

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

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

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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operating tramways in the State; one shall be a qualified licensed professional engineer, who is familiar with tramway design, inspection and operation; and one shall be a representative of the skiing public who regularly uses tramways public member. The 7th member of the board shall be a physically handicapped person appointed by the Director of the Bureau of Rehabilitation, subject to the approval of the Governor, for a term of 4 years. The 8th member of the board shall be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety and the 9th member of the board shall be the Director of the Bureau of Labor Standard Standards, who shall be chairman of the board.

Effective September 19, 1985.

## CHAPTER 247

S.P. 283 - L.D. 772

AN ACT to Amend the Statutes on Sex Offenses.

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

Sec. 1. 17-A MRSA §252, as amended by PL 1981, c. 252, §2, is further amended to read:

### §252. Rape

1. A person is guilty of rape if he engages in sexual intercourse:

A. With any person, not his spouse, who has not in fact attained his 14th birthday; or

B. With any person, not his spouse, and the person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E.

2. It is an affirmative defense to a prosecution under subsection 1, paragraph B that the defendant and the victim were living together as man and wife at the time of the crime.

3. Rape is a Class A crime. It is a defense to a prosecution under subsection 1, paragraph B, which reduces the crime to a Class B crime that the victim was a voluntary social companion of the defendant at

the time of the crime and had, on that occasion, permitted the defendant sexual contact.

Sec. 2. 17-A MRSA §253, as amended by PL 1983, c. 326, §§1 to 4, is further amended to read:

§253. Gross sexual misconduct

A person is guilty of gross sexual misconduct

1. If he engages in a sexual act with another person, ~~not his spouse~~, and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E; or

B. The other person, not his spouse, has not in fact attained his 14th birthday; or

2. If he engages in sexual intercourse or a sexual act with another person, ~~not his spouse~~, and:

A. He has substantially impaired the other person's power to appraise or control his sex acts by administering or employing drugs, intoxicants, or other similar means; ~~or~~

B. He compels or induces the other to engage in such sexual intercourse or sexual act by any threat; ~~or~~

C. The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other substantially incapable of appraising the nature of the contact involved; ~~or~~

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to such sexual intercourse or sexual act;

E. The other person, not his spouse, is in official custody as a probationer or a parolee, or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over such other person; or

F. The other person, not his spouse, has not in fact attained his 18th birthday and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee

or other official having instructional, supervisory or disciplinary authority over the student.

3. It is a defense to a prosecution under subsection 2, paragraph A that the other person voluntarily consumed or allowed administration of the substance with knowledge of its nature.

4. Violation of subsection 1 is a Class A crime. It is, however, a defense to prosecution under subsection 1, paragraph A, which reduces the crime to a Class B crime that the other person was a voluntary social companion of the defendant at the time of the offense and had, on that occasion, permitted him sexual contact. ~~It is an affirmative defense to a prosecution under subsection 1, paragraph A that the defendant and the victim were living together as man and wife at the time of the crime.~~

5. Violation of subsection 2, paragraph A, C or E is a Class B crime. Violation of subsection 2, paragraph B, D or F is a Class C crime.

Sec. 3. 17-A MRSA §255, as amended by PL 1983, c. 326, §§5 to 7, is further amended to read:

§255. Unlawful sexual contact

1. A person is guilty of unlawful sexual contact if he intentionally subjects another person, ~~not his spouse,~~ to any sexual contact, and:

A. The other person has not expressly or impliedly acquiesced in such sexual contact; ~~or~~

B. The other person is unconscious or otherwise physically incapable of resisting, and has not consented to the sexual contact; ~~or~~

C. The other person, not his spouse, has not in fact attained his 14th birthday and the actor is at least 3 years older; ~~or~~

D. The other person suffers from a mental disability that is reasonably apparent or known to the actor which in fact renders the other person substantially incapable of appraising the nature of the contact involved;

E. The other person, not his spouse, is in official custody as a probationer or parolee or is detained in a hospital, prison or other institu-

tion and the actor has supervisory or disciplinary authority over such other person; or

F. The other person, not his spouse, has not in fact attained his 18th birthday and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student.

2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph C is a Class C crime.

Effective September 19, 1985.

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## CHAPTER 248

H.P. 508 - L.D. 713

AN ACT to Amend the School Construction Law.

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

Whereas, the State Board of Education approves the majority of the school construction projects for a given year at its July meeting; and

Whereas, this bill eliminates the requirement for school administrative units to raise an initial local share; and

Whereas, the projects which will be approved in July 1985, will not be funded until several months thereafter, but would be required to raise an initial local share if this Act is not effective prior to the July meeting; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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