

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

Initiative: Allocates funds to enhance enforcement of laws prohibiting the misclassification of workers by the Workers' Compensation Board Abuse Investigation Unit by providing a range change from 24 to 27 for 2 Workers' Compensation Specialist positions and reclassifying one Secretary Legal range 13 position to a Paralegal range 20 position.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	\$5,443	\$21,769
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$5,443	\$21,769

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 30, 2010.

CHAPTER 570

H.P. 1305 - L.D. 1822

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

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

Whereas, in order for the Legislature to respond to the Law Court's concerns raised regarding the constitutionality of certain provisions of the Sex Offender Registration and Notification Act of 1999 prior to the March 31, 2010 expiration of the stay of the Law Court's decision in State v. Letalien, this legislation must take effect as expeditiously as possible; and

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

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

Sec. 1. 34-A MRSA §11202-A, as enacted by PL 2009, c. 365, Pt. B, §3 and affected by §22, is amended to read:

§11202-A. Exception

1. Exception. Notwithstanding section 11202, a person ~~sentenced on or after January 1, 1982 and prior to June 30, 1992~~ is not required to register under this

chapter if that person submits to the bureau, in a form to be determined by the bureau, documentation to establish the following:

A. The person was sentenced in the State on or after January 1, 1982 and prior to June 30, 1992 and was finally discharged from the correctional system prior to September 1, 1998 at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in the State on or after June 30, 1992 and prior to September 18, 1999 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in another jurisdiction, was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section and has been in compliance with the registration duties as a resident required under subchapter 2 since September 12, 2009; or the person was sentenced in the State on or after September 18, 1999 and prior to July 30, 2004 for a violation of former Title 17-A, section 252 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section. For purposes of this paragraph, "finally discharged from the correctional system" includes completion of probation;

B. The person's convictions do not include more than one Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense, whether or not the convictions occurred on the same date;

C. At the time of the offense, the person had not been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense;

D. At the time of the offense, the person had not been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense;

E. Subsequent to the ~~commission of conviction~~ for the sex offense or sexually violent offense, the person has not been convicted of a crime under Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more; and

F. Subsequent to the ~~commission of conviction~~ for the sex offense or sexually violent offense, the person has not been convicted under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year. This paragraph does not include a crime under the

laws of another jurisdiction that is classified by the laws of that jurisdiction as a misdemeanor and is punishable by a term of imprisonment of 2 years or less.

2. Duty continues. A person's duty to register continues until the bureau determines that the documentation meets the requirements of this section and any rules adopted by the bureau.

3. Costs. A person who submits documentation under this section is responsible for the costs of any criminal history record checks required.

4. Restoration of registration status. The registration obligation of a person ~~sentenced on or after January 1, 1982 and prior to June 30, 1992~~ that is discharged pursuant to this section is restored by any subsequent conviction for a crime described in subsection 1, paragraph E or F.

5. Appeal. A decision to deny an application for relief under this section is a final agency action, which may be appealed by filing a petition for review pursuant to Title 5, chapter 375, subchapter 7.

6. Subsequent offenses and consideration of prior offense. If application for relief is approved and a duty to register is extinguished under this section, and the person is subsequently sentenced for a new sex offense or sexually violent offense, the prior offense for which the duty to register was extinguished must be counted as a prior offense for the purposes of classifying the person as a lifetime registrant.

Sec. 2. 34-A MRSA §11222, sub-§4, as amended by PL 2005, c. 423, §17, is further amended to read:

4. Verification for persons sentenced on or after September 18, 1999. During the period a registrant sentenced on or after September 18, 1999 is required to register, the bureau shall require the registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the 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 registration information every 90 days after that lifetime registrant's initial registration date. Verification of the 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.

C. The registrant shall take the completed verification form and a current photograph of the regis-

trant 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. 3. 34-A MRSA §11222, sub-§4-A is enacted to read:

4-A. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a 10-year registrant. During the period a 10-year registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the 10-year registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant in writing as provided by the bureau on each anniversary of the 10-year registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 10-year 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 10-year registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The 10-year registrant shall mail to the bureau the completed written verification form and a current photograph on each anniversary of the 10-year registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the 10-year registrant shall take the completed verification form and a current photograph of the 10-year registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the 10-year registrant's initial registration or, if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the 10-year registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction for the

bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the 10-year registrant's identity, have the 10-year 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. 4. 34-A MRSA §11222, sub-§4-B is enacted to read:

4-B. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a lifetime registrant. During the period a lifetime registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the lifetime registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a lifetime registrant in writing as provided by the bureau every 90 days after that lifetime registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 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 lifetime registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The lifetime registrant shall mail to the bureau the completed written verification form and a current photograph every 90 days after that lifetime registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction for the bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the lifetime registrant's identity, have the lifetime registrant sign the verification form, take the lifetime registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

Sec. 5. 34-A MRSA §11225-A, sub-§1, as enacted by PL 2005, c. 423, §22, is amended to read:

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 prior to September 18, 1999 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 prior to September 18, 1999 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 prior to September 18, 1999, 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~~ registrant was sentenced prior to September 18, 1999 and the person'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.

(5) If the 10-year registrant was sentenced on or after September 18, 1999, the 10-year period commences from the date the person in fact initially registers.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 30, 2010.

CHAPTER 571

H.P. 1183 - L.D. 1671

An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

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

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

PART A

Sec. A-1. Appropriations and allocations.

The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: Reduces funding by freezing one vacant part-time Accountant I position until January 1, 2011.

GENERAL FUND	2009-10	2010-11
Personal Services	(\$13,139)	(\$14,350)
All Other	(\$2,900)	(\$2,900)
GENERAL FUND TOTAL	(\$16,039)	(\$17,250)

Bureau of Revenue Services Fund 0885

Initiative: Reduces funding that will not be expended during the 2010-2011 biennium.

BUREAU OF REVENUE SERVICES FUND	2009-10	2010-11
All Other	(\$150,880)	(\$151,720)
BUREAU OF REVENUE SERVICES FUND TOTAL	(\$150,880)	(\$151,720)

Capital Construction/Repairs/Improvements - Administration 0059

Initiative: Reduces funding for repairs in state-owned facilities.

GENERAL FUND	2009-10	2010-11
All Other	(\$21,201)	\$0
GENERAL FUND TOTAL	(\$21,201)	\$0

Debt Service - Government Facilities Authority 0893

Initiative: Deappropriates one-time savings for debt service in fiscal year 2010-11 due to a refunding of bonds by the Maine Government Facilities Authority in accordance with the Maine Revised Statutes, Title 4, section 1610.

GENERAL FUND	2009-10	2010-11
All Other	\$0	(\$651,053)
GENERAL FUND TOTAL	\$0	(\$651,053)

Departments and Agencies - Statewide 0016