

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

Sec. 2. 5 MRSA §19203-C, sub-§4, as amended by PL 1995, c. 404, §10, is further amended to read:

4. Determination. The court ~~may~~ shall require the person whose blood or body fluid is the source of the exposure to obtain an HIV test ~~only~~ if the petitioner proves, by a preponderance of the evidence, that:

A. The exposure to blood or body fluids of the person created a significant risk of HIV infection as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375;

B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested.

~~In determining whether to order the test, the court shall consider the balance of benefit and harm to both individuals if the test is ordered.~~

See title page for effective date.

CHAPTER 332

H.P. 849 - L.D. 1154

An Act Concerning the Requirement That Employers Garnish the Wages of Their Employees Who Owe Child Support

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

Sec. 1. 19-A MRSA §2366, first ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

A person who fails to honor an order to withhold and deliver, an order for expedited withholding, or a duly executed assignment of earnings, or fails to surrender property under section 2363, is liable to the department ~~in an amount equal to the debt that is the basis of the~~ for the greater of \$500 or the amount the person was required to remit to the department under a lien, order to withhold and deliver, order for expedited withholding, demand for surrender or assignment of

earnings, together with costs, interest and reasonable attorney's fees.

Sec. 2. Effective date. This Act takes effect October 1, 1997.

Effective October 1, 1997.

CHAPTER 333

H.P. 1181 - L.D. 1672

An Act to Ensure Proper Training for Conducting Forensic Examinations of Victims of Sexual Assault

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

Whereas, sexual assault continues to represent the most rapidly growing violent crime in America, claiming a victim every 45 seconds; and

Whereas, sexual assault can lead to serious biological and mental health trauma that must be addressed immediately; and

Whereas, the development of a community-based team approach may provide for the dignified and compassionate treatment of sexual assault victims; 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:

Sec. 1. 30-A MRSA §287, sub-§4, as enacted by PL 1993, c. 27, §1, is amended to read:

4. Standardized kit for evidence collection in cases of gross sexual assault. The Department of Public Safety shall determine by rule what constitutes a standardized kit for evidence collection in cases of gross sexual assault. A physician or other health care professional who conducts a physical examination of an alleged victim of gross sexual assault shall use a standardized evidence collection kit that meets the requirements established by rule of the Department of Public Safety.

A health care professional, other than a physician, who conducts a physical examination of an alleged victim of gross sexual assault must be trained in the

proper evidence collection procedures for conducting such an examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the failure to use the standardized evidence collection kit or as a result of the failure to be trained in the proper procedures for the collection of evidence required by this subsection.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 30, 1997.

CHAPTER 334

H.P. 1264 - L.D. 1791

An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act

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

Sec. 1. 15 MRSA §393, sub-§1, ¶¶B and C, as enacted by PL 1993, c. 368, §1, are amended to read:

B. Has been convicted of a crime, under the laws of the United States, this State or any other state, that was committed with the use of a dangerous weapon or a firearm against a person, except for a violation of former Title 12, chapter 319, subchapter III; or

C. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:

- (1) Under paragraph A and bodily injury to another person was threatened or resulted; or
- (2) Under paragraph B; or

Sec. 2. 15 MRSA §393, sub-§1, ¶D is enacted to read:

D. Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of

that person, or from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:

(1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or

(2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury.

Sec. 3. 15 MRSA §393, sub-§8, as enacted by PL 1977, c. 225, §2, is amended to read:

8. Penalty. A violation of subsection 1, paragraph A, B or C is a Class C crime. A violation of subsection 1, paragraph D is a Class D crime.

Sec. 4. 19-A MRSA §4007, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended by amending the first paragraph to read:

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

Sec. 5. 19-A MRSA §4007, sub-§1, ¶A-1 is enacted to read:

A-1. Directing the defendant not to possess a firearm or other dangerous weapon for the duration of the order;

Sec. 6. 19-A MRSA §4007, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Consequences of violation. A protective order or approved consent agreement must indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as