or if not so required, who is has been convicted and sentenced for an offense that includes the essential elements of a sex offense or sexually violent offense that would require registration in this State shall register as a sex offender 10-year registrant or sexually violent predator lifetime registrant, whichever is applicable, within 40 5 days and shall notify the law enforcement agency having jurisdiction with 24 hours 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. C-23. 34-A MRSA §11225, as amended by PL 2001, c. 553, §§7 and 8, is further amended to read:

§11225. Duration of registration

1. Ten-year registrant. A sex offender person coming within the definition of a 10-year registrant shall register for a period of 10 years from the initial date of registration pursuant to this chapter, except that a sex offender 10-year registrant required to register because the sex offender that registrant established a domicile in this State subsequent to being declared a sex offender in required to register pursuant to another state or under another jurisdiction jurisdiction's sex offender registration statute for a period of years other than life shall register for a maximum of 10 years from the date when the sex offender that registrant was first required to register in the other state or under another jurisdiction. A sex offender person coming within the

definition of a 10-year registrant who has been sentenced from June 30, 1992 to September 17, 1999 shall register for a period of 10 years, to be calculated as follows.

A. If the sex offender 10-year registrant 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 10-year registrant 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 10-year registrant 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 10-year registrant'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 paragraph A, B or C.

2. Lifetime registrant. A sexually violent predator person coming within the definition of a lifetime registrant who has been sentenced on or after June 30, 1992 shall register for the duration of the sexually violent predator's that registrant's life.

A person who has established a domicile in this State subsequent to being required to register pursuant to another jurisdiction's sex offender registration statute for a lifetime or who is a person coming within the definition of a lifetime registrant shall register for the duration of the registrant's life.

2-A. Periods when domiciled outside Maine. Notwithstanding subsections 1 and 2, during any period in which the 10-year registrant or lifetime registrant leaves the State, establishes a domicile in another state and remains physically absent from the State the bureau may suspend the requirement that a 10-year registrant or lifetime registrant register.

3. Periods of incarceration or civil confinement. Notwithstanding subsections 1 and 2, the bureau may suspend the requirement that a sex offender 10-year registrant or sexually violent predator

lifetime registrant 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~~ 10-year registrant or ~~sexually violent predator~~ lifetime registrant is no longer required.

Sec. C-24. 34-A MRSA §11226, first ¶, as enacted by PL 1999, c. 437, §2, is amended to read:

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

Sec. C-25. 34-A MRSA §11227, sub-§§1, 2, 3 and 6, as enacted by PL 2003, c. 452, Pt. S, §1 and affected by Pt. X, §2, are amended to read:

1. Failure to register or update information. A ~~sex offender or sexually violent predator~~ registrant who fails to register or update the information required under this chapter commits a Class D crime.

2. Failure to register or update information; 2nd offense. A ~~sex offender or sexually violent predator~~ registrant who has one prior conviction for failure to register or update the information required under this chapter commits a Class D crime.

3. Failure to register or update information; 3rd or subsequent offense. A ~~sex offender or sexually violent predator~~ registrant who fails to register or update the information required under this chapter when the ~~sex offender or sexually violent predator~~ registrant has 2 or more prior convictions in this State for violation of this chapter commits a Class C crime.

6. Affirmative defense. It is an affirmative defense that the failure to register or update information resulted from just cause, except that ~~sex offenders or sexually violent predators~~ registrants convicted 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. C-26. 34-A MRSA §11253, as enacted by PL 2001, c. 439, Pt. OOO, §15, is amended to read:

§11253. Risk assessment

The department shall establish and apply a risk assessment instrument to each ~~sex offender and sexually violent predator~~ registrant under its jurisdic-

tion for the purpose of notification to law enforcement agencies and to the public.

Sec. C-27. 34-A MRSA §11254, as amended by PL 2003, c. 371, §13, is further amended to read:

§11254. Mandatory notification of conditional release or discharge of registrants

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~~ registrant 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~~ registrant will be domiciled and reside;

B. The address where the ~~sex offender or sexually violent predator~~ registrant will work and attend college or school, if applicable;

C. The geographic area to which a ~~sex offender's or sexually violent predator's~~ registrant's conditional release is limited, if any; and

D. The status of the ~~sex offender or sexually violent predator~~ registrant when released as determined by the risk assessment instrument, the ~~offender's or predator's~~ registrant's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the ~~offender or predator~~ registrant.

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~~ registrant 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~~ registrant may be domiciled, reside, work or attend college or school.

Sec. C-28. 34-A MRSA §§11255 and 11256, as enacted by PL 2001, c. 439, Pt. OOO, §15, are amended to read:

§11255. Public notification

1. Department. Upon the conditional release or discharge of a ~~sex offender or sexually violent predator~~ registrant from a state correctional institution,

the department shall give notice of the information under section 11254, subsection 1 to members of the public the department determines appropriate to ensure public safety.

2. Law enforcement agencies. Upon receipt of the information concerning the conditional release or discharge of a ~~sex offender or sexually violent predator~~ registrant pursuant to section 11254, subsection 2, a law enforcement agency shall notify members of a municipality that the law enforcement agency determines appropriate to ensure public safety.

§11256. Risk assessment assistance

Upon request, the department shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of notification to the public of a ~~sex offender's or sexually violent predator's~~ registrant's conditional release or discharge.

PART D

Sec. D-1. Research and report regarding potential offenders. The Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the Department of Public Safety, in cooperation with the Child Abuse Action Network and the Maine Coalition Against Sexual Assault, shall:

1. Identify the subpopulation of potential offenders or young persons at risk of offending because they have been sexually abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;
2. Identify the types of prevention and treatment currently known to work with these young persons;
3. Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and
4. Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety matters no later than January 30, 2005.

Sec. D-2. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 34-A apply retroactively to June 30, 1992.

PART E

Sec. E-1. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Departmentwide - Overtime

Initiative: Deappropriates funds as a result of reduced overtime requirements.

General Fund	2003-04	2004-05
Personal Services	\$0	(\$55,040)
	\$0	(\$55,040)
General Fund Total		

CORRECTIONS, DEPARTMENT OF

DEPARTMENT TOTALS	2003-04	2004-05
GENERAL FUND	\$0	(\$55,040)
	\$0	(\$55,040)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$55,040)

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative

Initiative: Provides funds to contract for computer programming services.

General Fund	2003-04	2004-05
All Other	\$0	\$55,040
	\$0	\$55,040
General Fund Total		

JUDICIAL DEPARTMENT DEPARTMENT TOTALS	2003-04	2004-05
GENERAL FUND	\$0	\$55,040
	\$0	\$55,040
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$55,040
SECTION TOTALS	2003-04	2004-05
GENERAL FUND	\$0	\$0
	\$0	\$0
SECTION TOTAL - ALL FUNDS	\$0	\$0

See title page for effective date.

CHAPTER 712

S.P. 761 - L.D. 1924

An Act To Reduce the Cost of Local Government through Increased State Education Funding and Provide Property Tax Relief

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

Sec. 1. 5 MRSA §1677 is enacted to read: