

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Senate Legislative Record
One Hundred and Twenty-Fourth Legislature

State of Maine

Daily Edition

First Regular Session
December 3, 2008 to June 12, 2009

Pages 1 - 1159

ROLL CALL (#183)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFISKY, GOODALL, HOBBS, JACKSON, MARRACHE, NUTTING, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, TRAHAN, WESTON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (6/5/09) Assigned matter:

An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders
H.P. 292 L.D. 385
(C "A" H-474)

Tabled - June 5, 2009, by Senator **COURTNEY** of York

Pending - motion by same Senator to **RECONSIDER** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, June 3, 2009, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474)**, in concurrence.)

(In House, June 5, 2009, **PASSED TO BE ENACTED**.)

On motion by Senator **COURTNEY** of York, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (H-474), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, the existing bill created a statewide set-back requirement of 750 feet from schools and there are certain

areas in my community that have a real issue with that. What this amendment would do is protect existing ordinances. If a local community has come to the conclusion that they needed a further set-back, in my case with Lyman and Waterboro both have 2,500 foot set-backs, this would allow those to continue. The issue here is that the community of Waterboro, several years ago, had a terrible time. There was a sex offender that was put on the street very close to the high school and junior high. Everyday the kids walked by the house and it really outraged the community. This fella that moved into this home had brutally beaten and raped a young girl, who was left for dead. It wasn't a matter of being vigilantes or trying to take the law into their own hands, they wanted to work through the system and put together something in place that would protect local children. All I'm asking with this amendment is to go forward with the State position, but these local communities have already reviewed this and I think that they live there and really need to have their views considered. The selectmen in Waterboro are absolutely opposed to the existing bill and I would hope that you would consider allowing them to maintain local control. Thank you, Madame President.

Senator **GERZOFISKY** of Cumberland moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474).

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm speaking today, urging you to support the pending motion of Indefinite Postponement. This Majority Report is an 11-2 report from the Criminal Justice and Public Safety Committee in a bipartisan way. We felt that the Department of Corrections needs some type of consistency statewide for placing these sex offenders once they have served their time. If you don't have consistency statewide you really drive all these folks towards a very few communities and that's not a good situation. You have two towns that have been mentioned that do have a policy. Why treat them differently than two other towns that may be don't have a policy? I think this Majority Report was supported by the Department of Corrections and Public Safety to have some type of consistency for the departments to work with. I think you need to support the pending motion. Thank you.

On motion by Senator **RAYE** of Washington, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President. Men and women of the Senate, while I think that I would like to have a statewide policy, I think that the towns know their districts and their neighborhoods a whole lot better than the State of Maine does. By reducing this from 2,500 feet to 750 feet, I'm wondering if the crime of sexual vision aggression would be a little easier for some of these pedophiles who live near our schools. We actually made that a crime a little while ago. With 2,500 feet I'd feel a little safer about my child than I do from 750 feet. We require setbacks for everything. We allow people in the towns to decide

on a lot. I'll tell you what, when the pedophile watching my child considers my child bait and they are the predator I'd rather have a fence and treat predators the way we usually do. If we had a civil commitment in the state of Maine we could civilly commit these people, like other states do, and make sure that our children don't need to have to kept 2,500 feet from a predator. They'd be put somewhere where a panel or a judge decides if they are safe enough to be on the streets. That would be optimum. In the meantime, when the young girl in the park or the schoolyard is within 750 feet of someone who just can't resist, who can't stop, and who uses every excuse in the book to get to that child, I don't think 750 feet is enough. In the state of Maine, the last time I checked, there were six probation officers who are trained to deal with sexual offenders. Six, there might be eight or nine now, I'm not sure. I interviewed one of them. I said, 'What are these people like?' He said, 'Debbie, by the time you get through talking with them at your weekly meeting, and they ask you out for coffee, you want to go.' They don't wear a sign that says predator. They wear a sign that says they could be the most successful salesmen in the world. It's their smile. It's their demeanor. It's the way they prey on weaknesses and strengths. The fool parents, teachers, policemen, and children. I really have a lot less sympathy for a predator than some of you probably do. If you commit a crime that makes you a social pariah then you are a social pariah. If it's not a deterrent than you take your lumps. I'm going to be on the side of a child every single time. I would urge you to vote against the Indefinite Postponement and then I would urge you to vote against the pending bill. It's not good public policy to choose predators over children.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, we heard a little earlier about consistency and trying to create the same protection, I guess, for people in all parts of the state. I guess when you look at the protections for a rural community with 2,500 feet, it's very different from a protection for an urban community of 750 feet. I guess I'd have to, respectfully, question the committee's decision. I think sometimes we get in trouble when we think we know better here than the people at home and the people that live there. This young girl that I spoke about a few minutes ago, Michelle, who was brutally raped and left for dead, she came up here last year. She came up here to testify on these bills. She felt that she didn't want the same thing to happen to somebody else. When the community was outraged and rallying she was out there. She's about 27 or 28 years old now. This is with her for the rest of her life. All I'm asking is for a small measure of protection going forward so that maybe we can just save one person. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you, Madame President. Ladies and gentlemen of the Senate, I rise in support of Indefinitely Postponing this and passing the bill. You can be smart on crime. You can be smart on keeping offenders in plain view. We had Waterboro come up. I asked the sheriff, 'Was there anybody in your community that didn't know where this person lived?' Absolutely not. 'Was there anybody in your county that didn't

know where this person lived because of all the publicity?' Absolutely not. I said, 'Good, because even in Cumberland County we knew where this person lived.' Having 1,000 sets of eyes on this person helps keep him behaving. Helps keep children protected. If you want to give your children protection, tell them where these people live, showing them where these people live, tell them not to be around these people, but for God's sakes, let's not send them under bridges to live so that we lose track of them entirely. Let's keep them on probation where they belong. Let's keep an eye on them. This committee has looked at this subject for the last eight years that I have been there. We've made a lot of progress. The laws that we've come up with in this Body have been used for a model around the country. It's because we're doing what evidence-based practices tells us works. We're not just watching Oprah. We're not just watching Bill O'Reilly rant and rave about things that they know nothing about. This committee has studied this an awful lot in eight years. I would hope that people would follow my light and Indefinitely Postpone this amendment and then go on to the bill and pass that with good numbers. Thank you very much, ladies and gentlemen.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you, Madame President. Ladies and gentlemen of the Senate, I would urge you to vote against the pending motion and then move to support the amendment. I represent two towns in rural western Maine, Sebago and Baldwin. Both, under their home rule concept which we seem to pay less and less respect for, they have made their own decision. These little towns only have one or two schools. Most of the town is left open for residency. They have the luxury that urban areas don't, to expand the protection around the schools. Why don't we honor that? Yes, the committee has studied this well, but so have those boards of selectmen in the town meetings in those two communities. They have studied this just as well. I tend to believe that they know more about Baldwin and Sebago than perhaps this Body does. Accordingly, why not exempt those communities who have made reasonable regulations? It may somewhat exceed this but perfect sense for their communities. Why not grandfather those communities? Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Gooley.

Senator **GOOLEY:** Thank you, Madame President. I guess I rise to maybe not ask a question but I wonder about the demographics of sex offenders, I don't know how many there are in the state of Maine, especially in rural towns. If there are ten sex offenders in one town and an adjacent town has none, it would seem logical that the one with the ten would have much more concern over this issue. It just seems to me that local control is maybe the best control.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you, Madame President. Men and women of the Senate, I guess I'm a little surprised at the passion from the opponents of this issue. I understand the concern, and you don't want everybody in one area. The good Senator mentioned that he spoke with our local sheriff, Sheriff Ouellette,

from down in York County. He said everybody knows where this person lives. I know where he lives too. You know where he lived? I'll tell you exactly where he lived. When you go down to Massabesic High School one end of the road is very rural and the other area has a few more houses. Even though it's rural, each of the houses is a few hundred feet apart. What happens is that in the little village, about half a mile away or so, the kids have to walk on the sidewalk almost directly across from where this fellow was placed. That's another debate that we won't have right now as to whether he was placed or whether he just ended up there. Some of the experts within the Department of Corrections and the community had a big battle whether or not he was placed there or whether he just found lodging there. That went on for a little while. This is why it's so important to respect local control. These people actually live there. In order for their kids to go down and get a soda after school, or before they had football practice or field hockey practice or something like that, they had to walk right by his house. It just seems so simple to me. You don't treat a rural area like Waterboro the exact same way that treat an urban area like Sanford or Portland. I really ask you to think about this and think long and hard before you make it easier for people to supersede this ordinance. I'm so passionate about it and I wish you would really consider it. Consider the long term implications. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you, Madame President. Ladies and gentlemen of the Senate, if you take ten or a dozen communities in a certain area, and every one of them may have their own ordinances from 1,000 feet to 2,000 feet and one community doesn't, the Department of Corrections, whose job it is to place these folks after they serve their time and to monitor them, very passionately pointed out to the committee that if you have a hodge-podge of regulations what it will do is concentrate these folks in the communities that don't. That is what they don't want. That's not a fair situation. I just wanted to point that out in further debate and urge you again to support the pending motion. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky to Indefinitely Postpone Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#184)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFSKY, GOODALL, HOBBS, MARRACHE, MILLS, NUTTING, PERRY, SCHNEIDER, SIMPSON, SULLIVAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, NASS, PLOWMAN, RAYE, RECTOR, ROSEN, SHERMAN, SMITH, TRAHAN

ABSENT: Senator: JACKSON

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GERZOFSKY** of Cumberland to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-303) to Committee Amendment "A" (H-474), **PREVAILED**.

Committee Amendment "A" (H-474) **ADOPTED**, in concurrence.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-474), in concurrence.

On motion by Senator **PLOWMAN** of Penobscot, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#185)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFSKY, GOODALL, HOBBS, MARRACHE, NUTTING, PERRY, RECTOR, SCHNEIDER, SIMPSON, SULLIVAN, TRAHAN, WESTON, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY, HASTINGS, MCCORMICK, MILLS, NASS, PLOWMAN, RAYE, ROSEN, SHERMAN, SMITH

ABSENT: Senator: JACKSON

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (6/4/09) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prohibit the Delivery of Tobacco Products to Consumers To Prevent the Sale of Tobacco Products to Minors"

H.P. 850 L.D. 1230

Majority - **Ought to Pass** (9 members)