

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

or animal day-care facility for services offered by that facility; and

B. Fails to claim the animal within 10 days after written notice is sent in accordance with subsection 2.

**2. Notice requirement.** Before any animal may be considered abandoned under this section, a veterinarian's office, boarding kennel, animal grooming facility or animal day-care facility shall send written notice, by registered or certified mail, return receipt requested, to the owner or keeper at the owner's or keeper's last known address. Proof of attempted delivery constitutes sufficient notice.

**3. Ownership of abandoned animal.** When an owner or keeper fails to claim an animal within 10 days of a notice being sent under subsection 2, the veterinarian, kennel, facility or individual who has custody and control of the animal is considered the owner of the animal and shall arrange for its care, including, but not limited to, its adoption, sale or placement with a licensed animal shelter.

**4. Financial obligation.** The disposal of an abandoned animal under this section does not relieve the owner or keeper of the animal of any financial obligation, including, but not limited to, costs incurred for veterinary treatment, boarding, grooming or other care.

**5. Penalty.** In addition to the penalties provided in Title 17-A for a Class D crime, the penalties in section 1031, subsection 3-B also apply.

See title page for effective date.

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## CHAPTER 423

H.P. 997 - L.D. 1433

### An Act To Amend the Sex Offender Registration and Notification Act of 1999

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

**Sec. 1. 34-A MRSA §11202,** as repealed and replaced by PL 2003, c. 711, Pt. C, §5 and affected by Pt. D, §2, is repealed and the following enacted in its place:

**§11202. Application**

This chapter applies to:

**1. Maine.** A person sentenced in this State on or after January 1, 1982 for a sex offense or a sexually

violent offense as an adult or as a juvenile sentenced as an adult; and

**2. Other jurisdictions.** A person sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult:

A. At any time of an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there; or

B. On or after January 1, 1982, of an offense that contains the essential elements of a sex offense or sexually violent offense.

**Sec. 2. 34-A MRSA §11203, sub-§1-A,** as amended by PL 2003, c. 711, Pt. C, §6 and affected by Pt. D, §2, is further amended to read:

**1-A. Conditional release.** "Conditional release" means supervised release of a registrant from institutional confinement for placement on probation, parole, intensive supervision, supervised release for sex offenders, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter ~~50~~ 54-G.

**Sec. 3. 34-A MRSA §11203, sub-§4-A,** as amended by PL 2003, c. 711, Pt. C, §10 and affected by Pt. D, §2, is further 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 registrant, living conditions and environment of a registrant and other factors predisposing a person to become a registrant, for the ongoing purpose of identifying risk factors ~~used to provide notification of a registrant's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public.~~

**Sec. 4. 34-A MRSA §11203, sub-§6, ¶A,** as amended by PL 2003, c. 371, §2, is repealed.

**Sec. 5. 34-A MRSA §11203, sub-§6, ¶C,** as enacted by PL 1999, c. 437, §2, is amended to read:

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

**Sec. 6. 34-A MRSA §11203, sub-§7, ¶B,** as amended by PL 2001, c. 553, §4, is further amended to read:

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

**Sec. 7. 34-A MRSA §11203, sub-§8, ¶B,** as amended by PL 2001, c. 439, Pt. OOO, §10, is further amended to read:

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. For purposes of this paragraph, prior conviction means a conviction that occurred at any time. More than one conviction may occur on the same day. Multiple convictions that result from or are connected with the same act or that result from offenses committed at the same time are considered one conviction unless the offenses were committed against more than one victim.

**Sec. 8. 34-A MRSA §11204** is enacted to read:

#### **§11204. Rulemaking**

The bureau may adopt rules necessary to implement this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 9. 34-A MRSA §11221, sub-§1, ¶A,** as amended by PL 2003, c. 711, Pt. C, §17 and affected by Pt. D, §2, is further amended to read:

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

**Sec. 10. 34-A MRSA §11221, sub-§6,** as amended by PL 2003, c. 711, Pt. C, §19 and affected by Pt. D, §2, is further 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 registrant's domicile, residence, place of employment and college or school being attended.

**Sec. 11. 34-A MRSA §11221, sub-§7,** as enacted by PL 1999, c. 437, §2, is repealed.

**Sec. 12. 34-A MRSA §11221, sub-§9, ¶B,** as amended by PL 2003, c. 711, Pt. C, §20 and affected by Pt. D, §2, is further amended to read:

B. Upon receiving a written request that includes the name and date of birth of a registrant, the bureau shall provide the following information concerning a registrant to the requestor:

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

**Sec. 13. 34-A MRSA §11221, sub-§11** is enacted to read:

**11. Maintenance by bureau.** Only the bureau may maintain a sex offender registry on the Internet for purposes of public access as described in subsection 9. Law enforcement agencies may maintain their own sex offender registries for internal use only by those agencies and may provide a link to the bureau's Internet sex offender registry.

**Sec. 14. 34-A MRSA §11222, sub-§1-A, ¶A,** as amended by PL 2003, c. 711, Pt. C, §21 and affected by Pt. D, §2, is further amended to read:

A. If the registrant is sentenced to a wholly suspended sentence with probation or administrative release, 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.

**Sec. 15. 34-A MRSA §11222, sub-§1-B,** as enacted by PL 2003, c. 711, Pt. C, §21 and affected by Pt. D, §2, is amended to read:

**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 is domiciled, resides, works or attends school within 24 hours of becoming a domiciliary or 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.

**Sec. 16. 34-A MRSA §11222, sub-§2-C** is enacted to read:

**2-C. Duty of registrant sentenced from January 1, 1982 to June 29, 1992 to register.** Notwithstanding subsection 1, a person who meets the definition of a 10-year registrant or a lifetime registrant who has been sentenced on or after January 1, 1982 but before June 30, 1992 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or a lifetime registrant, whichever is applicable, with the bureau by October 15, 2005 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 5 days of notice.

**Sec. 17. 34-A MRSA §11222, sub-§§3 and 4**, as amended by PL 2003, c. 711, Pt. C, §21 and affected by Pt. D, §2, are further amended to read:

**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 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~~ agencies having jurisdiction where the registrant expects to be domiciled and reside and transmit the information to the FBI for inclusion in the national FBI sex offender database.

**4. Verification.** During the period a registrant is required to register, the bureau shall ~~verify a registrant's domicile~~ require the registrant to verify registration information including domicile, residence, place of employment and college or school being attended. The bureau shall verify the ~~domicile registration information~~ domicile registration information of a 10-year registrant on each anniversary of the 10-year registrant's initial registration date and shall verify a lifetime registrant's ~~domicile registration information~~ domicile registration information every 90 days after that lifetime registrant's initial registration date. Verification of the ~~domicile registration information~~ domicile registration information of

a 10-year registrant or 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 form to the last reported mailing address of the registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

~~B. The verification form must state that the registrant still resides at the address last reported to the bureau.~~

C. The registrant shall take the completed verification form and a photograph of the registrant to the law enforcement agency having jurisdiction within 5 days of receipt of the form.

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

**Sec. 18. 34-A MRSA §11222, sub-§5, last ¶**, as enacted by PL 1999, c. 437, §2, is repealed.

**Sec. 19. 34-A MRSA §11223**, as amended by PL 2003, c. 711, Pt. C, §22 and affected by Pt. D, §2, is further amended to read:

**§11223. Duty of person establishing domicile or residence 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 has been convicted and sentenced for an offense that includes the essential elements of a sex offense or sexually violent offense sentenced in a jurisdiction other than this State who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in the jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction ~~with~~ within 24 hours of establishing domicile or residence 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 immedi-~~

ately forward the form, photograph and fingerprints to the bureau.

**Sec. 20. 34-A MRSA §11224**, as amended by PL 2003, c. 711, Pt. C, §22 and affected by Pt. D, §2, is repealed and the following enacted in its place:

**§11224. Duty of person employed or attending college or school**

The following provisions govern registration duties for a person not domiciled or residing in this State but who is employed or attending college or school in this State.

**1. Time.** A person who has been sentenced in a jurisdiction other than this State and who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in that jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

A. Within 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 in this State; or

B. Within 24 hours of beginning college or school on a full-time or part-time basis in this State.

**2. Process for notifying bureau.** The person under subsection 1 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. 21. 34-A MRSA §11225**, as amended by PL 2003, c. 711, Pt. C, §23 and affected by Pt. D, §2, is repealed.

**Sec. 22. 34-A MRSA §11225-A** is enacted to read:

**§11225-A. Duration of registration**

**1. Ten-year registrant convicted and sentenced in State.** The following provisions apply to a 10-year registrant convicted and sentenced in this State.

A. A 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 1-A shall register for a period of 10 years. The 10-year period commences from the date the person in fact initially registers once the legal duty arises under section 11222, subsection 1-A.

B. A 10-year registrant sentenced in this State on or after June 30, 1992 whose duty to register must be exercised pursuant to section 11222, subsection 2-A or 2-B or a 10-year registrant sentenced in this State on or after January 1, 1982 whose duty to register must be exercised pursuant to section 11222, subsection 2-C shall register for a period of 10 years. The 10-year period is calculated as follows.

(1) If the 10-year registrant was sentenced to a wholly suspended sentence with probation or administrative release 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.

(2) If the 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.

(3) If the 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.

(4) If the 10-year registrant's duty to register has not yet been triggered, the 10-year period commences upon registration by the person in compliance with section 11222, subsection 1-A, paragraph A, B or C.

**2. Ten-year registrant convicted and sentenced in another jurisdiction.** The following provisions apply to a 10-year registrant convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11223, section 11224 or both.

A. A 10-year registrant shall register in this State for a period of 10 years if, pursuant to the

other jurisdiction's sex offender registration statute, the registration period is for a period of years rather than for a lifetime. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11223, section 11224 or both. However, the 10-year registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statutes prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with any rules adopted by the bureau.

B. A 10-year registrant shall register for a period of 10 years if registration was not required in that other jurisdiction and the person was sentenced on or after January 1, 1982 in that jurisdiction for a crime that includes the essential elements of a sex offense. The 10-year period is calculated by applying subsection 1, paragraph B, subparagraphs (1) to (4) but interpreted and applied to take into account substantially similar sentencing alternatives imposed in the other jurisdiction.

**3. Lifetime registrant convicted and sentenced in this State.** A lifetime registrant sentenced on or after January 1, 1982 in this State shall register for the duration of that registrant's life.

**4. Lifetime registrant convicted and sentenced in another jurisdiction.** The following provisions apply to a lifetime registrant convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11223, section 11224 or both.

A. A person shall register in this State for the duration of that person's life if, pursuant to that other jurisdiction's sex offender registration statute, the registration period is for a lifetime.

B. A person shall register in this State for the duration of that person's life if no registration was required in that other jurisdiction and the person was sentenced on or after January 1, 1982 in that jurisdiction for a crime that includes the essential elements of a sexually violent offense or the person has 2 or more prior convictions in that or any other jurisdiction for an offense or for an attempted offense that includes the essential elements of a sex offense or a sexually violent offense.

**5. Periods when domiciled or residing outside State.** Notwithstanding subsections 1 and 3, during any period in which the 10-year registrant or lifetime registrant leaves this State, establishes a domicile or residence in another state and remains physically

absent from this State, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the 10-year registrant or lifetime registrant verify registration information.

**6. Relief from duty to register.** The following provisions apply to a 10-year registrant's or lifetime registrant's duty to register.

A. A 10-year registrant's duty to register for a period of 10 years pursuant to subsection 2 is not required if the circumstances triggering the registration requirements under section 11223, section 11224 or both no longer exist.

B. A lifetime registrant's duty to register for the duration of that person's life pursuant to subsection 4 is not required if the circumstances triggering the registration requirements under section 11223, section 11224 or both no longer exist.

C. If the underlying conviction in this State or in another jurisdiction that triggers the registration requirement is reversed, vacated or set aside, or if the registrant is pardoned for the crime, registration is no longer required.

**Sec. 23. 34-A MRSA §11227**, as amended by PL 2003, c. 711, Pt. C, §25 and affected by Pt. D, §2, is repealed and the following enacted in its place:

**§11227. Violation**

**1. Failure to comply; first offense.** A person to whom this chapter applies pursuant to section 11202 who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class D crime.

**2. Failure to comply; 2nd offense.** A person who has one prior conviction under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class C crime.

**3. Failure to comply; 3rd offense.** A person who has 2 or more prior convictions under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class B crime.

**4. Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**5. Prior convictions.** Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**6. Affirmative defense.** It is an affirmative defense that the failure to comply with a duty imposed

under this chapter or a rule adopted pursuant to this chapter resulted from just cause, except that a person to whom section 11222, subsection 2-A, 2-B or 2-C applies may not raise a defense under just cause that the person was not aware of the registration requirement.

**Sec. 24. Interim meetings authorized.** The Joint Standing Committee on Criminal Justice and Public Safety is authorized to meet once, in addition to any other authorized meetings, during the 2005 legislative interim to review the criminal sentencing laws for sex offenses and the public safety issues related to the Sex Offender Registration and Notification Act of 1999. At this meeting the committee shall seek information and data from public and private entities as necessary to examine and recommend changes to the current laws governing the sentencing, registration, release and supervision of sex offenders. The committee may submit legislation to the Second Regular Session of the 122nd Legislature regarding the criminal sentencing laws for sex offenses and the public safety issues related to the Sex Offender Registration and Notification Act of 1999.

See title page for effective date.

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## CHAPTER 424

### S.P. 448 - L.D. 1268

#### **An Act To Amend the Law on Junkyards, Automobile Graveyards and Automobile Recycling Businesses**

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

**Sec. 1. 30-A MRSA §3752, sub-§1, ¶A,** as repealed and replaced by PL 2003, c. 312, §3, is amended to read:

A. "Automobile graveyard" does not include:

- (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title

29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not ex-