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An Act To Amend the Sex Offender Registration Laws

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.