

124TH LEGISLATURE – FIRST REGULAR SESSION



SEXUAL ASSAULT LEGISLATION IN REVIEW



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Highlights of Key Legislation

For the Maine Coalition Against Sexual Assault (MECASA), much of the 124th First Regular Session was consumed by working to protect Maine's sexual assault support centers from devastating cuts within the state budget. With the help of our legislative allies, our friends at Mooseridge Associates and the Maine Coalition to End Domestic Violence, we were able to end the session without losing any funding. However, we anticipate we will be facing more of the same in the upcoming session.

The following pages include legislation in which MECASA took an interest. Some were passed into law, one was carried over for consideration next session, and several were not passed. There are a number of bills worth highlighting.

Bills passed included:

L.D. 60 which renamed a bridge in Augusta which was formerly named after priest who committed multiple sexual offenses.

L.D. 385 which defines what kind of residency restrictions may be enacted by a municipality. It limits any residency restrictions to offenders convicted of Class A, B or C sex offenses committed against children under 14 years of age (at the time of the offense). It allows for municipalities to prohibit a residence by a sex offender up to a maximum distance of 750 feet from a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding a municipally owned property where children are the primary users. Recognizing that research shows residency restrictions increase the risk of offenders reoffending, MECASA's goal is to limit residency restrictions in favor of more targeted approaches which help to prevent reoffending. At the request of the legislative committee, MECASA participated in a stakeholder group which produced this compromise language. If municipalities are going to enact residency restrictions, they must be narrowly tailored.

L.D. 483 which, among other things, permits the Department of Corrections to serve protection from harassment and protection from abuse orders on offenders incarcerated in its facilities.

L.D. 632 which expands the kinds of expenses which the Victims' Compensation Board has the authority to reimburse. Two examples are the cost of security deposits and costs to install locks or security devices. It also increases the payment for sexual assault forensic examinations from \$500 to \$750.

L.D. 742 which improved the diversity of the Maine Commission on Domestic and Sexual Abuse through the addition of a tribal seat as well as seats to represent underserved populations.

L.D. 877 which began as a bill to create additional restrictions against people who have committed offenses, like sexual offenses, from working as Certified Nursing Assistants (CNAs). The bill resulted in a resolve which requires a stakeholder group, including MECASA, to come

back to the legislative committee with a more specific proposal about who should be excluded from the CNA registry and for what period of time.

L.D. 1157 which among other things makes it possible for a certain group of sex offenders to apply to be removed from the registry, satisfying some of the concerns expressed by the Maine Supreme Judicial Court, making it more likely that the registry will withstand constitutional scrutiny.

L.D. 1105 which began as a bill to mandate dating violence education in schools and which resulted in a resolve to require further study. MECASA staff will be working with the Department of Education as they undertake this work.

The carryover bill was:

L.D. 568 which will provide the Criminal Justice and Public Safety committee with a vehicle to consider additional changes to the sex offender registry during the next legislative session. MECASA will be tracking this work next session.

Bills not passed included:

L.D. 284 which would have increased the amount of good time available to a prisoner regardless of what crime they were convicted. MECASA opposed this, and other legislation, which would have decreased time served for sex offenders.

L.D. 484 which would have retroactively removed the civil statute of limitations for unlawful sexual contact. MECASA argued for a two year window during which people who have been victims/survivors of a wider range of offenses (more than just unlawful sexual contact) could seek justice. Once again, MECASA's efforts were out outmatched by those of the Catholic Church and the insurance lobby.

The full texts of these laws and bills follow.

Bills Passed

L.D. 60/Resolve 4: An Act to Rename the Father Curran Bridge

Sponsor: Rep. Patsy Crocker

Sec. 1 Calumet Bridge at Old Fort Western. Resolved:

That the Father Curran Bridge in Augusta be renamed the Calumet Bridge at Old Fort Western.

L.D. 385/P.L. Ch. 351: An Act to Ensure Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders

Sponsor: Rep. Anne Haskell

Sec. 1. 30-A MRSA §3013 is enacted to read:

§ 3013. Ordinances regarding residency restrictions for sex offenders

1. Application and scope. The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

2. Residency restriction ordinance. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees.

B. A municipality may prohibit residence by a sex offender up to a maximum distance of

750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users.

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance.

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15.

L.D. 483/P.L. Ch. 94: An Act to Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections

Sponsor: Rep. Anne Haskell

Sec. 1. 5 MRSA §4654, sub-§5, as amended by PL 2003, c. 658, §7, is further amended to read:

5. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency, the court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order, and the law enforcement agency, court security officer or chief administrative officer of the correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously.

Sec. 2. 5 MRSA §4655, sub-§6, as amended by PL 1999, c. 542, §2, is further amended to read:

6. Service of order or consent decree. The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with ~~any~~ protective order or consent decree.

Sec. 3. 17-A MRSA §1326-A, as enacted by PL 1999, c. 469, §1, is amended to read:

§ 1326-A. Time and method of restitution

When restitution is authorized, and the offender is not committed to the Department of Corrections or does not receive a sentence that includes a period of probation, the time and method of payment or of the performance of the services must be specified. ~~Except when the offender is placed on probation, by the court and~~ monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is ~~placed on~~ committed to the Department of Corrections or receives a sentence that includes a period of probation, ~~the monetary compensation may~~ must be ordered paid to the Department of Corrections and the time and method of payment must be determined by the Department of Corrections during the term of commitment or the period of probation. Once any term of commitment to the Department of Corrections or period of probation is completed and if the restitution ordered has not been paid in full, the offender is subject to the provisions of section 1329, including a specification by the court of the time and method of payment of monetary compensation upon a finding of excusable default. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money.

Sec. 4. 17-A MRSA §1328-A, as enacted by PL 1997, c. 413, §5, is amended to read:

§ 1328-A. Modification of restitution

A convicted person who can not make restitution payments in the manner ordered by the court or determined by the Department of Corrections pursuant to section 1326-A shall move the court for a modification of the time or method of payment or service to avoid a default. The court may modify its prior order or the determination of the Department of Corrections to reduce the amount of each installment or to allow additional time for payment or service.

Sec. 5. 19-A MRSA §4006, sub-§6, as amended by PL 2001, c. 134, §5, is further amended to read:

6. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order an appropriate law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency ~~or~~, court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order and the law enforcement agency ~~or~~, court security officer or chief administrative officer of a correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously.

Sec. 6. 19-A MRSA §4007, sub-§6, as amended by PL 1999, c. 67, §2, is further

amended to read:

6. Service of order or consent decree. The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with a protective order or consent decree.

L.D. 632/P.L. Ch. 79: An Act to Increase Payments to Victims of Crime

Sponsor: Rep. Sara Stevens

Sec. 1. 5 MRSA §3360, sub-§2-A is enacted to read:

2-A. Catastrophic injury. "Catastrophic injury" means an extremely serious injury that may result in permanent disability or a long-lasting medical condition.

Sec. 2. 5 MRSA §3360, sub-§4, as amended by PL 2003, c. 243, §2, is further amended to read:

4. Eligible expenses and losses. "Eligible expenses and losses" means expenses and losses resulting from a personal injury sustained by an individual as a direct result of a crime specified in subsection 3 and may include medical and medically related expenses, psychological or mental health counseling expenses, lost wages ~~and~~, funeral ~~and~~, burial ~~and~~ other homicide-related expenses and travel expenses and loss of income of a claimant or family member for providing or obtaining care for the personal injury of a minor or incapacitated victim. "Eligible expenses and losses" may include costs of eyeglasses, hearing aids, dentures or other prosthetic devices taken, lost, destroyed or damaged as a result of the crime, costs to repair ~~or~~, replace or install locks or security devices ~~and~~, costs of crime scene cleanup and security deposits. Expenses and losses claimed under this subsection must be expenses or losses actually and reasonably incurred.

Sec. 3. 5 MRSA §3360-B, sub-§3, as enacted by PL 1997, c. 378, §5, is amended to read:

3. Eligibility for payment of mental health treatment for family members. The board may award compensation for the benefit of a surviving family or household member of a person who dies or suffers catastrophic injury as a direct result of a crime, a family or household member who witnessed a crime or a family or household member of a sexual assault victim ~~who is a minor~~ for unreimbursed mental health treatment expenses directly related to the crime.

Sec. 4. 5 MRSA §3360-M, sub-§2, as amended by PL 2007, c. 240, Pt. WW, §2, is further amended to read:

2. Forensic examination; forensic examiner training and education. The board shall

determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of ~~\$500~~\$750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed \$50,000 per year.

**L.D. 742/P.L. Ch. 257: An Act to Amend the Composition of the Maine
Commission on Domestic and Sexual Abuse**
Sponsor: Sen. John Nutting

Sec. 1. 19-A MRSA §4013, sub-§1, ¶A, as amended by PL 2005, c. 397, Pt. A, §14, is further amended to read:

A. The Governor shall name the chair from among the following members:

(1) Two members, appointed by the Governor, who are representatives of the statewide coalition of domestic violence projects;

(1-A) Two members, appointed by the Governor, who are representatives of the statewide coalition of sexual assault centers;

(2) One member, appointed by the Governor, who is a representative of the mental health profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

(5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;

(5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;

(6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;

(7) One member, appointed by the Governor, who is chief of a municipal police department;

(8) One member, appointed by the Governor, who is a county sheriff;

(8-A) One member, appointed by the Governor, who is the statewide coordinator of a statewide coalition to end domestic violence;

(8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;

(8-C) The Attorney General or the Attorney General's designee;

(8-D) The Chief of the Maine State Police or the chief's designee;

(9) The Commissioner of Public Safety or the commissioner's designee;

(9-A) The Commissioner of Health and Human Services or the commissioner's designee;

(9-C) The Commissioner of Education or the commissioner's designee;

(9-D) The Commissioner of Labor or the commissioner's designee;

(9-E) The Commissioner of Corrections or the commissioner's designee;

(9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs; ~~and~~

(10) Up to ~~86~~ members-at-large, appointed by the Governor;

(11) Up to 4 members, appointed by the Governor, representing underserved populations; and

(12) One member, appointed by the Governor, who is a tribal member and provides services through a tribal program to tribal members who are victims of domestic or sexual violence.

L.D. 877/Resolve 68: An Act to Amend the Laws Governing the Reporting of Crimes on the Maine Registry of Certified Nursing Assistants

Sponsor: Rep. Elizabeth Miller

Sec. 1 Convene working group. Resolved: That the Department of Health and Human Services shall convene a working group to examine and make recommendations for changes to the current law prohibiting an individual from employment as a certified nursing assistant in certain settings if the individual has been convicted of a crime involving abuse, neglect or misappropriation of property in a health care setting. The working group must include representatives of the department, the long-term care ombudsman program, advocates for victims of sexual assault, law enforcement officials, direct care workers and employers. At least one member of the working group must have expertise in the Maine Criminal Code; and be it further

Sec. 2 Review. Resolved: That the working group under section 1 shall review the list of crimes that preclude an individual from employment as a certified nursing assistant in certain settings and make recommendations for changes, including, but not limited to, the addition of crimes involving sexual assault and violence. The working group shall consider issues related to the duration of the employment prohibition, the direct care workers to which it is applicable and whether the law should be retroactive; and be it further

Sec. 3 Report recommendations. Resolved: That, by January 1, 2010, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety the findings and recommendations of the working group under section 1, including any necessary implementing legislation; and be it further

Sec. 4 Legislation. Resolved: That, after receipt and review of the report and recommendations submitted pursuant to section 3, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

L.D. 1157/P.L. Ch. 365: An Act To Improve the Use of Information Regarding Sex Offenders

Sponsor: Sen. Stanley Gerzofsky

PART A

Sec. A-1. 17-A MRSA §261, sub-§1, as enacted by PL 2007, c. 393, §1, is amended to read:

1. A person is guilty of prohibited contact with a minor if that person:

A. ~~Has previously been~~Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

B. ~~Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~

C. Intentionally or knowingly ~~has~~initiates direct or indirect contact with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class E crime.

Sec. A-2. 17-A MRSA §261, sub-§2, as amended by PL 2007, c. 518, §6, is further amended to read:

2. A person is guilty of prohibited contact with a minor in a sex offender restricted zone if that person:

A. ~~Has previously been~~Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

B. ~~Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~

C. Intentionally or knowingly ~~has~~initiates direct or indirect contact in a sex offender restricted zone with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class D crime.

Sec. A-3. 17-A MRSA §1152, sub-§2-C, as amended by PL 2003, c. 711, Pt. B, §13, is repealed.

Sec. A-4. 17-A MRSA §1204, sub-§1-C, as amended by PL 2005, c. 488, §5, is repealed.

PART B

Sec. B-1. 34-A MRSA §11201, as amended by PL 2003, c. 711, Pt. C, §4 and affected by Pt. D, §2, 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 registrants and offenders by enhancing access to information concerning those registrants and

offenders.

Sec. B-2. 34-A MRSA §11202, as repealed and replaced by PL 2005, c. 423, §1, is further amended to read:

§ 11202.Application

~~This~~Unless excepted under section 11202-A, 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; or

C. At any time for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-3. 34-A MRSA §11202-A is enacted 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 finally discharged from the correctional system prior to September 1, 1998;

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 the 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 the 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.

Sec. B-4. 34-A MRSA §11203, sub-§1-A, as amended by PL 2005, c. 423, §2, is further amended to read:

1-A. Conditional release. "Conditional release" means supervised release of a registrant or an offender 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 54-G.

Sec. B-5. 34-A MRSA §11203, sub-§4, as amended by PL 2003, c. 711, Pt. C, §9 and affected by Pt. D, §2, is further amended to read:

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

Sec. B-6. 34-A MRSA §11203, sub-§4-A, as amended by PL 2005, c. 423, §3, 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 or an offender, living conditions and environment of a registrant or an offender and other factors predisposing a person to become a registrant or an offender, for the ongoing purpose of identifying risk factors.

Sec. B-7. 34-A MRSA §11203, sub-§4-D, as enacted by PL 2003, c. 711, Pt. C, §11 and affected by Pt. D, §2, is amended to read:

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. Proof that an offender has lived in the State for 14 days continuously or an aggregate of 30 days within a period of one year gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person has established a residence for the purposes of registration requirements imposed by this chapter.

Sec. B-8. 34-A MRSA §11203, sub-§4-E is enacted to read:

4-E. Offender. "Offender" means a person to whom this chapter applies pursuant to section 11202.

Sec. B-9. 34-A MRSA §11203, sub-§5, as amended by PL 2003, c. 711, Pt. C, §12 and affected by Pt. D, §2, is further amended to read:

5. Ten-year registrant. "Ten-year registrant" means a person who is has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

Sec. B-10. 34-A MRSA §11203, sub-§6, ¶B, as repealed and replaced by PL 2003, c. 711, Pt. C, §13 and affected by Pt. D, §2, is amended to read:

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, subsection 1, paragraph A, subparagraph (3), 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. B-11. 34-A MRSA §11203, sub-§6, ¶C, as amended by PL 2005, c. 423, §5, is further amended to read:

C. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph B-; or

Sec. B-12. 34-A MRSA §11203, sub-§6, ¶D is enacted to read:

D. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-13. 34-A MRSA §11203, sub-§7, as amended by PL 2005, c. 423, §6, is further amended to read:

7. Sexually violent offense. "Sexually violent offense" means:

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~~

B. A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction that includes the essential elements of an offense listed in paragraph A-; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-14. 34-A MRSA §11203, sub-§8, as amended by PL 2005, c. 423, §7, is further amended to read:

8. Lifetime registrant. "Lifetime registrant" means a person who ~~is~~ has complied with the initial duty to register under this chapter as 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~~another 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.~~"another conviction" means:

(1) For persons convicted and sentenced before September 17, 2005, a conviction for an offense for which sentence was imposed prior to the occurrence of the new offense; and

(2) For persons convicted and sentenced on or after September 17, 2005, a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if:

(a) There is more than one victim; or

(b) The convictions are for offenses based on different conduct or arising from different criminal episodes.

Sec. B-15. 34-A MRSA §11222, as amended by PL 2005, c. 683, Pt. B, §28, is further amended to read:

§ 11222. Duty of offender to register

1. Notification by court, the department, the bureau or a law enforcement agency. ~~The court shall determine at the time of sentencing if a defendant is a 10 year registrant or lifetime registrant. A person who the court determines is a 10 year registrant or lifetime registrant shall register according to this subchapter.~~ An offender has a duty to register under this chapter after notification has been given to the offender by a court of jurisdiction, the department, the bureau or a law enforcement agency. A court shall notify the offender at the time of sentence of the duty to register pursuant to this chapter. Notification of the duty to register under this chapter also may be given to the offender at any time after the imposition of sentence.

At any time, the bureau may correct the term of a registration erroneously assigned to an offender or registrant. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.

1-A. When duty to register must be exercised. ~~Following determination by the~~ notification by a court, the department, the bureau or a law enforcement agency under subsection 1, a ~~registrant~~an offender shall register as follows.

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

D. If the events stated in paragraphs A to C have passed, an offender must register within 5 days after having received notice of that duty from a court, the department, the bureau or a law enforcement agency.

E. Proof that the name and date of birth of the person notified of the duty to register pursuant to this chapter are the same as those of a person who has been convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person notified of the duty to register is the same person as that person convicted of the offense requiring registration.

1-B. Duty to notify law enforcement agency.~~A registrant who has a duty to register pursuant to this subchapter~~An offender shall notify the law enforcement agency having jurisdiction in those areas where the ~~registrant~~offender 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.

2. Responsibility of ensuring initial registration. The department, the county jail or the state mental health institute that has custody of a ~~registrant required to register under this subchapter~~an offender shall inform the ~~registrant~~offender, prior to discharge or conditional release, of the duty to register. If a ~~registrant~~an offender does not serve a period of institutional confinement, the court shall inform the ~~registrant~~offender at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

A. Inform the ~~registrant~~offender of the duty to register and obtain the information required for the initial registration;

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

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

C. Inform the registrantoffender that if that registrantoffender changes domicile to another state, the registrantoffender shall register the new address with the bureau and if the new state has a registration requirement, the registrantoffender shall register with a designated law enforcement agency in the new state not later than 5 days after establishing domicile in the new state;

D. Inform the registrantoffender that if that registrantoffender has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that registrantoffender enrolls in any type of school in another state on a part-time or full-time basis, the registrantoffender shall give the bureau the registrant'soffender's place of employment or school to be attended in writing within 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 registrantoffender or the court may order the registrantoffender 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 registrantoffender read and sign a form provided by the bureau that states that the duty of the registrantoffender 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 10-year registrant or 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~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender shall register with the bureau within 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~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency, 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.~~ The offender shall register with the bureau within 5 days of notice.

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~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender 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 ~~registrant~~ offender 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 agencies having jurisdiction where the ~~registrant~~ offender 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 require the registrant to verify registration information including domicile, residence, 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 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.

5. Change of domicile, residence, place of employment or college or school being attended. An offender or registrant shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours after changing that domicile, residence, place of employment or college or school being attended.

A. If the offender or 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 offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

B. If the offender or 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 offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

Sec. B-16. 34-A MRSA §11223, as amended by PL 2005, c. 423, §19, is further amended to read:

§ 11223. Duty of person establishing domicile or residence to register

A person sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248; or 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 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 immediately forward the form, photograph and fingerprints to the bureau.

Sec. B-17. 34-A MRSA §11224, sub-§1, as enacted by PL 2005, c. 423, §20, is amended to read:

1. Time. A person who has been sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248; or 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.

Sec. B-18. 34-A MRSA §11225-A, sub-§6, as enacted by PL 2005, c. 423, §22, is amended to read:

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

A. AAn offender's or 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. AAn offender's or 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 offender or registrant is pardoned for the crime, registration is no longer required.

Sec. B-19. 34-A MRSA §11227, sub-§6, as repealed and replaced by PL 2005, c. 423, §23, is amended to read:

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. B-20. 34-A MRSA §11227, sub-§7 is enacted to read:

7. Permissible inference. Proof that the name and date of birth of the person charged with a violation of this section are the same as those of a person who has been convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with a violation of this section is the same person as that person convicted of the offense requiring registration.

Sec. B-21. 34-A MRSA §11228, as enacted by PL 2003, c. 371, §12, is amended to read:

§ 11228. Certification by record custodian

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

Sec. B-22. Retroactivity. This Part applies retroactively to January 1, 1982.

L.D. 1105/Resolve 99: Resolve, To Facilitate Training and Education on Dating Violence Prevention

Sponsor: Rep. Joe Wagner

Sec. 1 Review of policies and rules. Resolved: That the Department of Education shall review its policies and rules regarding faculty training and student education on dating violence prevention for students in grades 7 to 12 to determine the extent to which those policies and rules provide sufficient guidance to school administrative units on teaching and training basic principles and definitions of dating violence prevention, how to recognize dating violence warning signs, outlining actions and responses to dating violence, including communications with parents or legal guardians, and defining the characteristics of healthy, age-appropriate dating relationships. The review must also assess the extent to which school administrative unit policies address the issue of dating violence prevention, including the elements and consistency of those policies; and be it further

Sec. 2 Report. Resolved: That the Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs by March 1, 2010 on the findings of its review under section 1.

Bills Carried Over

L.D. 568: An Act to Amend the Sex Offender Registration Laws

Sponsor: Rep. Richard Sykes

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

Whereas, sex offender registration and notification laws are intended to protect the public from potentially dangerous persons by enhancing access to information concerning those persons; and

Whereas, changes in this legislation to the existing Sex Offender Registration and Notification Act of 1999 ensure that the registration and notification laws better meet the intended public safety purpose; 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. 17-A MRSA §261, sub-§1, as enacted by PL 2007, c. 393, §1, is amended to read:

1. A person is guilty of prohibited contact with a minor if that person:

A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

B. ~~Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~

C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class E crime.

Sec. 2. 17-A MRSA §261, sub-§2, as amended by PL 2007, c. 518, §6, is further amended to read:

2. A person is guilty of prohibited contact with a minor in a sex offender restricted zone if that person:

A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

B. ~~Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2;~~ and

C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact in a sex offender restricted zone with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class D crime.

Sec. 3. 17-A MRSA §1152, sub-§2-C, as amended by PL 2003, c. 711, Pt. B, §13, is repealed.

Sec. 4. 17-A MRSA §1204, sub-§1-C, as amended by PL 2005, c. 488, §5, is repealed.

Sec. 5. 34-A MRSA §11203, sub-§8, as amended by PL 2005, c. 423, §7, is further amended to read:

8. Lifetime registrant. "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~~ another 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.~~ "another conviction" means:

(1) For persons convicted and sentenced before September 17, 2005, a conviction for an offense for which sentence was imposed prior to the occurrence of the new offense; and

(2) For persons convicted and sentenced on or after September 17, 2005, a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if:

(a) There is more than one victim; or

(b) The convictions are for offenses based on different conduct or arising from different criminal episodes.

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

SUMMARY

This bill implements recommendations for immediate legislative changes to the Sex Offender Registration and Notification Act of 1999, as recommended by the Joint Standing Committee on Criminal Justice and Public Safety in its Final Report of the Criminal Justice and Public Safety Committee Study of Sex Offender Registration Laws in November 2008.

The bill amends the crime of prohibited contact with a minor by repealing the element that the person has a duty to register under the Sex Offender Registration and Notification Act of 1999 and by making the law applicable only to those persons convicted on or after June 30, 1992. The fact that a person must previously have been convicted of a Maine Revised Statutes, Title 17-A, chapter 11 or chapter 12 offense against a victim who had not attained 14 years of age is material to the commission of the crime of prohibited contact with a minor. The bill also specifies that the person must initiate the direct or indirect contact with another person who has not attained 14 years of age.

The bill repeals from the sentencing provisions the directive that a court order a person convicted of a sex offense or a sexually violent offense to satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. This change clarifies that the Legislature determines that a duty to register exists based on the conviction and that the court's duty is only to notify the person of that duty.

The bill repeals from the probation provisions the directive that a court attach as a condition of probation that a person convicted of a sex offense or a sexually violent offense satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. The court has discretion to order any condition of probation reasonably related to the rehabilitation of the convicted person or the public safety or security, including satisfying registration requirements if appropriate.

The bill amends that part of the definition of "lifetime registrant" in the Sex Offender Registration and Notification Act of 1999 that pertains to persons classified as lifetime registrants because of having multiple convictions for sex offenses to clarify that the changes made by Public Law 2005, chapter 423 operate prospectively. For persons convicted and sentenced on or after September 17, 2005, the definition remains unchanged except for technical drafting changes. For persons convicted and sentenced before September 17, 2005, the amendment changes the definition of "another conviction" to mean an offense for which sentence was imposed prior to the occurrence of the new offense. This change would undo the expansion of 10-year registrants who became lifetime registrants with the 2005 change, including those registrants whose duty to register had ended prior to that change.

Bills Not Passed

L.D. 284: An Act Regarding the Period of Time for Which an Incarcerated Person Is Eligible To Earn Good Time

Sponsor: Rep. James Schatz

Sec. 1. 17-A MRSA §1253, sub-§2, ¶B is enacted to read:

B. For any person who commits a crime on or after October 1, 2009, 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 4 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:

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.

This paragraph supersedes paragraph A for persons who commit offenses on or after October 1, 2009.

Sec. 2. 17-A MRSA §1253, sub-§6, as enacted by PL 1983, c. 456, §8, is amended to read:

6. Any portion of the time deducted from the sentence of any person pursuant to subsection 3 ~~or~~ 3-B or 11-A may be withdrawn by the supervising officer of the institution for the infraction of any rule of the institution, for any misconduct or for the violation of any law of the State. The withdrawal of deductions may be made at the discretion of the institution head, in accordance with policies and guidelines established by the Department of Corrections, who may restore any portion thereof if the person's later conduct and outstanding effort warrant that restoration.

Sec. 3. 17-A MRSA §1253, sub-§6-A, as amended by PL 2003, c. 711, Pt. A, §16, 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, 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 or 11-A, if applicable.

Sec. 4. 17-A MRSA §1253, sub-§7, as amended by PL 2003, c. 711, Pt. A, §17, is further amended to read:

7. Notwithstanding the fact that subsections 3, 3-B ~~and~~, 4, 11-A and 11-B 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 and subsection 10, paragraph B do not apply to persons who are committed to the custody of a sheriff.

Sec. 5. 17-A MRSA §1253, sub-§11-A is enacted to read:

11-A. For a person who commits a crime on or after October 1, 2009 and is subsequently sentenced to a term of imprisonment for that crime, subsections 3 and 3-B apply.

Sec. 6. 17-A MRSA §1253, sub-§11-B is enacted to read:

11-B. For a person who commits a crime on or after October 1, 2009 and is subsequently sentenced to a term of imprisonment for that crime, subsections 4 and 5 apply, as limited by subsection 7.

Sec. 7. 17-A MRSA §1253, sub-§13, as enacted by PL 2003, c. 711, Pt. A, §18, is amended to read:

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, 11-A and 11-B 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. 8. 17-A MRSA §1253, sub-§14, as enacted by PL 2007, c. 102, §5, is amended to read:

14. The Commissioner of Corrections or the sheriff of the county jail may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence under subsections 4, 5, 8 ~~and~~, 10, 11-A and 11-B.

Sec. 9. 17-A MRSA §1253, sub-§15 is enacted to read:

15. Subsections 11-A and 11-B supersede subsections 8, 9 and 10 for persons who commit offenses on or after October 1, 2009.

SUMMARY

This bill increases the amount of good time that may be deducted from a person's sentence for a crime committed on or after October 1, 2009. The bill applies deductions enacted by Public Law 1983, chapter 456 to persons who commit crimes on or after October 1, 2009. The bill makes no distinction as to the type of crime the person committed. The bill also includes a deduction of good time for a person's good conduct during detention, which was first enacted by Public Law 2003, chapter 711, but the bill doubles the maximum prior amount from 2 days to 4.

L.D. 325: An Act to Authorize Resentencing of Certain Prisoners Who Have Served Consecutive Sentences of 20 or More Years

Sponsor: Rep. John Tuttle

Sec. 1. 17-A MRSA §1160 is enacted to read:

§ 1160. Petition for resentencing after serving 20 or more consecutive years in prison

1. Notwithstanding any provision of law to the contrary, a person who has been convicted of and received a definite or aggregate sentence for one or more crimes and who has been incarcerated under that sentence for a period of 20 or more consecutive years may petition the sentencing court for resentencing.

2. The sentencing court may resentence the person described under subsection 1 if the court finds that:

A. There is a release plan for the person described under subsection 1; and

B. The person described under subsection 1 has demonstrated rehabilitation and possesses the ability to lead a positive and productive life.

3. At any hearing held for the purpose of determining a petition for resentencing under this section, the sentencing court shall allow the person described under subsection 1 to present testimony and witnesses concerning the petition for resentencing. The court shall provide notice of the hearing to interested parties and shall allow the participation of interested parties, including but not limited to:

A. The victim of a crime for which the person described under subsection 1 is incarcerated. For purposes of this paragraph, "victim" means the victim, the legal representative of the victim or a member of a deceased victim's immediate family;

B. The person described under subsection 1 and members of that person's family; and

C. Personnel from the correctional facility in which the person described under subsection 1 is incarcerated.

4. After hearing and review of a petition under this section, the sentencing court may:

A. Grant the petition and:

(1) Suspend any portion of the sentence not yet served;

(2) Sentence the person to a period of probation that may correspond to the amount of time by which the sentence is reduced;

(3) Sentence the person to a period of supervised release; or

(4) Impose any other conditions that the court determines appropriate; or

B. Deny the petition.

5. In granting or denying a petition filed pursuant to this section, the court shall issue its findings upon which its decision is based.

6. If the sentencing court denies a petition for resentencing filed pursuant to this section, the person described under subsection 1 may petition the court for resentencing after one year has elapsed from the date of the court's denial.

SUMMARY

This bill authorizes a sentencing court to grant a petition for resentencing that is filed by a person who has served a term of imprisonment of 20 consecutive years or more.

L.D. 484: An Act to Rescind the Statute of Limitations on the Ability to File a Civil Suit in Cases Dealing with Unlawful Sexual Contact

Sponsor: Rep. William MacDonald

Sec. 1. 14 MRSA §755 is enacted to read:

§ 755. Unlawful sexual contact

An action based upon a complaint of unlawful sexual contact may be commenced at any time. For purposes of this section, "unlawful sexual contact" has the same meaning as delineated in Title 17-A, section 255-A.

SUMMARY

This bill removes the statute of limitations for a civil action based upon the complaint of unlawful sexual contact.

L.D. 634: An Act to Create a Mandatory Sentence for Repeat Offenders Against Victims Under 12 Years of Age

Sponsor: Rep. Kathleen Chase

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

Sec. 1. 17-A MRSA §1252, sub-§10 is enacted to read:

10. If the State pleads and proves that a crime under chapter 11 or 12 was committed against a person who had not yet attained 12 years of age, and the defendant had a prior conviction for a crime under chapter 11 or 12 against a person who had not yet attained 12 years of age, notwithstanding subsection 2, the court shall impose a term of imprisonment of at least 25 years, none of which may be suspended.

SUMMARY

This bill requires a court to sentence a person convicted of committing a sex offense against a child under 12 years of age for a second or subsequent time to a term of imprisonment of at least 25 years, none of which may be suspended.

L.D. 802: An Act to Require Reporting on Medical Services or Treatment Provided to Minors Without Parental Consent

Sponsor: Sen. Richard Nass

Sec. 1. 22 MRSA §1504, as enacted by PL 1995, c. 694, Pt. C, §8 and affected by Pt. E, §2, is amended to read:

§ 1504. Good faith reliance on consent

A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health treatment as authorized in section 1503 and who subsequently renders treatment in reliance on that consent is not liable for failing to have secured consent of the minor's parent or guardian prior to providing health care services to the minor.

A health care practitioner or health care provider who provides health care services or health treatment to a minor without the consent of that minor's parent or guardian shall file the following information in a report to the Department of Health and Human Services:

- 1. Age.** Age of minor;
- 2. Date of services or treatment provided.** Date of services or treatment provided;
- 3. Type of services or treatment rendered.** Type of services or treatment rendered, such as substance abuse counseling, mental health services, general medical treatment, emergency services, family planning, cosmetic services, dental services or other specified services;
- 4. Methods to attempt to obtain consent.** Methods used to attempt to obtain the consent of the parent or guardian;
- 5. Date of attempt to obtain consent.** Dates attempts were made to obtain the consent of the parent or guardian; and
- 6. Number of times patient treated.** Number of times the patient was treated previously at the facility.

SUMMARY

This bill requires a health care practitioner or health care provider who provides health care services or health treatment to a minor without the consent of that minor's parent or guardian to file a report containing specified information with the Department of Health and Human Services.

