

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 Make Technical Changes to the Sex Offender Registration and Notification Acts of 1999 and 2013

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

Sec. 1. 34-A MRSA §11202-A, sub-§1, ¶¶A, E and F, as amended by PL 2009, c. 570, §1, are further amended to read:

A. The person was sentenced in the State on or after January 1, 1982 and prior to June 30, 1992 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in the State on or after June 30, 1992 and prior to September 18, 1999 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in another jurisdiction prior to September 18, 1999, was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section and has been in compliance with the registration duties as a resident required under subchapter 2 since September 12, 2009; or the person was sentenced in the State on or after September 18, 1999 and prior to July 30, 2004 for a violation of former Title 17-A, section 252 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section. For purposes of this paragraph, "finally discharged from the correctional system" includes completion of probation;

E. Subsequent to the conviction for the sex offense or sexually violent offense, the person has not been convicted of and sentenced for 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 conviction for the sex offense or sexually violent offense, the person has not been convicted of and sentenced for a crime 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.

Sec. 2. 34-A MRSA §11222, sub-§§2-A and 2-B, as amended by PL 2009, c. 365, Pt. B, §15 and affected by §22, are further amended to read:

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, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C 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 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. The offender shall register with the bureau within 5 days of notice.

Sec. 3. 34-A MRSA §11222, sub-§4, as amended by PL 2009, c. 570, §2, is further amended to read:

4. Verification for persons sentenced on or after September 18, 1999. During the period a registrant sentenced on or after September 18, 1999 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~~Unless verifications are suspended, 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~~3 months 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 current 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.

Sec. 4. 34-A MRSA §11222, sub-§4-A, as amended by PL 2011, c. 420, Pt. C, §4, is further amended to read:

4-A. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a 10-year registrant. During the period a 10-year registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the 10-year registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. ~~The~~Unless verifications are suspended, the bureau shall verify the registration information of a 10-year registrant in writing as provided by the bureau on each anniversary of the 10-year registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 10-year 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 10-year registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The 10-year registrant shall mail to the bureau the completed written verification form and a current photograph on each anniversary of the 10-year registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the 10-year registrant shall take the completed verification form and a current photograph of the 10-year registrant to the law enforcement agency having jurisdiction once every 5 years ~~after~~on the anniversary of the 10-year registrant's initial registration or, if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the 10-year registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction or the bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the 10-year registrant's identity, have the 10-year 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.

Sec. 5. 34-A MRSA §11222, sub-§4-B, as amended by PL 2011, c. 420, Pt. C, §5, is further amended to read:

4-B. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a lifetime registrant. During the period a lifetime registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the lifetime registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. ~~The~~Unless verifications are suspended, the bureau shall verify the registration information of a lifetime registrant in writing as provided by the bureau every ~~90 days~~3 months after that lifetime registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 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 lifetime registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The lifetime registrant shall mail to the bureau the completed written verification form and a current photograph every ~~90 days~~ 3 months after that lifetime registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years ~~after~~ on the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction or the bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the lifetime registrant's identity, have the lifetime registrant sign the verification form, take the lifetime registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

Sec. 6. 34-A MRSA §11222, sub-§4-C is enacted to read:

4-C. Verification for person sentenced in another jurisdiction before January 1, 1982 who is a lifetime registrant. During the period a lifetime registrant sentenced in another jurisdiction before January 1, 1982 is required to register, the bureau shall require the lifetime registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. Unless verifications are suspended, the bureau shall verify the registration information of a lifetime registrant in writing as provided by the bureau every 3 months after that lifetime registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 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 lifetime registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The lifetime registrant shall mail to the bureau the completed written verification form and a current photograph every 3 months after that lifetime registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years on the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction or the bureau, to submit a new photograph without appearing in person.

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the lifetime registrant's identity, have the lifetime registrant sign the verification form, take the lifetime registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

Sec. 7. 34-A MRSA §11225-A, sub-§1, ¶B, as amended by PL 2009, c. 570, §5, is further amended to read:

B. A 10-year registrant sentenced in this State shall register for a period of 10 years. The 10-year period is calculated as follows.

(1) If the 10-year registrant was sentenced prior to September 18, 1999 to a wholly suspended sentence with probation or administrative release or to a punishment alternative not involving imprisonment, the 10-year period is treated as having begun at the time the person commenced an actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment was imposed, unless the court ordered a stay of execution, in which event the 10-year period is treated as having begun at the termination of the stay.

(2) If the 10-year registrant was sentenced prior to September 18, 1999 to a straight term of imprisonment or to a split sentence, the 10-year period is treated as having begun at the time of discharge or conditional release.

(3) If the 10-year registrant was committed under Title 15, section 103 prior to September 18, 1999, the 10-year period is treated as having begun at the time of discharge or conditional release under Title 15, section 104-A.

(4) If the 10-year registrant was sentenced prior to September 18, 1999 and the person's duty to register has not yet been triggered, the 10-year period commences upon registration by the person in compliance with section 11222, subsection 1-A, paragraph A, B or C.

(5) If the 10-year registrant was sentenced on or after September 18, 1999, the 10-year period commences from the date the person in fact initially registers once the legal duty to register arises under section 11222.

Sec. 8. 34-A MRSA §11225-A, sub-§5, as enacted by PL 2005, c. 423, §22, is repealed and the following enacted in its place:

5. Suspending verifications. Notwithstanding subsections 1 and 3, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the 10-year registrant or lifetime registrant verify registration information during any period in which the 10-year registrant or lifetime registrant:

A. Leaves this State, establishes a domicile or residence in another state and remains physically absent from this State;

B. Is incarcerated; or

C. Is incapacitated or hospitalized.

Sec. 9. 34-A MRSA §11228, as amended by PL 2009, c. 365, Pt. B, §21 and affected by §22, is repealed and the following enacted in its place:

§ 11228. Certification by record custodian

1. Certificate admissible. 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.

2. Qualified witness. With 10 days' written notice to the prosecution, the defendant may request that a qualified witness testify to the matters of which the certificate under subsection 1 constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony. The certificate is not prima facie evidence in those matters.

Sec. 10. 34-A MRSA §11273, sub-§15, ¶A, as enacted by PL 2011, c. 663, §3, is amended to read:

A. Title 17-A, chapter 11 including the following:

(1) Title 17-A, section 253, subsection 2, paragraph J, ~~if the victim had attained 18 years of age at the time of the offense~~ regardless of the age of the victim;

- (2) Title 17-A, section 253, subsection 2, paragraph K, regardless of the age of the victim;
- (3) Title 17-A, section 253, subsection 2, paragraph L, regardless of the age of the victim;
- (4) Title 17-A, section 255-A, subsection 1, paragraph J, regardless of the age of the victim;
- (5) Title 17-A, section 255-A, subsection 1, paragraph R-1, regardless of the age of the victim;
- (6) Title 17-A, section 255-A, subsection 1, paragraph R-2, regardless of the age of the victim;
and
- (7) Title 17-A, section 258, subsection 1-A, if the victim had not attained 12 years of age;

Sec. 11. 34-A MRSA §11273, sub-§16, ¶¶D and E, as enacted by PL 2011, c. 663, §3, are amended to read:

D. Title 17-A, section 852, subsection 1; and

E. A military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151; and

Sec. 12. 34-A MRSA §11273, sub-§16, ¶F is enacted to read:

F. Title 17-A, section 556, subsection 1, paragraph B, regardless of the age of the victim.

Sec. 13. 34-A MRSA §11281, sub-§1, as enacted by PL 2011, c. 663, §3, is amended to read:

1. Maintenance of registry. The bureau shall establish and maintain a registry of persons required to register pursuant to this subchapter, referred to in this section as "the registry." ~~The~~After initial registration, 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, land line and cellular telephone numbers, Internet identifiers, mailing address and physical location of expected domicile and residence. For purposes of this paragraph, "Internet identifiers" means e-mail addresses and other designations used for self-identification or routing in Internet communication or posting;

B. Place of employment and college or school being attended, if applicable, and the corresponding mailing address and physical location;

C. Offense history;

D. A current photograph and set of fingerprints;

- E. A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed;
- F. Whether the registrant is a Tier I registrant, Tier II registrant or Tier III registrant;
- G. A copy of any driver's license information and copy of the driver's license;
- H. A copy of any professional license;
- I. Passport and immigration documents and social security number;
- J. Temporary lodging and dates of travel;
- K. Information about motor vehicles owned, leased or used and registration and location of those motor vehicles. For purposes of this paragraph, "lease" means a transfer of the right to possession and use of a motor vehicle for a term of 30 days or more in return for consideration; and
- L. Any other information the bureau determines important.

Sec. 14. 34-A MRSA §11281, sub-§7, as enacted by PL 2011, c. 663, §3, is amended to read:

7. Public access to registrant information. ~~The~~After initial registration, 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 registrant, Tier II registrant or Tier III registrant:

- (1) The registrant's name, aliases and date of birth and a current 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 mailing address and physical location;
- (4) The statutory citation and name of the offense for which the registrant was convicted;
- (5) Whether the registrant is a Tier I registrant, a Tier II registrant or a Tier III registrant;
- (6) Verification requirements and date of last verification; and
- (7) The registrant's address and its location on a map.

B. The bureau shall establish an e-mail notification system to alert a member of the public who has subscribed annually to the e-mail notification system when a registrant moves into the subscriber's geographic area.

C. 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 mailing address and physical 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.

Sec. 15. 34-A MRSA §11282, sub-§6, as enacted by PL 2011, c. 663, §3, is amended to read:

6. Verification. During the period a registrant is required to register, the bureau shall require the registrant to verify all registration information unless verifications are suspended. 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 bring the completed verification form and a current 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.

Sec. 16. 34-A MRSA §11282, sub-§7, ¶¶A and B, as enacted by PL 2011, c. 663, §3, are amended to read:

A. A Tier III registrant shall register for the duration of the registrant's life and shall verify registration information every ~~90 days~~3 months after the registrant's initial registration date.

B. A Tier II registrant shall register for 25 years and shall verify registration information every ~~180 days~~6 months after the registrant's initial registration date.

Sec. 17. 34-A MRSA §11285, sub-§8, as enacted by PL 2011, c. 663, §3, is repealed and the following enacted in its place:

8. Suspending verifications. Notwithstanding any other provision of this section, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the registrant or offender verify registration information during any period in which a registrant or offender:

- A. Leaves this State, establishes a domicile or residence in another state and remains physically absent from this State;
- B. Is incarcerated; or
- C. Is incapacitated or hospitalized.

Sec. 18. 34-A MRSA §11288, sub-§§2 and 3, as enacted by PL 2011, c. 663, §3, are amended to read:

2. Failure to comply; 2nd offense. A person who has one prior conviction under this section or section 11227 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 or section 11227 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.

Sec. 19. 34-A MRSA §11289, as enacted by PL 2011, c. 663, §3, is repealed and the following enacted in its place:

§ 11289. Certification by record custodian

1. Certificate admissible. 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.

2. Qualified witness. With 10 days' written notice to the prosecution, the defendant may request that a qualified witness testify to the matters of which the certificate under subsection 1 constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony. The certificate is not prima facie evidence in those matters.

SUMMARY

This bill amends the Sex Offender Registration and Notification Act of 1999 and the Sex Offender Registration and Notification Act of 2013 to make technical changes.

With respect to the Sex Offender Registration and Notification Act of 1999, the bill:

1. Amends the Act to provide that, with respect to individuals convicted in other jurisdictions, only those individuals convicted before September 18, 1999 may apply for relief from the registration requirement, in order to parallel the provision applicable to registrants with Maine convictions. The bill also amends the law to require persons found not criminally responsible to be included in reinstating the registration requirement;

2. Amends the Act to require registration of a person sentenced after September 17, 1999 for a crime added after that date to the Act;

3. Amends the Act to not require verifications to be sent if the verification requirement has been suspended and to change the time period from 90 days to 3 months in order to require only 4 verifications a year. The bill also amends the law to clarify that in-person verification should occur every 5 years on the anniversary of the initial registration;

4. Amends the Act to require verifications from lifetime registrants who move to Maine from other jurisdictions;

5. Amends the Act to begin the registration period only after the duty to register has occurred;

6. Amends the Act to allow the Department of Public Safety, State Bureau of Identification to suspend the verification requirement for a registrant who is incarcerated, incapacitated or hospitalized; and

7. Amends the Act to provide for notice if a custodian of records certification is challenged.

With respect to the Sex Offender Registration and Notification Act of 2013, the bill:

1. Amends the Act to make the crime of gross sexual assault against a person with intellectual disabilities or autism receiving services from a program of the Department of Health and Human Services a Tier II offense regardless of the age of the victim;

2. Amends the Act to include incest with prior convictions as a Tier III offense;

3. Amends the Act to clarify that the bureau's duty to collect and post information occurs after the initial registration form is received;

4. Amends the Act to not require verifications to be sent if the verification requirement has been suspended, to change the time period from 90 days to 3 months for Tier III registrants in order to require only 4 verifications a year and to change the time period from 180 days to 6 months for Tier II registrants;

5. Amends the Act to allow the bureau to suspend the verification requirement for a registrant who is incapacitated or hospitalized;

6. Amends the violations section in the Act to include cross-references to relevant provisions of the Sex Offender Registration and Notification Act of 1999; and

7. Amends the Act to provide for notice if a custodian of record certification is challenged.