

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

paragraphs C, D and E, other than those referred to in section 4 of this Part, and who must be given similar and equitable treatment on a pro rata basis similar to that treatment given employees covered by the collective bargaining agreements.

Sec. B-6. Costs to General Fund. Costs to the General Fund must be provided in the Salary Plan program, referred to in Part C, section 1 of this Act, in the amount of \$430,412 for the fiscal year ending June 30, 2002 and in the amount of \$925,565 for the fiscal year ending June 30, 2003 to implement the economic terms of the collective bargaining agreements made between the Judicial Department and the Maine State Employees Association for the administrative services bargaining unit, the supervisory bargaining unit and the professional bargaining unit and, notwithstanding the Maine Revised Statutes, Title 26, section 1285, subsection 1, paragraph E, for the costs of those Judicial Department employees excluded from collective bargaining pursuant to Title 26, section 1282, subsection 5, paragraphs C, D, E, F and G.

PART C

Sec. C-1. Transfer from Salary Plan and special account funding. The Salary Plan program in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the implementation of collective bargaining agreements for state employees and for other economic items contained in this Act in fiscal year 2001-02 and fiscal year 2002-03. Positions supported from sources of funding other than the General Fund and the Highway Fund must be funded whenever possible from those other sources.

Sec. C-2. Authorization for reimbursement of costs associated with contract resolution. The Department of Administrative and Financial Services may be reimbursed from the Salary Plan program for the costs of contract resolution, administration, implementation and other costs required by the process of collective bargaining and negotiation procedures.

PART D

Sec. D-1. 5 MRSA §8, as amended by PL 1999, c. 454, Pt. E, §1, is further amended to read:

§8. Mileage allowance

The State shall pay for the use of privately owned automobiles for travel by employees of the State in the business of the State such reimbursement as agreed to between the State and their certified or recognized bargaining agent. For employees and state

officers and officials not subject to any such agreement, the State shall pay ~~24¢ per mile effective July 1, 1998, 26¢ per mile effective January 1, 2000 and 28¢ per mile effective January 1, 2001~~ 30¢ per mile effective July 1, 2001 and 32¢ per mile effective July 1, 2002 for miles actually traveled on state business. The Governor may suspend the operation of this section and require state officials and employees to travel in automobiles owned or controlled by the State, if such automobiles are available.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 20, 2001.

CHAPTER 439

H.P. 655 - L.D. 855

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for Fiscal Years Ending June 30, 2002 and June 30, 2003

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

PART A

Sec. A-1. Supplemental appropriations and allocations. There are appropriated and allocated from various funds for the fiscal years ending June 30, 2002 and June 30, 2003, to the departments listed, the following amounts.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Central Motor Pool

New Initiative: Provides funding for 2 positions in Central Fleet Management. An Auto Mechanic II position and a Fleet Support Specialist position are required to prepare vehicles, manage maintenance and process new, used and surplus vehicles.

Central Motor Pool Fund	2001-02	2002-03
Positions - Legislative Count	(2,000)	(2,000)
Personal Services	\$62,158	\$64,992
All Other	8,966	8,357
Total	71,124	73,349

Central Services - Purchases

new Computer Access Specialist position to provide computer access services through the Iris Network to blind consumers regardless of age or location in the State.

establishing an accredited dental residency program.

PART OOO

Sec. OOO-1. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2001, c. 389, §1, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (9) A violation of a condition of probation when requested by a probation officer or juvenile caseworker;
- (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;
- (11) Theft involving a detention under Title 17, section 3521;

PART MMM

Sec. MMM-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

2002-03

**LABOR, DEPARTMENT OF
Maine Centers for Women, Work
and Community**

All Other	\$100,000
Provides funds to increase statewide education, training and employment and self-employment services for displaced homemakers that lead to economic self-sufficiency and continue to build program capacity to coordinate and deliver these services and to measure outcomes. The appropriation will provide for increased staff to provide service delivery in Washington County and Waldo County beginning in fiscal year 2002-03.	

PART NNN

Sec. NNN-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

2002-03

**FINANCE AUTHORITY OF
MAINE**

Finance Authority of Maine

All Other	\$25,000
Appropriates one-time funds to allow the Finance Authority of Maine to conduct a study to determine the feasibility of	

(12) Harassment, as set forth in section 506-A;

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5; or

(14) A violation of a sex offender registration provision under Title 34-A, chapter ~~11~~ 15; and

Sec. OOO-2. 17-A MRSA §1152, sub-§2-C, as enacted by PL 1995, c. 680, §4, is amended to read:

2-C. As part of a sentence, the court shall order every natural person who is a convicted sex offender or sexually violent predator, as defined under Title 34-A, section ~~1103~~ 11203 to satisfy all requirements set forth in the Sex Offender Registration and Notification Act of 1999.

Sec. OOO-3. 17-A MRSA §1204, sub-§1-C, as amended by PL 1999, c. 437, §1, is further amended to read:

1-C. The court shall attach as a condition of probation that the convicted sex offender, as defined under Title 34-A, section ~~1103~~, satisfy all responsibilities set forth in Title 34 A, chapter 13, the Sex Offender Registration and Notification Act and that the convicted sex offender, as defined under Title 34 A, section ~~11203~~, subsection 5, or the convicted sexually violent predator, as defined under Title 34-A, section 11203, subsection 8, satisfy all responsibilities set forth in Title 34-A, chapter 15, the Sex Offender Registration and Notification Act of 1999.

Sec. OOO-4. 17-A MRSA §1252, sub-§4-A, as enacted by PL 1997, c. 460, §5, is amended to read:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27 was committed, the defendant had been convicted of 2 or more crimes violating chapter 9, 11, 13 or 27 or essentially similar crimes in other jurisdictions, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. For purposes of this subsection, for violations under chapter 11, the dates of the prior convictions may have occurred at any time. For purposes of this subsection, for violations under chapter 9, 13 or 27, the dates of the prior convictions must precede the commission of

the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same date. This subsection does not apply if the 2 prior offenses were committed within a 3-day period. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date an offense was committed is presumed to be the date stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. OOO-5. 34-A MRSA cc. 11 and 13, as amended, are repealed.

Sec. OOO-6. 34-A MRSA §11201, as enacted by PL 1999, c. 437, §2, is amended to read:

§11201. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999." The purpose of this chapter is to protect the public from potentially dangerous sex offenders and sexually violent predators by enhancing access to information concerning sex offenders and sexually violent predators.

Sec. OOO-7. 34-A MRSA §11202, as enacted by PL 1999, c. 437, §2, is amended to read:

§11202. Application

This chapter applies to a person sentenced as a sex offender or a sexually violent predator on or after ~~the effective date of this chapter~~ June 30, 1992.

Sec. OOO-8. 34-A MRSA §11203, sub-§§1-A, 1-B and 4-A are enacted to read:

1-A. Conditional release. "Conditional release" means supervised release of a sex offender or sexually violent predator from institutional confinement for placement on probation, parole, intensive supervision, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 50.

1-B. Discharge. "Discharge" means unconditional release and discharge of a sex offender or sexually violent predator from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

4-A. 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 sex offender or sexually violent predator, living conditions and environment of a sex offender or sexually violent predator and other factors predisposing a person to become a sex offender, repeat sex offender or sexually

violent predator, for the ongoing purpose of identifying risk factors used to provide notification of a sex offender's or sexually violent predator's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public.

Sec. 000-9. 34-A MRSA §11203, sub-§6, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. A violation under Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 301, unless the actor is a parent of the victim; Title 17-A, section 302; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; or

Sec. 000-10. 34-A MRSA §11203, sub-§8, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. Sex offense when the person has a prior conviction for which registration is required by this chapter or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense.

Sec. 000-11. 34-A MRSA §11222, sub-§2-A is enacted to read:

2-A. Sex offenders or sexually violent predators convicted from June 30, 1992 to September 17, 1999. Sex offenders or sexually violent predators convicted from June 30, 1992 to September 17, 1999 shall register with the bureau by September 1, 2002, unless sooner notified of a duty to register by the bureau, the Department of Corrections or a law enforcement officer, in which case the sex offender or sexually violent predator shall register with the bureau within 10 days of notice.

Sec. 000-12. 34-A MRSA §11225, sub-§1, as enacted by PL 1999, c. 437, §2, is amended to read:

1. Sex offender. A sex offender shall register for a period of 10 years from the initial date of registration pursuant to this chapter, except that a sex offender required to register because the sex offender established a domicile in this State subsequent to being declared a sex offender in another state or under another jurisdiction shall register for a maximum of 10 years from the date when the sex offender was first required to register in the other state or under another jurisdiction. A sex offender or sexually violent predator convicted from June 30, 1992 to September

17, 1999 shall register for 10 years from the date of conviction if the sex offender or sexually violent predator was not sentenced to a period of institutional confinement, or for 10 years from the date of discharge or conditional release if the sex offender or sexually violent predator was sentenced to a period of institutional confinement.

Sec. 000-13. 34-A MRSA §11227, as enacted by PL 1999, c. 437, §2, is amended to read:

§11227. Violation

A sex offender or sexually violent predator who fails to register or update the information required under this chapter commits a Class D crime, except that a violation of this section when the sex offender or sexually violent predator has 2 or more prior convictions in this State for violation of this chapter is a Class C crime. For purposes of this section, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same day. The date of the conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of a prior offense is deemed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent. It is an affirmative defense that the failure to register or update information resulted from just cause, except that sex offenders and sexually violent predators convicted from June 30, 1992 to September 17, 1999 may not raise a defense under just cause that they were not aware of the registration requirement.

Sec. 000-14. 34-A MRSA §11251, as enacted by PL 1999, c. 437, §2, is repealed.

Sec. 000-15. 34-A MRSA §§11253 to 11256 are enacted to read:

§11253. Risk assessment

The department shall establish and apply a risk assessment instrument to each sex offender and sexually violent predator under its jurisdiction for the purpose of notification to law enforcement agencies and to the public.

§11254. Mandatory notification of conditional release or discharge of sex offenders

The department and the Department of Public Safety, State Bureau of Identification are governed by the following notice provisions when a sex offender or sexually violent predator is conditionally released or discharged.

1. Duties of the department. The department shall give the Department of Public Safety, State Bureau of Identification notice of the following:

A. The address where the sex offender or sexually violent predator will reside;

B. The address where the sex offender or sexually violent predator will work, if applicable;

C. The geographic area to which a sex offender's or sexually violent predator's conditional release is limited, if any; and

D. The status of the sex offender or sexually violent predator when released as determined by the risk assessment instrument, the offender's or predator's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the offender or predator.

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 sex offender or sexually violent predator 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 sex offender or sexually violent predator may reside or work.

§11255. Public notification

1. Department. Upon the conditional release or discharge of a sex offender or sexually violent predator from a state correctional institution, the department shall give notice of the information under section 11254, 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 sex offender or sexually violent predator pursuant to section 11254, subsection 2, a law enforcement agency shall notify members of a municipality that the law enforcement agency determines appropriate to ensure public safety.

§11256. Risk assessment assistance

Upon request, the department shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of notification to the public of a sex offender's or sexually violent predator's conditional release or discharge.

Sec. 000-16. Nonseverability. Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 71, if any provision of this Act or its

application is held invalid, it is the intent of the Legislature that the entire Act is invalidated.

Sec. 000-17. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Positions - Legislative Count	(1,000)	(2,000)
Personal Services	\$9,376	\$28,801
Appropriates funds for the General Fund share of the costs of one additional Data Entry Specialist position starting on October 1, 2001 and one additional Data Entry Specialist position starting on July 1, 2002. These positions are necessary to process an expanded sex offender registration program.		

Sec. 000-18. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

	2001-02	2002-03
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Positions - Legislative Count	(1,000)	(2,000)
Personal Services	\$14,063	\$43,202
Allocates funds for the Highway Fund share of the costs of one additional Data Entry Specialist position starting on October 1, 2001 and one additional Data Entry Specialist position starting on July 1, 2002. These positions are necessary to process an expanded sex offender registration program.		

PART PPP

Sec. PPP-1. 36 MRSA §1760, sub-§42, as enacted by PL 1983, c. 560, §3, is amended to read:

42. Historical societies, museums and certain memorial foundations. Sales to incorporated nonprofit memorial foundations that primarily provide