

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 Clarify the Law for Failing To Comply with the Requirements of the Sex Offender Registration and Notification Act of 1999

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

Sec. 1. 15 MRSA §2124, sub-§1-A, as corrected by RR 1995, c. 2, §32 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

1-A. Present or future restraint by commitment to the Commissioner of Health and Human Services. Present restraint or impediment as a direct result of commitment to the custody of the Commissioner of Health and Human Services pursuant to section 103 imposed as a result of being found not criminally responsible by reason of ~~mental disease or defect~~insanity, that is challenged, or future restraint or impediment as a result of such an order of commitment that is challenged when a sentence involving imprisonment is or will be served first.

A claim for postconviction review is not allowed under this subsection relative to any court proceeding or administrative action that affects release or discharge pursuant to section 104-A;

Sec. 2. 15 MRSA §2124, sub-§3, ¶C, as enacted by PL 1979, c. 701, §15, is amended to read:

C. A pending trial or any of the restraints or impediments specified in subsection 1 following a criminal judgment in this State, another state or in a Federal Court for a crime for which proof of the criminal judgment of this State that is challenged constitutes an element of the subsequent crime. This paragraph does not authorize, in the context of a Title 34-A, section 11227 violation, an action for post-conviction review under this chapter of the underlying sex offense or sexually violent offense that constitutes an element of the section 11227 violation.

Sec. 3. 34-A MRSA §11227, sub-§6, as repealed and replaced by PL 2005, c. 423, §23, is amended to read: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. For purposes of this subsection, “just cause” means a physical or mental incapacity that makes a person unable to comply with a duty imposed under this chapter or a rule adopted pursuant to this chapter.

SUMMARY

This bill clarifies that a person may not seek post-conviction review of a violation of the sex offender registration requirements of the Sex Offender Registration and Notification Act of 1999 for post-conviction review of the underlying sex offense or sexually violent offense that constitutes an element

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of the registration violation. The bill also clarifies that for purposes of a violation of a duty or rule under the Sex Offender Registration and Notification Act of 1999, “just cause” raised in the context of an affirmative defense means a physical or mental incapacity that makes a person unable to comply with a duty imposed under that Act or a rule adopted pursuant to that Act.