

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

**Sec. 3. 20-A MRSA §7407, sub-§3-A** is enacted to read:

**3-A. Employee retirement plan.** Employees of the school are state employees for purposes of Title 5, chapters 421 and 423, unless a decision is made pursuant to a collective bargaining agreement or is otherwise made consistent with applicable law other than Title 5, section 18201 to provide for retirement coverage in some way other than as state employees in the Maine State Retirement System regular retirement plan. The school board shall consult with the Executive Director of the Maine State Retirement System in proposing any change to the Maine State Retirement System retirement status of school employees. The school board shall provide certification to the Maine State Retirement System of any decision to provide retirement coverage in some way other than as state employees at least 60 days prior to any change in retirement coverage. Any decision that removes school employees from the definition of "state employee" as provided in Title 5, section 17001, subsection 40 is irrevocable unless changed by law.

**Sec. 4. PL 1999, c. 775, §15, sub-§5** is repealed and the following enacted in its place:

**5. Personnel transferred.** Classified and unclassified employees assigned to the Governor Baxter School for the Deaf must be transferred from state employment to the Governor Baxter School for the Deaf in its capacity as an independent agency.

Fringe benefits from state employment of the transferred personnel, including vacation and sick leave, health and life insurance and retirement, remain with the transferred personnel. All employees of the Governor Baxter School for the Deaf, whenever hired, are eligible to participate in the state employee health plan and the regular state employee plan of the Maine State Retirement System.

The rights and benefits of employees at the Governor Baxter School for the Deaf are determined by statute and by the status quo existing at the school. The rights and benefits under statutes, rules and the applicable executive branch collective bargaining agreements in effect on the effective date of this Act or successor collective bargaining agreements are evidence of the status quo that must be maintained for all personnel at Governor Baxter School for the Deaf until changed in accordance with applicable labor law principles. The rights and benefits of personnel hired after August 11,

2000, whose positions are included within a bargaining unit, are the same as those of the transferred employees, once the newly hired personnel are eligible employees under applicable law or the applicable collective bargaining agreement, except that these employees do not have seniority rights applicable to executive branch bargaining units.

All personnel transferred from state employment to the Governor Baxter School for the Deaf as an independent agency retain all applicable seniority rights and privileges and all other rights and privileges with regard to employment in state service for a period of 2 years from the effective date of this Act. During this 2-year period, the recall provisions of these applicable laws, rules and collective bargaining agreements continue to apply for all transferred personnel with layoff status to the filling of any vacancy in the Governor Baxter School for the Deaf. Transferred personnel who refuse recall to the Governor Baxter School for the Deaf retain full recall rights to all other agencies of State Government.

The Department of Administrative and Financial Services shall assist the School Board of the Governor Baxter School for the Deaf with the orderly implementation of the provisions of this subsection.

**Sec. 5. Retroactivity.** This Act is retroactive to August 11, 2000.

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

Effective May 22, 2001.

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## CHAPTER 240

H.P. 1287 - L.D. 1751

### An Act to Amend the Maine Commission on Domestic Abuse

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

**Sec. 1. 5 MRSA §12004-I, sub-§74-C**, as amended by PL 1995, c. 694, Pt. D, §6 and affected by Pt. E, §2, is further amended to read:

|              |             |          |       |
|--------------|-------------|----------|-------|
| <b>74-C.</b> | Maine       | Expenses | 19-A  |
| Public       | Commission  | Only     | MRSA  |
| Safety       | on Domestic |          | §4013 |
|              | and Sexual  |          |       |
|              | Abuse       |          |       |

**Sec. 2. 19-A MRSA §4013**, as amended by PL 1997, c. 597, §§2 and 3 and affected by c. 507, §4, is further amended to read:

**§4013. Maine Commission on Domestic and Sexual Abuse**

There is created the Maine Commission on Domestic and Sexual Abuse, as established by Title 5, section 12004-I, subsection 74-C, referred to in this section as the "commission."

**1. Composition; chair.** The commission is composed as follows.

A. The Governor shall name the chair from among the following members:

(1) Two members, appointed by the Governor, who are representatives of the statewide coalition of ~~family crisis services~~ domestic violence projects;

(1-A) Two members, appointed by the Governor, who are representatives of the statewide coalition of sexual assault centers;

(2) ~~Two members~~ One member, appointed by the Governor, ~~one of whom has experience counseling abusers, who are representatives is a representative of the family counseling profession~~ mental health profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

(5) One ~~person~~ member, appointed by the Governor, who was a victim of domestic abuse and used the court system;

(5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;

(6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;

(7) One member, appointed by the Governor, who is chief of a municipal police department;

(8) One member, appointed by the Governor, who is a county sheriff;

(8-A) One member, appointed by the Governor, who is the statewide coordinator of a statewide coalition to end domestic violence;

(8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;

(8-C) The Attorney General or the Attorney General's designee;

(8-D) The Chief of the Maine State Police or the chief's designee;

(9) The Commissioner of Public Safety or the commissioner's designee; ~~and~~

(9-A) The Commissioner of Human Services or the commissioner's designee;

(9-B) The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services or the commissioner's designee;

(9-C) The Commissioner of Education or the commissioner's designee;

(9-D) The Commissioner of Labor or the commissioner's designee;

(9-E) The Commissioner of Corrections or the commissioner's designee;

(9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs; and

(10) Up to 8 members-at-large, appointed by the Governor.

B. The Chief Justice of the Supreme Judicial Court is requested to appoint one person to serve the commission in an advisory capacity.

**2. Terms of office.** The members serve 3-year terms.

**3. Powers and duties.** The commission shall advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse. The commission may make recommendations on legislative and policy actions, including training of the various law enforcement officers, prosecutors and judicial officers responsible for enforcing and carrying out the provisions of this chapter, and may undertake research development and program initiatives consistent with this section. The entire commission shall meet at least

2 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection.

**4. Domestic Abuse Homicide Review Panel.**

The commission shall establish the Domestic Abuse Homicide Review Panel, referred to in this subsection as the "panel," to review the deaths of persons who are killed by family or household members as defined by section 4002.

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse, a law enforcement officer, the Commissioner of Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified batterers' intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term.

B. The panel shall recommend to state and local agencies methods of improving the system for protecting persons from domestic and sexual abuse, including modifications of laws, rules, policies and procedures following completion of adjudication.

C. The panel shall collect and compile data related to domestic and sexual abuse.

D. In any case subject to review by the panel, upon oral or written request of the panel, any person that possesses information or records that are necessary and relevant to a homicide review shall as soon as practicable provide the panel with the information and records. Persons disclosing or providing information or records upon the request of the panel are not criminally or civilly liable for disclosing or providing information or records in compliance with this paragraph.

E. The proceedings and records of the panel are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall disclose conclusions of the review panel upon request, but may not disclose information, records or data that are otherwise classified as confidential.

The commission shall submit a report on the panel's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters by ~~January 1, 1999~~ January 30, 2002 and ~~annually~~ biennially thereafter.

**Sec. 3. 19-A MRSA §4014, sub-§1**, as amended by PL 1997, c. 292, §2 and affected by §3, is further amended to read:

**1. Rules establishing standards and procedures for certification.** The Department of Corrections, referred to in this section as the "department," shall adopt rules pursuant to the Maine Administrative Procedure Act, in consultation with the Maine Commission on Domestic and Sexual Abuse, that establish standards and procedures for certification of batterers' intervention programs. The department, in consultation with the commission, shall review and certify programs that meet the standards. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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**CHAPTER 241**

**H.P. 1328 - L.D. 1787**

**An Act to Implement Municipal Recommendations Regarding Surface Water Use on Great Ponds**

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

**Sec. 1. 12 MRSA §7801, sub-§35, ¶¶W and X**, as enacted by PL 1999, c. 697, §3, are amended to read:

W. Long Pond in the Town of Mount Desert and the Town of Southwest Harbor; ø

X. Little Long Pond in the Town of Mount Desert;

**Sec. 2. 12 MRSA §7801, sub-§35, ¶¶Y to CC** are enacted to read:

Y. Meetinghouse Pond, Big Pond, Wat Tuh Lake, Center Pond and Silver Lake, also known