

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

this section. Misapplication from a conference fee account is a Class E crime.

See title page for effective date.

CHAPTER 317

S.P. 157 - L.D. 419

An Act to Expedite the Hearing Process Relating to the Uniform Classification System Used in Workers' Compensation Insurance

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

Sec. 1. 24-A MRSA §2320, sub-§3 is enacted to read:

3. Upon a request by a person aggrieved by the application of the rating system or an insurer, or either of their authorized representatives, the person aggrieved has the right to a hearing held by the superintendent without the matter first being heard by the rating organization or insurer pursuant to subsection 2. Such hearing must be held within 60 days following receipt by the superintendent of a written request for a hearing. At least 30 days' written notice of the date, time and place of the hearing, together with a reasonably accurate description of the subject matter of the hearing, must be provided by the superintendent to the person aggrieved, the insurer and the rating organization. Upon request by any party, the hearing may be continued to allow a reasonable period for conducting investigation of the matter, discovery and preparation of factual and legal materials for the hearing. Each party to a hearing is entitled to only one continuance. Prior to continuation of a hearing, the superintendent shall, upon not less than 5 days' notice to all parties, conduct an informal prehearing conference at which the parties shall identify the issues to be addressed at the hearing, establish a schedule for all investigation, discovery and hearing preparation reasonably necessary based upon the nature and scope of the hearing and establish a date certain for the hearing.

See title page for effective date.

CHAPTER 318

S.P. 486 - L.D. 1320

An Act to Amend the Law Pertaining to Grievance Procedures Concerning Discrimination on the Basis of Disability

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

Sec. 1. 20-A MRSA §18017 is enacted to read:

§18017. Adoption of a grievance procedure concerning discrimination on the basis of disability

The commissioner shall adopt rules pursuant to Title 5, chapter 375, subchapter II to create a grievance procedure applicable to all bodies of State Government in accordance with 45 Code of Federal Regulations, Section 84.7 and with 28 Code of Federal Regulations, Section 35.107(b). To the extent that a grievance procedure adopted under this section conflicts with a grievance procedure otherwise adopted by a state agency to comply with 45 Code of Federal Regulations, Section 84.7, the procedure adopted under this section controls, except in cases of conflict with other federal regulations.

Sec. 2. 22 MRSA §42-B, as amended by PL 1989, c. 502, Pt. A, §64, is repealed.

See title page for effective date.

CHAPTER 319

H.P. 589 - L.D. 799

An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault

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

Sec. 1. 5 MRSA §19203, sub-§10, ¶B, as enacted by PL 1991, c. 803, §1, is amended to read:

B. A victim-witness advocate authorized by section ~~19203-E~~ 19203-F to receive the test results of a person convicted of ~~gross a sexual assault~~ crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a ~~petitioner~~ victim under section ~~19203-E~~ 19203-F, subsection 4.

Sec. 2. 5 MRSA §19203-A, sub-§5, as enacted by PL 1991, c. 803, §2, is amended to read:

5. Exposure from sexual crime. Consent need not be obtained when a ~~victim of gross sexual assault~~ has been exposed to the blood or body fluids of the convicted offender and the exposure creates a significant risk of infection, provided that a court order has been ~~obtained~~ issued under section ~~19203-E~~ 19203-F. The fact that an HIV test was given as a

result of the exposure and the results of that test may not appear in a convicted offender's medical record. Counseling on risk reduction must be offered, but the convicted offender may choose not to be informed about the result of the test unless the court has ordered that the convicted offender be informed of the result.

Sec. 3. 5 MRSA §19203-E, as amended by PL 1993, c. 391, §§1 and 2, is repealed.

Sec. 4. 5 MRSA §19203-F is enacted to read:

§19203-F. HIV test after conviction for sexual assault

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

A. "Convicted offender" means a person who has been convicted of a sexual crime or, in the case of a juvenile, a person who has been adjudicated as having committed a sexual crime.

B. "Incapacitated adult" means an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual.

C. "Sexual crime" means a crime involving a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, subparagraph (1).

2. Request for testing. A person who is the victim of a sexual crime, or that person's parent, guardian or authorized representative if that person is a minor or incapacitated adult, may petition the court at any time prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.

3. Duties of the court. Upon receipt of the petition, the court shall order that the convicted offender obtain HIV testing conducted by or under authority of the Department of Human Services and, if requested by the petitioner, that the convicted offender be informed of the test results.

4. Reporting and counseling. The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. The test result may not be disclosed to the petitioner until the petitioner has received counseling, pursuant to section 19204-A, regarding the nature, reliability and significance of the convicted offender's HIV test and has been offered

referrals for health care and support services for the victim. The health care facility shall, upon order of the court, disclose the results of the test to the convicted offender.

Sec. 5. 5 MRSA §19204-A, first ¶, as amended by PL 1991, c. 803, §4, is further amended to read:

Except as otherwise provided by this chapter, persons who obtain an HIV test must be offered pretest and post-test counseling. Persons who are authorized by section 19203-C or ~~19203-E~~ 19203-F to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test.

See title page for effective date.

CHAPTER 320

H.P. 759 - L.D. 1033

An Act Relating to the Renewal of a Teacher Certificate That Has Lapsed for More Than 5 Years

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

Sec. 1. 20-A MRSA §13012, sub-§2, ¶¶B and C, as enacted by PL 1983, c. 845, §4, are amended to read:

B. For secondary school, has graduated from an accredited, degree-granting, educational institution upon completion of:

(1) A 4-year program in liberal arts and sciences; or

(2) An approved 4-year teacher preparation program and has majored in the subject area to be taught; and

Has met other academic and preprofessional requirements established by the state board for teaching at the secondary school level; ~~or~~

C. Is otherwise qualified by having met separate educational criteria for specialized teaching areas including, but not limited to, special education, home economics, agriculture, vocational education, art, music, business education, physical education and industrial arts, as established by the state board for teaching in these specialized areas; ~~or~~

Sec. 2. 20-A MRSA §13012, sub-§2, ¶D is enacted to read: