

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

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.

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## 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

provided in section 4011 and Title 15, section 393, subsection 1, paragraph D, if applicable.

See title page for effective date.

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## CHAPTER 335

H.P. 757 - L.D. 1034

### An Act to Provide Information to the Maine Land Use Regulation Commission

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

**Sec. 1. 12 MRSA §685-B, sub-§6-B** is enacted to read:

**6-B. Notification of land division required.**  
When any land division occurs by platting, sale, lease or other conveyance, regardless of whether a subdivision is created, a plan showing the division of the original parcel must be filed within 60 days of the division, by the person creating the division, with the commission.

See title page for effective date.

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## CHAPTER 336

S.P. 557 - L.D. 1683

### An Act to Clarify Issuance of the Writ of Possession

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

**Sec. 1. 14 MRSA §6005, first ¶**, as amended by PL 1995, c. 208, §2, is further amended to read:

When the defendant is defaulted or fails to show sufficient cause, judgment must be rendered against the defendant by the District Court for possession of the premises ~~and a writ of possession be issued to remove the defendant, which may be served by a constable.~~ Seven calendar days after the judgment is entered, the court shall issue the writ of possession to remove the defendant. The writ may be served by a sheriff or a constable. A writ of possession may not issue in any case in which the ground for termination of the tenancy was rent arrearage and the defendant paid the amount necessary to reinstate the tenancy as provided by section 6002.

**Sec. 2. 14 MRSA §6008, sub-§§1 and 2**, as enacted by PL 1995, c. 448, §2, are amended to read:

**1. Right to appeal.** Either party may appeal on questions of law from a judgment to the Superior Court as in other civil actions. Either party may appeal on any issue triable by right by a jury to a trial de novo in the Superior Court as provided in this section. The time for filing an appeal of the judgment of the District Court expires upon the issuance of the writ of possession pursuant to section 6005 or 30 days from the time the judgment is entered, whichever occurs first.

**2. Appeal by defendant; record; stay.** When the defendant appeals, the defendant shall pay to the plaintiff or, if there is a dispute about the rent, to the District Court, any unpaid portion of the current month's rent or the rent arrearage, whichever is less. The District Court shall promptly transmit the record and any such payments to the Superior Court without waiting for the preparation of a transcript of recorded testimony. The Superior Court may stay the issuance of a writ of possession pending disposition of the appeal.

A. The Superior Court shall condition the granting and continuation of the stay on the defendant's payment of ~~the current~~ rent for the premises as required by this subsection at the time of appeal and on payment of any rent that has accrued since the filing of the appeal to the plaintiff or, if there is a dispute about the rent, into an escrow account to be administered by the clerk of the Superior Court. Upon application of either party, the Superior Court may authorize payments from the escrow account for appropriate expenses related to the premises. The appeal decision or an agreement of the parties must provide for the disposition of the escrowed rent.

B. The Superior Court may condition the granting and continuation of the stay, in appropriate cases, on the defendant's agreement to refrain from causing any nuisance or damage.

See title page for effective date.

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## CHAPTER 337

S.P. 529 - L.D. 1634

### An Act to Provide Information to Consumers of Health Care

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

**Sec. 1. 22 MRSA §1831** is enacted to read:

**§1831. Patient referrals**