

MAINE STATE LEGISLATURE

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L.D. 855

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DATE: (Filing No. H- 724)

APPROPRIATIONS AND FINANCIAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 655, L.D. 855, Bill, "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 the Fiscal Years Ending June 30, 2002 and June 30, 2003"

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

'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 the Fiscal Years Ending June 30, 2001, June 30, 2002 and June 30, 2003'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable prior to June 30, 2001; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of

COMMITTEE AMENDMENT

2 violations under chapter 11, the dates of the prior convictions
3 may have occurred at any time. For purposes of this subsection,
4 for violations under chapter 9, 13 or 27, the dates of the prior
5 convictions must precede the commission of the offense being
6 enhanced by no more than 10 years, although both prior
7 convictions may have occurred on the same date. This subsection
8 does not apply if the 2 prior offenses were committed within a
9 3-day period. The date of a conviction is deemed to be the date
10 that sentence is imposed, even though an appeal was taken. The
11 date an offense was committed is presumed to be the date stated
12 in the complaint, information or indictment, notwithstanding the
13 use of the words "on or about" or the equivalent.

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 PPP-5. 34-A MRSA cc. 11 and 13,** as amended, are repealed.

16 **Sec. PPP-6. 34-A MRSA §11201,** as enacted by PL 1999, c. 437,
17 §2, is amended to read:

18 **§11201. Short title**

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

28 **Sec. PPP-7. 34-A MRSA §11202,** as enacted by PL 1999, c. 437,
29 §2, is amended to read:

30 **§11202. Application**

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

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

40 **1-A. Conditional release.** "Conditional release" means
41 supervised release of a sex offender or sexually violent predator
42 from institutional confinement for placement on probation,
43 parole, intensive supervision, supervised community confinement,
44 home release monitoring or release under Title 15, section 104-A
45 or Title 17-A, chapter 50.

46 **1-B. Discharge.** "Discharge" means unconditional release
47 and discharge of a sex offender or sexually violent predator from

2 institutional confinement upon the expiration of a sentence or
3 upon discharge under Title 15, section 104-A.

4 **4-A. Risk assessment instrument.** "Risk assessment
5 instrument" means an instrument created and modified as necessary
6 by reviewing and analyzing precursors to a sex offense, victim
7 populations of a sex offender or sexually violent predator,
8 living conditions and environment of a sex offender or sexually
9 violent predator and other factors predisposing a person to
10 become a sex offender, repeat sex offender or sexually violent
11 predator, for the ongoing purpose of identifying risk factors
12 used to provide notification of a sex offender's or sexually
13 violent predator's conditional release or discharge from a state
14 correctional facility to law enforcement agencies and to the
15 public.

16
17 **Sec. PPP-9. 34-A MRSA §11203, sub-§6, ¶B,** as enacted by PL
18 1999, c. 437, §2, is amended to read:

19
20 B. A violation under Title 17-A, section 253, subsection 2,
21 paragraph E, F, G, H, I or J; Title 17-A, section 254; Title
22 17-A, section 255, subsection 1, paragraph A, E, F, G, I or
23 J; Title 17-A, section 256; Title 17-A, section 258; Title
24 17-A, section 259; Title 17-A, section 301, unless the actor
25 is a parent of the victim; Title 17-A, section 302; Title
26 17-A, section 511, subsection 1, paragraph D; Title 17-A,
27 section 556; Title 17-A, section 852, subsection 1,
28 paragraph B; or Title 17-A, section 855; or

29
30 **Sec. PPP-10. 34-A MRSA §11203, sub-§8, ¶B,** as enacted by PL
31 1999, c. 437, §2, is amended to read:

32
33 B. Sex offense when the person has a prior conviction for
34 which registration is required by this chapter or an attempt
35 to commit an offense that includes the essential elements of
36 a sex offense or sexually violent offense.

37
38 **Sec. PPP-11. 34-A MRSA §11222, sub-§2-A** is enacted to read:

39
40 **2-A. Sex offenders or sexually violent predators convicted**
41 **from June 30, 1992 to September 17, 1999. Sex offenders or**
42 **sexually violent predators convicted from June 30, 1992 to**
43 **September 17, 1999 shall register with the bureau by September 1,**
44 **2002, unless sooner notified of a duty to register by the bureau,**
45 **the Department of Corrections or a law enforcement officer, in**
46 **which case the sex offender or sexually violent predator shall**
47 **register with the bureau within 10 days of notice.**

48
49 **Sec. PPP-12. 34-A MRSA §11225, sub-§1,** as enacted by PL 1999,
50 c. 437, §2, is amended to read:

2 **1. Sex offender.** A sex offender shall register for a
4 period of 10 years from the initial date of registration pursuant
6 to this chapter, except that a sex offender required to register
8 because the sex offender established a domicile in this State
10 subsequent to being declared a sex offender in another state or
12 under another jurisdiction shall register for a maximum of 10
14 years from the date when the sex offender was first required to
16 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.

18 **Sec. PPP-13. 34-A MRSA §11227**, as enacted by PL 1999, c.
20 437, §2, is amended to read:

22 **§11227. Violation**

24 A sex offender or sexually violent predator who fails to
26 register or update the information required under this chapter
28 commits a Class D crime, except that a violation of this section
30 when the sex offender or sexually violent predator has 2 or more
32 prior convictions in this State for violation of this chapter is
34 a Class C crime. For purposes of this section, the dates of both
36 of the prior convictions must precede the commission of the
38 offense being enhanced by no more than 10 years, although both
40 prior convictions may have occurred on the same day. The date of
42 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.

44 **Sec. PPP-14. 34-A MRSA §11251**, as enacted by PL 1999, c.
46 437, §2, is repealed.

48 **Sec. PPP-15. 34-A MRSA §§11253 to 11256** are enacted to read:

§11253. Risk assessment

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

6 **§11254. Mandatory notification of conditional release or**
7 **discharge of sex offenders**

8
9
10 The department and the Department of Public Safety, State
11 Bureau of Identification are governed by the following notice
12 provisions when a sex offender or sexually violent predator is
13 conditionally released or discharged.

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

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

19
20 **B. The address where the sex offender or sexually violent**
21 **predator will work, if applicable;**

22
23 **C. The geographic area to which a sex offender's or**
24 **sexually violent predator's conditional release is limited,**
25 **if any; and**

26
27 **D. The status of the sex offender or sexually violent**
28 **predator when released as determined by the risk assessment**
29 **instrument, the offender's or predator's risk assessment**
30 **score, a copy of the risk assessment instrument and**
31 **applicable contact standards for the offender or predator.**

32
33 **2. Duties of the Department of Public Safety, State Bureau**
34 **of Identification.** Upon receipt of the information concerning
35 the conditional release or discharge of a sex offender or
36 sexually violent predator pursuant to subsection 1, the
37 Department of Public Safety, State Bureau of Identification shall
38 forward the information in subsection 1 to all law enforcement
39 agencies that have jurisdiction in those areas where the sex
40 offender or sexually violent predator may reside or work.

41 **§11255. Public notification**

42
43 **1. Department.** Upon the conditional release or discharge
44 of a sex offender or sexually violent predator from a state
45 correctional institution, the department shall give notice of the
46 information under section 11254, subsection 1 to members of the
47 public the department determines appropriate to ensure public
48 safety.
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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. PPP-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. PPP-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. PPP-18. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

2001-02

2002-03

2

PUBLIC SAFETY, DEPARTMENT OF

4

State Police

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Positions - Legislative Count	(1.000)	(2.000)
Personal Services	\$14,063	\$43,202

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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.

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PART QQQ

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

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42. Historical societies, museums and certain memorial foundations. Sales to incorporated nonprofit memorial foundations that primarily provide cultural programs free to the public, historical societies and museums.

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Sec. QQQ-2. Effective date. This Part takes effect July 1, 2002.

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PART RRR

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Sec. RRR-1. Establish program. The Department of Human Services is authorized to establish a prescription drug reimportation program whereby the State, through the department, acquires prescription drugs from foreign jurisdictions. In operating the reimportation program, the State may not act as a distributor of prescription drugs. This authorization is contingent upon the department obtaining approval from the federal Department of Health and Human Services for the State to establish a prescription drug reimportation program and is further contingent upon cost savings to be realized by the citizens of the State as a result of the operation of the reimportation program.

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2 of Labor to support a portion of the cost of one new Computer
Access Specialist position to provide computer access services
4 through the Iris Network to blind consumers regardless of age or
location in the State.

6 Part NNN provides a General Fund appropriation of \$100,000
in fiscal year 2002-03 for the Department of Labor to increase
8 statewide education, training and employment and self-employment
services for displaced homemakers. The appropriation will
10 provide for increased staff to provide service delivery in
Washington and Waldo counties beginning in fiscal year 2002-03.

12 Part OOO provides funds for the Finance Authority of Maine
14 to undertake a study of methods of relieving the shortage of
dentists in Maine, including the feasibility of establishing an
16 accredited dental residency program.

18 Part PPP amends the Sex Offender Registration and
Notification Act of 1999 and sentencing provisions for sex
20 offenders.

22 Part QQQ establishes a sales tax exemption for certain
incorporated, nonprofit memorial foundations.

24 Part RRR authorizes the Department of Human Services to
26 establish a prescription drug reimportation program contingent
upon approval from the federal Department of Health and Human
28 Services and upon cost savings to be realized by Maine citizens
as a result of the operation of this program.

30 Part SSS provides for the reimbursement to optometrists for
32 services provided to persons whose care is paid for in part by
the Medicaid program and in part by the Medicare program.

34 Part TTT establishes the Education Funding Reform Committee
36 to make recommendations to the Legislature that reduce the
State's reliance on the property tax as the primary source of
38 funding for elementary and secondary education and to identify
other funding sources that ensure equal educational opportunity,
40 provide a more equitable balance among funding sources and
provide property tax relief to encourage businesses to expand and
42 locate to the State and to entice more people to live in the
State. The committee is required to make recommendations to the
44 Legislature by December 31, 2001. The Legislature may accept or
reject the committee's recommendations or submit the committee's
46 recommendations to the voters at a public referendum at the time
of the general election in November 2002. It also provides a
48 General Fund appropriation for the Legislature to support the
costs of the commission.

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