

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1999

CHAPTER 369

H.P. 1174 - L.D. 1685

An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates

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

Sec. 1. 16 MRSA §53-C is enacted to read:

§53-C. Privileged communications to governmental victim witness advocates or coordinators

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

A. "Crime" means a criminal offense in which there is a victim, as defined in this section.

B. "Victim" means:

(1) A person against whom a crime has been committed;

(2) The immediate family of a victim of a crime if:

(a) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(b) Due to death, age or physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

C. "Victim witness advocate" or "victim witness coordinator" means an employee of or volunteer for a district attorney, the Attorney General or the United States Attorney whose primary job function is to advise, counsel or assist victims or witnesses of crimes, to supervise other employees or volunteers who perform that function or to administer the program.

2. Privileged communications. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to a victim witness advocate or coordinator to disclose confidential written or oral communications between the victim and the advocate or coordinator and written records,

notes, memoranda or reports concerning the victim.

B. Except as provided in subsection 3, a victim, advocate or coordinator or the victim advocate's or coordinator's employer may not be required, through oral or written testimony or through production of documents, to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate or coordinator.

3. Exceptions. Privileged communications may be disclosed in the following cases:

A. Disclosure may be made to the district attorney, Attorney General or the United States Attorney or their assistants;

B. When disclosure is required under Title 22, chapter 1071 and that disclosure is in accordance with that chapter;

C. When a court in the exercise of its discretion determines the disclosure of information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court;

D. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation; or

E. Evidence of an exculpatory nature must be disclosed to the criminal defendants pursuant to the Maine Rules of Criminal Procedure, Rule 16.

See title page for effective date.

CHAPTER 370

H.P. 1036 - L.D. 1458

An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions

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

Sec. 1. 30-A MRSA §4452, sub-§3, ¶B-1 is enacted to read:

B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection.

Sec. 2. 38 MRSA §439-A, sub-§5, ¶B, as repealed and replaced by PL 1991, c. 66, Pt. A, §10, is amended to read:

B. Within a shoreland area zoned for resource protection abutting a great pond there may not be timber harvesting within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards; ~~and~~ or if a municipality adopts an ordinance pursuant to this paragraph. A municipality may adopt an ordinance that allows limited timber harvesting within the 75-foot strip in the resource protection zone when the following conditions are met:

- (1) The ground is frozen;
- (2) There is no resultant soil disturbance;
- (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
- (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
- (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality; and

See title page for effective date.

CHAPTER 371

H.P. 1340 - L.D. 1923

An Act to Facilitate the Establishment of Trail Easements

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

Sec. 1. 33 MRSA c. 30 is enacted to read:

CHAPTER 30

TRAIL EASEMENTS

§1581. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Holder. "Holder" means:

A. A governmental body authorized to hold an interest in real property under the laws of this State or the United States, including a quasi-governmental entity such as a conservation commission, a regional planning commission or a water or sewer district; or

B. A nonprofit corporation including a land trust, the purposes or powers of which include the creation and maintenance of trails for use by the general public, for the conservation or preservation of open space, or both.

2. Trail easement. "Trail easement" means a nonpossessory interest of a holder in real property for the purposes of creating and maintaining a trail for use by the general public:

A. For pedestrian use;

B. For snowmobile use, if the instrument creating the easement provides for snowmobile use;

C. For use by all-terrain vehicles as defined in Title 12, section 7851 if the instrument creating the easement provides for the use of all-terrain vehicles; or

D. For any combination of the uses described in paragraphs A to C, as specified in the instrument creating the easement.

§1582. Creation, conveyance, acceptance and duration

1. Trail easement. Except as otherwise provided in this chapter, a trail easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements created by written instrument.

2. Right or duty. No right or duty in favor of or against a holder arises under a trail easement unless the right or duty is accepted by the holder.

3. Limitation. Except as provided in this chapter, a trail easement is unlimited in duration unless the instrument creating it provides otherwise.