

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

Amend the bill by striking out the title and substituting the following:

**'An Act To Prohibit Unauthorized Contact of Persons  
Convicted of Sex Offenses against Persons under 14  
Years of Age with Persons under 14 Years of Age'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 17-A MRSA §261** is enacted to read:

**§ 261. Prohibited contact with a minor; sex offender restricted zone**

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

A. Has previously been convicted 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 convicted 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;

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

C. Intentionally or knowingly has 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.

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

A. Has previously been convicted 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 convicted 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;

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

C. Intentionally or knowingly has any 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.

3. It is an affirmative defense to prosecution under this section that the parent, foster parent, guardian or other similar person responsible for the person who had not in fact attained 14 years of age, knowing the conviction status described in subsections 1 and 2, gave consent that the defendant initiate, have or continue direct or indirect contact. It is also an affirmative defense to prosecution under this section that any contact is incidental to and directly related to the defendant's employment.

4. For purposes of this section, "sex offender restricted zone" means the real property comprising a public or private elementary or middle school; the real property comprising a child care center, a child care facility, a day care operated by a family child care provider, a nursery school or a small child care facility as defined under Title 22, section 8301-A; or an athletic field, park, playground, recreational facility, children's camp or other place where children are the primary users.'

## SUMMARY

This amendment changes the title and replaces the bill. The amendment creates a new Class E crime of prohibited contact with a minor. A person is guilty of prohibited contact with a minor if that person has previously been convicted of an offense under the Maine Revised Statutes, Title 17-A, chapter 11 or 12 against another person who had not in fact attained 14 years of age or has previously been convicted in another jurisdiction for conduct substantially similar to that contained in those chapters against another person who had not in fact attained 14 years of age and if that person has a duty to register as a 10-year or lifetime registrant under Title 34-A, chapter 15, subchapters 1 and 2 and that person intentionally or knowingly has direct or indirect contact with another person who has not in fact attained 14 years of age.

The amendment also creates a new Class D crime of prohibited contact with a minor in a sex offender restricted zone if a person has previously been convicted of an offense under Title 17-A, chapter 11 or 12 against another person who had not in fact attained 14 years of age or has previously been convicted in another jurisdiction for conduct substantially similar to that contained in those chapters against another person who had not in fact attained 14 years of age and if that person has a duty to register as a 10-year or lifetime registrant under Title 34-A, chapter 15 and that person intentionally or knowingly has any direct or indirect contact in a sex offender restricted zone with another person who has not in fact attained 14 years of age. For purposes of this new crime, "sex offender restricted zone" means the real property comprising a public or private elementary or middle school; the real property comprising a child care center, a child care facility, a day care operated by a family child care provider, a nursery school or a small child care facility as defined under Title 22, section 8301-A; or an athletic field, park, playground, recreational facility, children's camp or other place where children are the primary users.

Because an element of both of these new crimes includes that the person has a duty to register under Title 34-A, chapter 15, subchapter 1 and 2, once a person no longer has a duty to register, a person cannot be guilty of these new crimes of prohibited contact with a minor or prohibited contact with a minor in a sex offender restricted zone.

It is an affirmative defense to prosecution that the parent, foster parent, guardian or other similar person responsible for the person who had not in fact attained 14 years of age knowingly granted the defendant permission to initiate, have or continue direct or indirect contact. It is also an affirmative defense to prosecution that the contact was incidental to and directly related to employment.

SP0518, LD 1491, item 2, 123rd Maine State Legislature  
'An Act To Prohibit Unauthorized Contact of Persons Convicted of Sex Offenses  
against Persons under 14 Years of Age with Persons under 14 Years of Age'

**FISCAL NOTE REQUIRED**  
**(See attached)**