

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Sex Offender Registration Laws

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

Sec. 1. 34-A MRSA c. 17 is enacted to read:

CHAPTER 17

SEX OFFENDER REGISTRATION AND NOTIFICATION ACT OF 2011

SUBCHAPTER 1

GENERAL PROVISIONS

§ 11271. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 2011." 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.

§ 11272. Application

Unless excepted under section 11273, this chapter applies to:

1. Maine. A person sentenced in this State on or after October 15, 2011 for a Tier I offense, Tier II offense or Tier III 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;

B. On or after October 15, 2011 of an offense that contains the essential elements of a Tier I offense, Tier II offense or Tier III offense; or

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

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

(2) The federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

§ 11273. Exception

1. Exception. Notwithstanding section 11272, a person 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 this State on or after October 15, 2011 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section, or 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 is in compliance with the registration duties as a resident required under subchapter 2. 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 conviction for the sex offense or sexually violent offense, the person has not been convicted of a sex offense or sexually violent offense in this State that is punishable by imprisonment for a term of one year or more; and

F. Subsequent to the 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 contains the essential elements of a sex offense or sexually violent offense and 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 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.

§ 11274. Definitions

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

1. Another state. "Another state" means each of the several states except Maine, and includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

2. Bureau. "Bureau" means the Department of Public Safety, State Bureau of Identification.

3. 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.

4. Discharge. "Discharge" means unconditional release and discharge of a registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

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

6. FBI. "FBI" means the Federal Bureau of Investigation.

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

8. 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.

9. Offender. "Offender" means a person to whom this chapter applies pursuant to section 11272.

10. Registrant. "Registrant" means a Tier I registrant, Tier II registrant or Tier III registrant.

11. 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.

12. 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.

13. Sentence. "Sentence," in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another jurisdiction, following a verdict of not criminally responsible by reason of mental disease or defect or similar verdict in another jurisdiction.

14. Tier I offense. "Tier 1 offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

A. Former Title 17, section 2924, subsection 2;

B. Former Title 17-A, section 253, subsection 2, paragraph E if the victim had attained 18 years of age or more at the time of the offense;

C. Title 17-A, section 253, subsection 2, paragraph E if the victim had attained 18 years of age or more at the time of the offense;

D. Title 17-A, section 253, subsection 2, paragraph I if the victim had attained 18 years of age or more at the time of the offense;

E. Title 17-A, section 253, subsection 2, paragraph J if the victim had attained 18 years of age or more at the time of the offense;

F. Former Title 17-A, section 254;

G. Former Title 17-A, section 254, subsection 1, paragraph A;

- H. Former Title 17-A, section 254, subsection 1, paragraph C or former Title 17-A, section 254, subsection 3, paragraph A or B;
- I. Title 17-A, section 254, subsection 1, paragraph C
- J. Title 17-A, section 254, subsection 1, paragraph D;
- K. Title 17-A, section 254, subsection 1, paragraph E;
- L. Title 17-A, section 254, subsection 1, paragraph F;
- M. Former Title 17-A, section 255, subsection 1, paragraph A;
- N. Former Title 17-A, section 255, subsection 1, paragraph B;
- O. Former Title 17-A, section 255, subsection 1, paragraph D;
- P. Former Title 17-A, section 255, subsection 1, paragraph E;
- Q. Former Title 17-A, section 255, subsection 1, paragraph F;
- R. Former Title 17-A, section 255, subsection 1, paragraph G;
- S. Former Title 17-A, section 255, subsection 1, paragraph I;
- T. Former Title 17-A, section 255, subsection 1, paragraph J;
- U. Title 17-A, section 255-A, subsection 1, paragraph A;
- V. Title 17-A, section 255-A, subsection 1, paragraph B;
- W. Title 17-A, section 255-A, subsection 1, paragraph C;
- X. Title 17-A, section 255-A, subsection 1, paragraph G;
- Y. Title 17-A, section 255-A, subsection 1, paragraph I;
- Z. Title 17-A, section 255-A, subsection 1, paragraph J;
- AA. Title 17-A, section 255-A, subsection 1, paragraph K;
- BB. Title 17-A, section 255-A, subsection 1, paragraph Q;
- CC. Title 17-A, section 255-A, subsection 1, paragraph R;
- DD. Title 17-A, section 255-A, subsection 1, paragraph S;
- EE. Title 17-A, section 255-A, subsection 1, paragraph T;
- FF. Title 17-A, section 256, subsection 1, paragraph A;

GG. Title 17-A, section 256, subsection 1, paragraph B;

HH. Title 17-A, section 258, subsection 1;

II. Title 17-A, section 258, subsection 1-A;

JJ. Title 17-A, section 259, subsection 1-A;

KK. Title 17-A, section 259, subsection 1-B;

LL. Title 17-A, section 284;

MM. Title 17-A, section 511, subsection 1, paragraph D;

NN. Title 17-A, section 556;

OO. Former Title 17-A, section 556, subsection 1, paragraph A;

PP. Title 17-A, section 852, subsection 1, paragraph A;

QQ. Title 17-A, section 855, subsection 1, paragraph A;

RR. An offense in another jurisdiction that includes the essential elements of an offense listed in paragraphs A to QQ; or

SS. A military, tribal or federal offense requiring registration pursuant to:

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

(2) The federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

15. Tier II offense. "Tier II offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

A. Former Title 17, section 2922, subsection 1, paragraph A;

B. Former Title 17, section 2922, subsection 1, paragraph B;

C. Former Title 17, section 2923, subsection 1, paragraph A;

D. Former Title 17-A, section 253, subsection 2, paragraph E if the victim had not attained 18 years of age or more at the time of the offense;

- E. Former Title 17-A, section 253, subsection 2, paragraph F if the victim had not attained 18 years of age or more at the time of the offense;
- F. Former Title 17-A, section 253, subsection 2, paragraph G if the victim had not attained 18 years of age or more at the time of the offense;
- G. Title 17-A, section 253, subsection 2, paragraph E if the victim had not attained 18 years of age at the time of the offense;
- H. Title 17-A, section 253, subsection 2, paragraph F;
- I. Title 17-A, section 253, subsection 2, paragraph G;
- J. Title 17-A, section 253, subsection 2, paragraph H;
- K. Title 17-A, section 253, subsection 2, paragraph I if victim had not attained 18 years of age at the time of the offense;
- L. Title 17-A, section 253, subsection 2, paragraph J if the victim had not attained 18 years of age at the time of the offense;
- M. Title 17-A, section 254, subsection 1, paragraph A;
- N. Title 17-A, section 254, subsection 1, paragraph A-1;
- O. Title 17-A, section 254, subsection 1, paragraph A-2;
- P. Former Title 17-A, section 254, subsection 1, paragraph A;
- Q. Former Title 17-A, section 254, subsection 3, paragraph A;
- R. Former Title 17-A, section 254, subsection 3, paragraph B;
- S. Former Title 17-A, section 254, subsection 1, paragraph B;
- T. Former Title 17-A, section 255, subsection 1, paragraph G;
- U. Former Title 17-A, section 255, subsection 1, paragraph I where the State pled and proved that unlawful sexual contact included penetration;
- V. Title 17-A, section 255-A, subsection 1, paragraph B if victim is a minor;
- W. Title 17-A, section 255-A, subsection 1, paragraph J if victim is a minor;
- X. Title 17-A, section 255-A, subsection 1, paragraph L;
- Y. Title 17-A, section 255-A, subsection 1, paragraph M;
- Z. Title 17-A, section 255-A, subsection 1, paragraph N;

AA. Title 17-A, section 255-A, subsection 1, paragraph R if the victim had not attained 18 years of age at the time of the offense;

BB. Title 17-A, section 282, subsection 1, paragraph A;

CC. Title 17-A, section 282, subsection 1, paragraph C;

DD. Title 17-A, section 282, subsection 1, paragraph D;

EE. Title 17-A, section 282, subsection 1, paragraph F;

FF. Title 17-A, section 283, subsection 1, paragraph A;

GG. Title 17-A, section 283, subsection 1, paragraph C;

HH. Title 17-A, section 284, subsection 1, paragraph B;

II. Title 17-A, section 284, subsection 1, paragraph D;

JJ. Title 17-A, section 556, subsection 1, paragraph B;

KK. Former Title 17-A, section 556, subsection 1, paragraph B;

LL. Title 17-A, section 852, subsection 1, paragraph B;

MM. Title 17-A, section 855, subsection 1, paragraph B;

NN. An offense in another jurisdiction that includes the essential elements of an offense listed in paragraphs A to MM; or

OO. A military, tribal or federal offense requiring registration pursuant to:

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

(2) The federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

16. Tier III offense. "Tier III offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

A. Former Title 17, section 2922, subsection 1, paragraph A-1;

B. Former Title 17, section 2922, subsection 1, paragraph C;

C. Former Title 17, section 2923, subsection 1, paragraph B;

- D. Former Title 17-A, section 252, subsection 1, paragraph A;
- E. Former Title 17-A, section 252, subsection 1, paragraph B;
- F. Former Title 17-A, section 253, subsection 1, paragraph A;
- G. Former Title 17-A, section 253, subsection 1, paragraph B;
- H. Former Title 17-A, section 253, subsection 2, paragraph A;
- I. Former Title 17-A, section 253, subsection 2, paragraph B;
- J. Former Title 17-A, section 253, subsection 2, paragraph C;
- K. Former Title 17-A, section 253, subsection 2, paragraph D;
- L. Title 17-A, section 253, subsection 1, paragraph A;
- M. Title 17-A, section 253, subsection 1, paragraph B;
- N. Title 17-A, section 253, subsection 1, paragraph C;
- O. Title 17-A, section 253, subsection 2, paragraph A;
- P. Title 17-A, section 253, subsection 2, paragraph B;
- Q. Title 17-A, section 253, subsection 2, paragraph C;
- R. Title 17-A, section 253, subsection 2, paragraph D;
- S. Former Title 17-A, section 254, subsection 3, paragraph C;
- T. Former Title 17-A, section 255, subsection 1, paragraph B;
- U. Former Title 17-A, section 255, subsection 1, paragraph C;
- V. Former Title 17-A, section 255, subsection 1, paragraph D;
- W. Former Title 17-A, section 255, subsection 1, paragraph H and the victim had not attained 18 years of age;
- X. Title 17-A, section 255-A, subsection 1, paragraph D;
- Y. Title 17-A, section 255-A, subsection 1, paragraph E;
- Z. Title 17-A, section 255-A, subsection 1, paragraph E-1;
- AA. Title 17-A, section 255-A, subsection 1, paragraph F;
- BB. Title 17-A, section 255-A, subsection 1, paragraph F-1;

CC. Title 17-A, section 255-A, subsection 1, paragraph H;

DD. Title 17-A, section 255-A, subsection 1, paragraph P;

EE. Title 17-A, section 282, subsection 1, paragraph B;

FF. Title 17-A, section 282, subsection 1, paragraph E;

GG. Title 17-A, section 283, subsection 1, paragraph B;

HH. Title 17-A, section 283, subsection 1, paragraph C;

II. Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim and the victim had not attained 18 years of age;

JJ. An offense in another jurisdiction that includes the essential elements of an offense listed in paragraphs A to II; or

KK. A military, tribal or federal offense requiring registration pursuant to:

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

(2) The federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

17. Tier I registrant. "Tier I registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a Tier I offense.

18. Tier II registrant. "Tier II registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a Tier II offense.

19. Tier III registrant. "Tier III registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a Tier III offense.

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

§ 11275. Rulemaking

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

SUBCHAPTER 2

SEX OFFENDER REGISTRATION

§ 11281. Maintenance of sex offender registry

1. Maintenance of registry. The bureau shall establish and maintain a registry of persons required to register pursuant to this subchapter. The registry must include the following information on each registrant:

- A. The registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and physical location of expected domicile and residence;
- B. Place of employment and college or school being attended, if applicable, and the corresponding address and location;
- C. Offense history;
- D. Notation of any treatment received for a mental abnormality or personality disorder;
- E. A photograph and set of fingerprints;
- F. A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed;
- G. Whether the registrant is a Tier I registrant, Tier II registrant or Tier III registrant and the registrant's risk classification pursuant to subchapter 3, if applicable; and
- H. Any other information the bureau determines important.

2. National or regional registry. The bureau is authorized to make the registry available to and accept files from a national or regional registry of registrants for the purpose of sharing information.

3. Registration form. The bureau shall develop a standardized registration form to be made available to the appropriate reporting authorities and persons required to register.

4. Verification form. The bureau shall develop and mail a nonforwardable verification form to the last reported mailing address of each person required to meet the verification requirements of this chapter.

5. Distribution of information to department and law enforcement agencies. The bureau shall distribute information described in subsection 1 to the department and law enforcement agencies having jurisdiction over the address and location of the registrant's domicile, residence, place of employment and college or school being attended, if applicable.

6. Criminal justice agency access to information. The bureau shall provide access to the information described in subsection 1 to criminal justice agencies. For purposes of this subsection, "criminal justice agency" has the same meaning as in Title 16, section 611, subsection 4.

7. Public access to registrant information. The bureau shall provide information to the public as follows.

A. The bureau shall post on the Internet for public inspection the following information concerning a registrant who is a Tier I offender, Tier II offender or Tier III offender:

(1) The registrant's name, date of birth and photograph;

(2) The registrant's city or town of domicile and residence;

(3) The registrant's place of employment and college or school being attended, if applicable, and the corresponding address and location;

(4) The statutory citation and name of the offense for which the registrant was convicted; and

(5) Whether the registrant is a Tier I registrant, a Tier II registrant or a Tier III registrant and the registrant's risk classification pursuant to subchapter 3, if applicable.

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

(1) The registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and physical location of domicile and residence;

(2) The registrant's place of employment and college or school being attended, if applicable, and the corresponding address and location;

(3) A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed; and

(4) The registrant's photograph.

8. Registrant access to information. Pursuant to Title 16, section 620, the bureau shall provide all information described in subsection 1 to a registrant who requests that person's own information.

9. Maintenance by bureau. Only the bureau is authorized to maintain a sex offender registry on the Internet for purposes of public access.

10. Law enforcement agency website. Notwithstanding subsection 9, a law enforcement agency may maintain its own sex offender website and may make that information available for use by the public if:

A. A notice is prominently posted on the website that expressly states that the website is not the official state sex offender registry under subsection 7, paragraph A and that the law enforcement agency posting the website is solely responsible for the website's content;

B. The website provides a link to the bureau's Internet sex offender registry under subsection 7, paragraph A;

C. The website contains information regarding only registrants who are domiciled, reside, attend college or school or work within the posting law enforcement agency's jurisdiction; and

D. The information on the website is updated by the law enforcement agency as frequently as available resources permit, but no less often than every 7 days. The law enforcement agency shall also prominently post on the website the date and time of the most recent update to the website.

§ 11282. Duty of offender to register

1. Notification by court, the department, the bureau or a law enforcement agency.

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. The 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 the 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.

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

A. If the 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 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 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.

3. Duty to notify law enforcement agency. An offender shall notify the law enforcement agency having jurisdiction in those areas where the 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.

4. Responsibility of ensuring initial registration. The department, the county jail or the state mental health institute that has custody of an offender shall inform the offender, prior to discharge or conditional release, of the duty to register. If an offender does not serve a period of institutional confinement, the court shall inform the 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 offender of the duty to register and obtain the information required for the initial registration;

B. Inform the offender of the requirement to notify the law enforcement agency having jurisdiction pursuant to subsection 3;

C. Inform the offender that if the offender changes domicile or changes residence, place of employment or college or school being attended, the offender 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;

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

E. Inform the offender that if that offender 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 offender enrolls in any type of school in another state on a part-time or full-time basis, the offender shall give the bureau the offender'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;

F. Obtain fingerprints and a photograph of the offender. The court may order the offender 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

G. Enforce the requirement that the offender read and sign a form provided by the bureau that states that the duty of the offender to register under this section has been explained.

5. 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 4 shall forward the information to the bureau. If the court orders the 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 offender expects to be domiciled and reside and transmit the information to the FBI for inclusion in the national FBI sex offender database.

6. Verification. During the period a registrant 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 following provisions govern the verification of registration information.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The 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.

C. 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.

7. Frequency of verification. The frequency of verification of registration information is dependent upon the registrant's tier classification as follows.

A. A Tier III registrant shall register for the duration of the registrant's life and shall verify registration information every 90 days after the registrant's initial registration date for 10 years. After the registrant's 10th year of registration, the registrant may request risk assessment as described in subchapter 3 and may be required to continue to verify registration every 90 days or may be reclassified as a Tier II registrant. If the registrant is required to continue to verify registration information every 90 days, the registrant may again be assessed as described in subchapter 3 after the 15th year of registration and every 5 years after that, as necessary, for reclassification purposes or until it is determined that the registrant no longer has a duty to register.

B. A Tier II registrant shall register for 25 years and shall verify registration information every 90 days after the registrant's initial registration date for 2 years. After the registrant's 2nd year of registration, the registrant shall verify registration information every 6 months for 2 years. After the registrant's 4th year of registration, the registrant shall verify registration information annually for 6 years. After the registrant's 10th year of registration, the registrant may request assessment as described in subchapter 3 and may be required to continue to verify registration annually or may be taken off the registry. If the registrant is required to continue to verify registration information annually, the registrant may again be assessed after the 15th year of registration and every 5 years after that, as necessary, until it is determined that the registrant no longer has a duty to register or until the Tier II registrant has been registered for 25 years, after which point the registrant no longer has a duty to register.

C. A Tier I registrant shall register for 10 years and shall verify registration information every 90 days after the registrant's initial registration date for 2 years. After the registrant's 2nd year of registration, the registrant shall verify registration information every 6 months for 2 years. After the registrant's 4th year of registration, the registrant shall verify registration information annually for 6 years, after which point the registrant no longer has a duty to register.

8. 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.

§ 11283. 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 federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the federal Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151; 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 October 15, 2011 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a Tier I registrant, a Tier II registrant or a Tier III 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.

§ 11284. Duty of person employed or attending college or school

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

1. Time. A person who has been sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the federal Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151; 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 October 15, 2011 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a Tier I registrant, a Tier II registrant or a Tier III registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

A. Within 24 hours of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year in this State; or

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

2. Process for notifying bureau. The person under subsection 1 shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

§ 11285. Duration of registration

Except as provided in section 11282, subsection 6, the following provisions govern the duration of registration.

1. Offender convicted and sentenced in State for Tier I offense. An offender convicted and sentenced in this State for a Tier I offense 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 11282, subsection 2.

2. Offender convicted and sentenced in another jurisdiction for Tier I-type offense. An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or section 11284 for an offense that includes the essential elements of a Tier I offense shall register for a period of 10 years. The following provisions apply.

A. A Tier I registrant shall register in this State for a period of 10 years if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for a period of no more than 10 years. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or section 11284. However, the Tier I registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statute prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with rules adopted by the bureau.

B. A Tier I registrant shall register for a period of 10 years if registration was not required in that other jurisdiction and the person was sentenced on or after October 15, 2011 in that jurisdiction for a crime that includes the essential elements of a Tier I offense. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or section 11284.

3. Offender convicted and sentenced in State for Tier II offense. An offender convicted and sentenced in this State for a Tier II offense shall register for a period of 25 years. The 25-year period commences from the date the person in fact initially registers once the legal duty arises under section 11282, subsection 2.

4. Offender convicted and sentenced in another jurisdiction for Tier II-type offense. An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or section 11284 for an offense that includes the essential elements of a Tier II offense shall register for a period of 25 years. The following provisions apply.

A. A Tier II registrant shall register in this State for a period of 25 years if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for a period of more than 10 years and no more than 25 years. The 25-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or section 11284. However, the Tier II registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statute prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with rules adopted by the bureau.

B. A Tier II registrant shall register for a period of 25 years if registration was not required in that other jurisdiction and the person was sentenced on or after October 15, 2011 in that jurisdiction for a crime that includes the essential elements of a Tier II offense. The 25-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or section 11284.

5. Offender convicted and sentenced in State for Tier III offense. An offender convicted and sentenced in this State for a Tier III offense shall register for the duration of the offender's life.

6. Offender convicted and sentenced in another jurisdiction for Tier III-type offense. An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or section 11284 for an offense that includes the essential elements of a Tier III offense shall register for the duration of the registrant's life.

A. A Tier III registrant shall register in this State for the duration of the registrant's life if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for the duration of the offender's life.

B. A Tier III registrant shall register in this State for the duration of the registrant's life if registration was not required in that other jurisdiction and the person was sentenced on or after January 1, 1982 in that jurisdiction for a crime that includes the essential elements of a Tier III offense.

7. Periods when domiciled or residing outside State. Notwithstanding any other provision of this section, during any period in which a registrant or offender leaves this State, establishes a domicile or residence in another state and remains physically absent from this State, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the registrant or offender verify registration information.

8. Relief from duty to register. The following provisions apply to relief from the duty to register.

A. An offender's or a Tier I registrant's duty to register for a period of 10 years is not required if the circumstances triggering the registration requirements under section 11283 or section 11284 no longer exist.

B. An offender's or a Tier II registrant's duty to register for a period of at least 10 and no more than 25 years is not required if the circumstances triggering the registration requirements under section 11283 or section 11284 no longer exist.

C. An offender's or a Tier III registrant's duty to register for the duration of that person's life is not required if the circumstances triggering the registration requirements under section 11283 or section 11284 no longer exist.

D. If the underlying conviction in this State or in another jurisdiction that triggers the registration requirement is reversed, vacated or set aside, if the offender or registrant is pardoned for the crime or if the board determines that the offender or registrant no longer has a duty to register, registration is no longer required.

§ 11286. Duty of person employed or attending college or school

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

1. Time. A person who has been sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the federal Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151; 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 October 15, 2011 for an offense that includes the essential elements of a Tier I offense, Tier II offense or Tier III offense shall register as a 10-year registrant, a 25-year registrant or a lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

A. Within 24 hours of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year in this State; or

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

2. Process for notifying bureau. The person under subsection 1 shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

§ 11287. Fee

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

The fee must be credited to the General Fund and the Highway Fund in an amount consistent with currently budgeted appropriations and allocations.

§ 11288. Violation

1. Failure to comply; first offense. A person to whom this chapter applies pursuant to section 11272 who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class D crime.

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

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

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

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

6. Affirmative defense. It is an affirmative defense that the failure to comply with a duty imposed under this chapter or a rule adopted pursuant to this chapter resulted from just cause.

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.

§ 11289. 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.

SUBCHAPTER 3

RISK ASSESSMENT

§ 11301. Offender risk assessment

1. Purpose. The purpose of this subchapter is to more accurately distinguish the potential risk of danger and likelihood of recidivism by offenders for the purpose of providing more safety information to the public and to law enforcement and evaluating the offender's tier classification.

2. Development. The department, in cooperation with representatives of the Department of Public Safety, the Office of the Attorney General, victim advocates organizations, treatment providers and other interested parties who the department determines appropriate shall approve a risk assessment instrument that has been developed and meets statutory standards or shall create a risk assessment instrument based on evidence-based research, including static and dynamic risk evaluation instruments, to be applied to each offender required to register under this chapter in order to identify each offender's risk of reoffending, the degree of likelihood that the offender poses a danger to the community and the appropriateness of the offender's tier classification.

3. Qualifying evaluators. The department shall qualify evaluators to apply the risk assessment instrument. Pursuant to a request under section 11282, subsection 7, an evaluator shall use the risk assessment instrument to determine whether the offender's risk of a repeat sexual offense is low, moderate or high. Based on the determination, the evaluator may amend or relieve the registrant's tier classification and the corresponding duration of duty to register may be amended or relieved. Pursuant to rule-making authority under section 11275, the department may adopt rules governing the process for determining risk and qualifying evaluators.

4. Factors in assessing risk. In addition to use of the risk assessment instrument, an evaluator shall consider:

- A. Whether the offender has complied with all court-ordered conditions, including successfully completing treatment requirements;
- B. Information concerning the offender obtained from agencies of this State and agencies from other jurisdictions, if applicable;
- C. Whether the offender has a fixed residence; and
- D. Whether the offender has a network of support in the community, including family, friends, employers and others who are involved in the offender's daily life.

5. Access to records. Each person who is conducting the risk assessment must be given access to all records of the offender that are necessary to conduct the risk assessment, and the offender is deemed to have waived all rights of confidentiality and all privileges relating to those records for the limited purpose of the risk assessment. The information may not be released or used for any purposes other than the purposes for which the information was obtained.

6. Due process. After evaluating risk, the evaluator may change the offender's tier classification if the evaluator finds clear and convincing evidence to support that the offender's risk of committing a repeat sexual offense has changed since the time the offender was convicted and sentenced. However,

before an offender may be finally assessed and assigned a tier classification, the offender must be offered the opportunity for an administrative evidentiary hearing to determine the offender's degree of dangerousness and likelihood for recidivating. As a result, information pertaining to an offender may not be made available to the public unless the offender has been given the opportunity for a hearing. Once an offender's risk is finally classified by the evaluator, the offender's registry information, including tier classification, is available to the public.

§ 11302. Reporting

As part of the development and evaluation of the risk assessment instrument, the department shall identify the types of treatment that offenders are receiving while incarcerated and any data measuring the success and failure of such treatments.

§ 11303. Community education curriculum

1. Curriculum. As part of the risk assessment process, the department shall develop a statewide community education curriculum regarding release of offenders into the community. The curriculum developed under this section must contain information for communities and neighborhoods regarding registration and risk assessment, including the rights of residents of a community into which an offender is released and the duties and roles of the department, the Department of Public Safety, other law enforcement agencies and the offender and information for families and children regarding personal safety, including potential warning signs that may help them to avoid victimization.

2. Distribution. The curriculum developed under this section must be made available to law enforcement agencies, school districts, local governments and other entities determined by the department and the Department of Public Safety to be in a position to educate the public on the subject of the release of an offender into a community. The curriculum may be distributed by any appropriate means, written or electronic, including by means of the Internet.

SUBCHAPTER 4

NOTIFICATION

§ 11321. Immunity from liability

Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects any state, municipal or county official or employee to liability in a civil action. The immunity provided under this section applies to the release of relevant information to other officials or employees or to the general public.

§ 11322. Risk assessment

The department shall provide law enforcement agencies technical assistance concerning risk assessment and the community education curriculum under subchapter 3 for purposes of notification to the public of a registrant's conditional release or discharge.

§ 11323. Mandatory notification of conditional release or discharge of registrants

The department, county jails, state mental health institutes and the Department of Public Safety, State Bureau of Identification are governed by the following notice provisions when a registrant is conditionally released or discharged.

1. Duties. The department, a county jail or a state mental health institute shall give the Department of Public Safety, State Bureau of Identification notice of the following:

- A. The address where the registrant will be domiciled and reside;
- B. The address where the registrant will work and attend college or school, if applicable;
- C. The geographic area to which a registrant's conditional release is limited, if any; and
- D. The status of the registrant when released as determined by the risk assessment instrument, the registrant's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the registrant.

2. Duties of the Department of Public Safety, State Bureau of Identification.

Upon receipt of the information concerning the conditional release or discharge of a registrant pursuant to subsection 1, the Department of Public Safety, State Bureau of Identification shall forward the information in subsection 1 to all law enforcement agencies that have jurisdiction in those areas where the registrant may be domiciled, reside, work or attend college or school.

§ 11324. Public notification

1. Department. Upon the conditional release or discharge of a registrant from a state correctional institution, the department shall give notice of the information under section 11323, subsection 1 to members of the public the department determines appropriate to ensure public safety.

2. Law enforcement agencies. Upon receipt of the information concerning the conditional release or discharge of a registrant pursuant to section 11323, subsection 2, a law enforcement agency shall notify members of a municipality that the law enforcement agency determines appropriate to ensure public safety.

SUMMARY

This bill creates the Sex Offender Registration and Notification Act of 2011, which is applicable to persons sentenced on or after October 15, 2011. The Act maintains registration and notification provisions but adds to these processes a tiering system and the development and application of risk assessment. The new Act's purpose continues to be to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning registrants and offenders.

Offenders are classified by offense as Tier I, Tier II or Tier III offenders and must register for 10 years, for 25 years or for life, respectively. However, the bill also creates a new risk assessment process, which involves the Department of Corrections' coordinating the adoption or development of a risk assessment instrument and the qualifying of evaluators to apply the instrument. At certain times

of verification of registration information, a registrant may request a risk assessment for purposes of reclassification or removal from the registry.

The bill adopts the same penalties for failure to comply with requirements of registration and adopts the same notification process as exists in the Maine Revised Statutes, Title 34-A, chapter 15, the Sex Offender Registration and Notification Act of 1999.