

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

A. The actor was more than 10 years older than the other person;

B. The actor knew the other person was related to the actor within the 2nd degree of consanguinity; or

C. The actor has 2 or more prior Maine convictions for violations of this section. 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 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 4. 17-A MRSA §255, sub-§1, ¶H, as amended by PL 1993, c. 687, §5, is further amended to read:

H. The other person submits as a result of compulsion; ~~or~~

Sec. 5. 17-A MRSA §255, sub-§1, ¶I, as enacted by PL 1993, c. 687, §6, is amended to read:

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Mental Health and Mental Retardation or the Department of Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3-; or

Sec. 6. 17-A MRSA §255, sub-§1, ¶J is enacted to read:

J. The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, having attained the age of 21 years, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled.

Sec. 7. 17-A MRSA §255, sub-§2, as repealed and replaced by PL 1993, c. 687, §7, is amended to read:

2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph J is a Class E crime and except that a violation of subsection 1, paragraph C, G or H is a Class C crime, and a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section is a Class C crime. 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 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

See title page for effective date.

CHAPTER 105

S.P. 300 - L.D. 839

An Act to Allow the Workers' Compensation Board to Regulate Nonfinancial Aspects of Workers' Compensation Arbitration

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

Sec. 1. 39-A MRSA §314, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 and 11, is amended to read:

7. **Fee; rules.** The board shall by rule provide for the amount of the fee to be paid to the arbitrator by the board and establish administrative processes to review, adopt and monitor arbitration plans.

See title page for effective date.

CHAPTER 106

S.P. 320 - L.D. 901

An Act to Clarify the Use of the Power of Sale Foreclosures Regarding Limited Liability Corporations

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

Sec. 1. 14 MRSA §6203-A, first ¶, as amended by PL 1993, c. 277, §1 and affected by §5, is further amended to read:

Any holder of a mortgage on real estate that is granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust and that contains a power of sale, or a person authorized by the power of sale, or an attorney duly authorized by a writing under seal, or a person acting in the name of the holder of such mortgage or any such authorized person, may, upon breach of condition and without action, do all the acts authorized or required by the power; except that a sale under the power is not effectual to foreclose a mortgage unless, previous to the sale, notice has been published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies. This provision is implied in every power of sale mortgage in which it is not expressly set forth. For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for a business, commercial or agricultural purpose. A copy of the notice must be served on the mortgagor or its representative in interest, or may be sent by registered mail addressed to it or the representative at its last known address, or to the person and to the address as may be agreed upon in the mortgage, at least 21 days before the date of the sale under the power in the mortgage. Any power of sale incorporated into a mortgage is not affected by the subsequent transfer of the mortgaged premises from the corporation, partnership, including a limited partnership, limited liability company or trustee of the trust to any other type of organization or to an individual or individuals. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale. The method of foreclosure of real estate mortgages provided by this section is specifically subject to the order of priorities set out in section 6205.

Sec. 2. 33 MRSA §501-A, first ¶, as amended by PL 1993, c. 277, §3 and affected by §5, is further amended to read:

The following "power" is known as "The Statutory Power of Sale" and may be included in any mortgage or incorporated by reference in any mortgage granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale.

See title page for effective date.

CHAPTER 107

H.P. 711 - L.D. 968

An Act to Protect the Integrity of the Maine Cellular Telecommunications Network

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

Sec. 1. 17-A MRSA §357, sub-§3, as amended by PL 1989, c. 138, is further amended to read:

3. As used in this section, "services" includes, but is not necessarily limited to, labor, professional service, public utility and transportation service, ski lift service, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone, cellular telephone, telegraph, cable television or computer service, gas, electricity, water or steam, admission to entertainment, exhibitions, sporting events or other events or services for which a charge is made.

See title page for effective date.
