

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

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Augusta, Maine
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to assist school administrative units in helping all students achieve the learning results. The Department of Education, in consultation with the State Board of Education and school administrative units, shall develop the plan for assistance. The plan must also include criteria to identify school administrative units experiencing difficulty meeting the learning results and the provision of intensive assistance to these school administrative units. The plan for assistance must be established by July 30, 1997 and implemented during the 1997-98 school year.

Sec. 6. System must include plan for professional development. The system of learning results established in the Maine Revised Statutes, Title 20-A, section 6209 must include a statewide plan for professional development designed to promote the learning results. The professional development plan must be established by the Department of Education in consultation with the State Board of Education, local school administrative units, higher education institutions in this State, regional partnerships and other interested stakeholders. The professional development plan must be completed by June 30, 1996. The plan must be implemented on July 3, 1997 and must include incentive funds awarded by the Department of Education to all school administrative units participating in the plan. Incentive funds must be awarded at a rate of \$8 per pupil or \$10 per pupil for school administrative units whose professional development plans are accomplished in collaboration with one or more other school administrative units. School administrative units must submit to the Commissioner of Education a proposal outlining the unit's plan for professional development. Receipt of incentive funds is contingent upon approval of the proposal by the commissioner.

Sec. 7. State commitment to professional development. Continuation of the system of learning results established in the Maine Revised Statutes, Title 20-A, section 6209 is contingent on an annual General Fund appropriation for professional development of not less than \$2,000,000. The annual appropriation must be in addition to customary and ongoing appropriations of General Fund dollars for education purposes, including grades kindergarten to 12 and higher education. Failure of the Legislature to annually appropriate a minimum of \$2,000,000 for professional development will result in suspension of the system of learning results.

Sec. 8. Establish student assessments. Student achievement of the learning results established in the Maine Revised Statutes, Title 20-A, section 6209 must be measured by a combination of state and local assessments to measure progress and ensure accountability. The 4th-grade, 8th-grade and 11th-grade results of the Maine Education Assessment, the "MEA," are the state assessments used to measure

achievement of the learning results. The 4th-grade and 8th-grade MEA must be used to measure achievement of the learning results beginning in the 1998-99 school year. The 11th-grade MEA must be used to measure achievement of the learning results beginning in the 1999-2000 school year. Local school administrative units may develop additional assessments to measure achievement of the learning results, including student portfolios, performances, demonstrations and other records of achievements.

Sec. 9. Recommendation on student achievement. By January 1, 1997, the State Board of Education and the Department of Education shall review and make recommendations to the Legislature on linking achievement of the learning results established in the Maine Revised Statutes, Title 20-A, section 6209 to completion of high school.

Sec. 10. Report. The State Board of Education and the Department of Education shall provide an annual report no later than December 15th to the joint standing committee of the Legislature having jurisdiction over education matters regarding progress toward implementation of the learning results. The annual report may include recommendations for legislation concerning implementation of the learning results.

See title page for effective date.

CHAPTER 650

H.P. 1279 - L.D. 1758

An Act to Amend the Protection from Abuse and Protection from Harassment Statutes

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

Sec. 1. 5 MRSA §4651, sub-§2, as amended by PL 1995, c. 265, §1, is repealed and the following enacted in its place:

2. Harassment. "Harassment" means:

A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to property and that do in fact cause fear, intimidation or damage to property;

B. Three or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution; or

C. A single act constituting a violation of section 4681; Title 17, section 2931; or Title 17-A, sections 201, 202, 203, 204, 207, 208, 209, 210, 211, 253, 301, 302, 303, 506-A, 556, 802, 805 or 806.

This definition does not include any act protected by law.

Sec. 2. 5 MRSA §4652, as amended by PL 1991, c. 760, §2, is further amended by inserting at the end a new paragraph to read:

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative.

Sec. 3. 5 MRSA §4653, sub-§1, as amended by PL 1995, c. 265, §3, is further amended to read:

1. Filing. Any person who has been a victim of harassment, including a business ~~or 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. 4. 5 MRSA §4654, sub-§2, ¶A, as amended by PL 1995, c. 265, §4, 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 or the plaintiff's employees 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 business ~~or 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. 5. 5 MRSA §4654, sub-§4, ¶E, as repealed and replaced by PL 1993, c. 680, Pt. A, §12, is repealed.

Sec. 6. 5 MRSA §4654, sub-§4, ¶F, as enacted by PL 1993, c. 680, Pt. A, §13, is amended to read:

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; or

Sec. 7. 5 MRSA §4654, sub-§4, ¶G is enacted to read:

G. Having any direct or indirect contact with the plaintiff.

Sec. 8. 14 MRSA §6030-A is enacted to read:

§6030-A. Protection of rental property or tenants

1. Commencing action. A landlord may file a petition for protection of rental property or tenants when the landlord, the landlord's employee or agent, the landlord's rental property or persons who are tenants of the landlord have experienced harm or have been threatened with harm by a tenant of the landlord. The landlord may file the petition in the landlord's own name or, when the landlord has written authority from a tenant to do so, may file the action on behalf of the aggrieved tenant, or both.

2. Procedures and relief. Actions under this section are governed by the procedural provisions of Title 5, chapter 337-A. In addition, a temporary order may be sought if the landlord's rental property is in an immediate and present danger of suffering substantial damage as a result of the defendant's actions, and additional injunctive relief may be granted enjoining the defendant from damaging the landlord's or aggrieved tenant's property or from threatening, assaulting, molesting, confronting or otherwise disturbing the peace of the landlord, the landlord's employee or agent or of any aggrieved tenant.

Sec. 9. 17-A MRSA §212, sub-§3, as enacted by PL 1991, c. 866, §1, is amended to read:

3. As used in this section, "member of the actor's family or household" means the actor's spouse or former spouse, an individual presently or formerly living together with the actor as spouse, the natural parent of the actor's child, an adult household member related to the actor by consanguinity or affinity, a minor child of any household member when the defendant is an adult household member and an

individual presently or formerly living together with the actor as a sexual partner. Professing to be a spouse is not necessary to constitute "living as spouses."

Sec. 10. 19 MRSA §762, sub-§4, as amended by PL 1995, c. 469, §3, is further amended to read:

4. Family or household members. "Family or household members" means spouses or former spouses, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of any household member when the defendant is an adult household member and for the purposes of this chapter only, includes individuals presently or formerly living together as and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses."

Sec. 11. 19 MRSA §763, as amended by PL 1991, c. 760, §5, is further amended by inserting at the end a new paragraph to read:

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative.

Sec. 12. 19 MRSA §765, sub-§4, ¶C-1, as enacted by PL 1993, c. 475, §9, is amended to read:

C-1. Repeatedly and without reasonable cause:

- (1) Following the plaintiff; or
- (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; ~~or~~

Sec. 13. 19 MRSA §765, sub-§4, ¶D, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

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

Sec. 14. 19 MRSA §765, sub-§4, ¶E is enacted to read:

E. Having any direct or indirect contact with the plaintiff.

Sec. 15. 19 MRSA §766, sub-§1, ¶B-3 is enacted to read:

B-3. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff.

See title page for effective date.

CHAPTER 651

H.P. 1292 - L.D. 1774

An Act to Improve and Expand the Functions of the Department of Audit

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

Sec. 1. 5 MRSA §244, as amended by PL 1985, c. 785, Pt. A, §20, is further amended to read:

§244. Records and reports

The State Auditor ~~shall keep~~ keeps no accounts in the Department of Audit, but ~~he~~ shall conduct a continuous postaudit of the accounts, books, records and other evidences of financial transactions kept in the Department of ~~Finance~~ Financial and Administrative Services or in the other departments and agencies of the State Government. ~~He~~ The State Auditor shall prepare and publish a report for each fiscal year, setting forth the essential facts of such ~~audit~~ audits in summary form, within the following fiscal year after the books of the State Controller have been officially closed. ~~If he shall find~~ the State Auditor finds in the course of ~~his an~~ an audit evidences of material weaknesses, reportable conditions, improper transactions, or of incompetence in keeping accounts or handling funds or of any other improper practice of financial administration, ~~he~~ the State Auditor shall report the same to the Governor and the Legislature immediately. After reporting evidence of material weaknesses or reportable conditions, the State Auditor shall provide for subsequent review to ensure that those conditions are addressed in a timely manner and report to the Governor and the Legislature to confirm the status of the correction of those conditions. ~~If he shall find~~ the State Auditor finds evidences of illegal transactions, ~~he~~ the State Auditor shall ~~forthwith~~ immediately report ~~such~~ those transactions both to the Governor and to the Attorney General. All such evidences ~~shall~~ must be included in the annual reports of the State Auditor and ~~he~~ the State Auditor may, at ~~his~~ the State Auditor's discretion, make them public at any time during the fiscal year.

Sec. 2. 5 MRSA §244-B is enacted to read: