

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

criminal case for cause shown may order the defendant examined to determine the defendant's mental condition with reference to the issues of competency, criminal responsibility, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted by the State Forensic Service or by a psychiatrist or licensed clinical psychologist independent of the State Forensic Service. If additional examinations are ordered, the court shall ensure that at least one examination is conducted by the State Forensic Service. The court in selecting an independent practitioner and the site of any examination shall consider proximity to the court, availability of an examiner or examiners and the necessity for security precautions. A person may not be presented for examination under this subsection without arrangements for that examination with the State Forensic Service or the independent practitioner being first made by the court, clerk of courts or sheriff. If the defendant is incarcerated, the examination is to be completed within 45 days from the date of ~~arrest~~ the order. The State Forensic Service shall notify the court upon the completion of the examination. The opinion of the examiner or examiners relative to the competence, criminal responsibility, abnormal condition of mind or any other mental or emotional condition of the respondent must be reported without delay to the court following examination, together with copies to counsel for the respondent and counsel for the State.

Sec. 4. 17-A MRSA §210-A, sub-§3, as enacted by PL 1995, c. 668, §3, is amended to read:

3. Stalking is a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of at least 60 days, of which 48 hours may not be suspended, and may order the actor to attend an abuser education program approved by the court, except that stalking is a Class C crime when the actor has 2 or more prior convictions for violations of this section, 2 or more convictions under Title 5, section 4659; Title 15, section 321; ~~or~~ Title 19, section 769; or Title 19-A, section 4011 or 2 or more prior convictions for violations of any other temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation, any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe or a court-approved consent agreement. The court shall impose a sentencing alternative involving a term of imprisonment, in the case of a Class C crime, of at least 6 months, of which 14 days may not be suspended, and may order the actor to attend an abuser education program approved by the court. For purposes of this subsection, 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. Stalking is not a Class C crime if the commission of the 2 prior offenses occurred within a 3-day period. The date of the conviction is determined to be the date that the sentence is imposed, even though an appeal was taken. The date of a commission of a prior offense is presumed to be that stated in the complaint, information, indictment or other formal charging instrument, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 5. 34-A MRSA §3809-A, sub-§1, as enacted by PL 1997, c. 752, §38, is amended to read:

1. Juvenile client. The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to person, allowable property that the juvenile client has at the Maine Youth Center, earnings that the juvenile client receives during the juvenile client's stay at the Maine Youth Center and the rehabilitation of every juvenile client. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner, staff and rules of the center until the expiration of the period of commitment or until discharge from the center.

Sec. 6. PL 1999, c. 260, Pt. B, §18 is amended to read:

Sec. B-18. Effective date. This ~~Act~~ Part takes effect September 1, 2000.

Sec. 7. P&SL 1999, c. 25, §1 is amended by amending the 10th line to read:

Property Tax Assessment - Operations	533,947
	<u>553,947</u>

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

Effective June 11, 1999.

CHAPTER 511

H.P. 77 - L.D. 90

An Act to Establish the Endowment Incentive Fund

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

Sec. 1. 20-A MRSA §10006 is enacted to read:

§10006. Endowment incentives

1. Endowment Incentive Fund; nonlapsing fund. The Endowment Incentive Fund, referred to in this section as the "endowment fund," is created to provide an incentive for private donations for endowment purposes to and for the benefit of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy, referred to in this section as "postsecondary entities," by providing matching state funds for certain private donations for specified purposes. Any funds appropriated by the Legislature to carry out the purposes of this section may not lapse and must be carried forward for continued use in the fund.

2. Treasurer of State authority for deposit of state funds; interest earned on the endowment fund; disbursement of endowment funds. The Treasurer of State is responsible for the custodial care of the endowment fund and may deposit state funds pursuant to Title 5, section 135. Interest earned on the investment of the endowment fund must be credited to the respective postsecondary entity or its qualified institutionally related foundation. The Treasurer of State is responsible for disbursement of the endowment fund, upon certification by the Chancellor of the University of Maine System, the President of the Maine Technical College System and the President of the Maine Maritime Academy, that the criteria established in subsection 3 are met.

3. Administration of endowment fund; boards of trustees; boards of visitors; academic purposes. The respective boards of trustees of the postsecondary entities shall adopt criteria establishing qualifications for private gifts and grants to be matched from the endowment fund. For each university in the University of Maine System, the respective university president must recommend qualifications for that institution's endowment fund criteria to the Board of Trustees of the University of Maine System. Each university president may direct that university's board of visitors to review the institution's unique fund-raising needs and advise the president on the board of visitors' final recommendations to the Board of Trustees of the University of Maine System. The endowment fund criteria must provide that only private donations for academic purposes may qualify for matching. For the administration of this endowment fund, "academic purposes" means scholarships, professorships or other endowed faculty positions. These endowment fund criteria must:

A. Set standards for those types of gifts that qualify for matching;

B. Establish minimum and maximum amounts for gifts to be matched from the endowment fund; and

C. Establish any other qualifications determined by the respective boards of trustees to provide the greatest incentive for encouraging private endowment gifts for academic purposes.

4. Qualified recipients; institutionally related foundations; management of endowment funds.

Qualified recipients of private donations eligible for matching funds are the University of Maine System and each of its universities, the Maine Technical College System and each of its colleges and the Maine Maritime Academy, as well as institutionally related foundations qualified under the Internal Revenue Code, Section 501(c)(3). Qualified institutionally related foundations may receive and manage the investment of matching funds, and may, at their discretion, hold funds allocated to them. In the absence of any conditions or restrictions to the contrary made by the donor, qualified recipients of private donations eligible for matching funds may combine, pool or merge these funds with other similar gift and endowment funds.

5. Matching funds available to postsecondary entities. Upon determination that the criteria established in subsection 3 have been met, the State Treasurer shall provide that matching funds be available to the 3 entities as follows:

A. For an appropriated amount of more than \$10,000,000:

(1) University of Maine System	70%
(2) Maine Technical College System	25%; and
(3) Maine Maritime Academy	5%; and

B. For an appropriated amount of \$10,000,000 or less:

(1) University of Maine System	75%;
(2) Maine Technical College System	20%; and
(3) Maine Maritime Academy	5%.

6. University of Maine System; distribution formula. The Board of Trustees of the University of Maine System shall ensure that money from the endowment fund distributed to the University of Maine System is allocated to each of the universities in proportion to the respective amounts of education funds and funds appropriated to the General Fund allocated to the various universities.

7. Reduction prohibited. Appropriations to the fund must be in addition to any other funds appropri-

ated to the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and may not be used to reduce appropriations for other purposes.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

TREASURER OF STATE

Endowment Incentive Fund

All Other \$100,000

Provides funds on a one-time basis to establish a nonlapsing fund to match qualified private donations for academic purposes at the University of Maine System, the Maine Technical College System and the Maine Maritime Academy.

See title page for effective date.

CHAPTER 512

H.P. 1156 - L.D. 1653

An Act to Amend the Law Governing the Confidentiality of Health Care Information

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

PART A

Sec. A-1. 22 MRSA §1711, 4th ¶, as enacted by PL 1997, c. 793, Pt. A, §1 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

A patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit to a hospital ~~an addition to the patient's medical records~~ health care information that corrects or clarifies the patient's treatment record, which must be retained with the medical record by the hospital. If the hospital adds to the medical record a statement in response to the submitted ~~addition~~ correction or clarification, the hospital shall provide a copy to the patient or, if the patient is a minor who has not consented to health care

treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem.

Sec. A-2. 22 MRSA §1711, last ¶, as enacted by PL 1997, c. 793, Pt. A, §1 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

Release of a patient's medical records to a person other than the patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem is governed by section 1711-C.

Sec. A-3. 22 MRSA §1711-B, sub-§3-A, as enacted by PL 1997, c. 793, Pt. A, §7 and affected by §10 and as affected by PL 1999, c. 3, §§3 and 5, is amended to read:

3-A. Corrections and clarifications of treatment records. A patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit to a health care practitioner ~~an addition to the patient's treatment records~~ health care information that corrects or clarifies the patient's treatment record, which must be retained with the treatment record by the health care practitioner. If the health care practitioner adds to the treatment record a statement in response to the submitted ~~addition~~ correction or clarification, the health care practitioner shall provide a copy to the patient or, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem.

Sec. A-4. 22 MRSA §1711-B, sub-§5, as amended by PL 1997, c. 793, Pt. B, §5 and affected by §6 and as affected by PL 1999, c. 3, §§4 and 5, is further amended to read:

5. HIV test. Release of information regarding the HIV infection status of a patient is governed by Title 5, section ~~4741-C~~ 19203-D.

Sec. A-5. 22 MRSA §1711-C, as amended by PL 1999, c. 3, §§1 and 2 and affected by §§3 and 5, is further amended to read:

§1711-C. Confidentiality of health care information

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-A, section 5-802; attorney-in-fact pursuant to