

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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 Company  
Augusta, Maine  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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with a local comprehensive plan, municipalities shall prepare and submit to the commissioner zoning and land use ordinances that are consistent with or are no less stringent than the minimum guidelines adopted by the board and, for coastal communities, that address the coastal management policies cited in section 1801. When a municipality determines that special local conditions within portions of the shoreland zone require a different set of standards from those in the minimum guidelines, the municipality shall document the special conditions and submit them, together with its proposed ordinance provisions, to the commissioner for review and approval.

Notwithstanding section 435, a municipality may limit to 75 feet the shoreland zone around a freshwater wetland that has not been rated by the Department of Inland Fisheries and Wildlife as having moderate or high value provided that the municipality applies the requirements of this article regarding streams as defined under section 436-A to any outlet stream from any freshwater wetland.

See title page for effective date.

## CHAPTER 197

S.P. 178 - L.D. 592

### An Act to Clarify the Appointment, Powers and Duties of Building Committees

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

**Sec. 1. 20-A MRSA §15902, sub-§1,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**1. Building committee.** The legislative body of a school administrative unit may ~~at a regular or specially called meeting~~ establish a special building committee at a regular or specially called meeting held prior to a school construction project receiving the concept approval provided in section 15901. If the legislative body does not establish a special building committee, ~~then~~ the school board shall act as the building committee and may delegate the powers and duties of the building committee to the superintendent. If a vacancy occurs in the membership of a special building committee established under this subsection by the legislative body, the legislative body may fill that vacancy. The powers and duties of the building committee must be determined at the time of its establishment by the legislative body of the school administrative unit, or by the school board when it acts as the building committee and delegates those powers and duties to the superintendent. Powers and duties not assigned to the building committee that are not specifically delegated to other entities in this section remain with the school board.

See title page for effective date.

## CHAPTER 198

H.P. 109 - L.D. 151

### An Act to Amend the Laws Governing Termination of Parental Rights and Placement of Children

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

**Sec. 1. 22 MRSA §4038, sub-§7, ¶D** is enacted to read:

D. The court shall consider, but is not bound by, the wishes of the child in making a determination under paragraph A, if the child is 12 years of age or older.

**Sec. 2. 22 MRSA §4055, sub-§3,** as enacted by PL 1979, c. 733, §18, is amended to read:

**3. Wishes of child.** The court ~~shall~~ may not order termination if the child is at least 14 years old and objects to the termination. The court shall consider, but is not bound by, the wishes of a child 12 years of age or older in making an order under this section.

See title page for effective date.

## CHAPTER 199

H.P. 236 - L.D. 304

### An Act to Amend the Laws Regarding Protection from Harassment to Include the Protection of Rental Property

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

**Sec. 1. 5 MRSA §4651, sub-§2,** as amended by PL 1987, c. 695, §1, is further amended to read:

**2. Harassment.** "Harassment" means any repeated act of intimidation, harassment, physical force or threat of physical force directed against any person, family, landlord or their property or advocate with the intention of causing fear or, intimidation or destruction of rental property or to deter free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine and the United States Constitution. This definition does not include any act protected by the constitutional guarantee of free speech.

**Sec. 2. 5 MRSA §4653, sub-§1,** as amended by PL 1987, c. 708, §3, is further amended to read:

**1. Filing.** Any person who has been a victim of harassment, including a landlord acting on behalf of an aggrieved tenant, may seek relief by filing a sworn petition in an appropriate court alleging that harassment.

**Sec. 3. 5 MRSA §4654, sub-§2, ¶A**, as amended by PL 1989, c. 164, is further amended to read:

A. It appears clearly from a verified petition or an affidavit accompanying the petition that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff may be in immediate and present danger of physical abuse from the defendant or is in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct or the plaintiff's rental property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment;

**Sec. 4. 5 MRSA §4654, sub-§4, ¶¶C and D**, as enacted by PL 1987, c. 515, §1, are amended to read:

C. Entering the plaintiff's residence, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff; or

D. Taking, converting or damaging property in which the plaintiff may have a legal interest; or

**Sec. 5. 5 MRSA §4654, sub-§4, ¶E** is enacted to read:

E. In the case of rental property, damaging the plaintiff's property or threatening, assaulting, molesting, harassing or otherwise disturbing the peace of any aggrieved tenant.

**Sec. 6. 5 MRSA §4655, sub-§1, ¶¶B and C**, as enacted by PL 1987, c. 515, §1, are amended to read:

B. Directing the defendant to refrain from going on the premises of the plaintiff's residence, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff;

C. Directing the defendant to refrain from interference with or destruction of the plaintiff's property;

See title page for effective date.

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## CHAPTER 200

### H.P. 316 - L.D. 404

#### An Act Concerning Teacher Certification

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

**Sec. 1. 20-A MRSA §13011, sub-§7** is enacted to read:

**7. Certification waiver.** Under rules adopted by the state board, the commissioner may grant a waiver for an appropriate period of time to an individual seeking the issuance or renewal of a certificate. The commissioner may grant a waiver to an individual who:

A. Receives allegedly inaccurate, incomplete or untimely information or action from the department or its agents, the local support system or a regional support system; or

B. Demonstrates compliance with certification requirements by some means not anticipated in the certification rules.

An individual who is denied the issuance or renewal of a certificate for reasons outlined in paragraphs A and B may apply for a waiver to an appeals committee selected by the state board. The appeals committee must consist of 4 permanent members who serve for terms of 3 years, including one school administrator, one teacher or educational specialist, one faculty member from a teacher education program approved by the state board and one public member who is not, and never has been, a professional educator. For each case considered by the appeals committee, the state board shall select a 5th appeals committee member representing the professional specialty organization in the discipline or level under review.

The appeals committee shall review the application for a waiver and make a recommendation to the commissioner. Following a review of the application and recommendation, the commissioner shall make a final decision and provide a written justification for the decision.

The state board and the commissioner shall test and evaluate this certification waiver process and report their