

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 368

H.P. 1083 - L.D. 1478

An Act To Change the Membership of the Review Team for Aversive Behavior Modifications and Safety Devices for Persons with Mental Retardation or Autism

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

Sec. 1. 34-B MRSA §5605, sub-§13, ¶B, as amended by PL 2001, c. 245, §1, is further amended to read:

B. Treatment programs involving the use of noxious or painful stimuli or other aversive or severely intrusive techniques may be used only to correct behavior more harmful to the person with mental retardation or autism than is the treatment program and only:

(1) On the recommendation of a physician, psychiatrist or psychologist; and

(2) With the approval, following a case-by-case review, of ~~the chief administrative officer of the residential facility; a representative of the person's residence, day program or work site;~~ an advocate of the department; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board.

Sec. 2. 34-B MRSA §5605, sub-§14, ¶D-1, as enacted by PL 2001, c. 245, §3, is amended to read:

D-1. A device whose effect is to reduce or inhibit a person's movement in any way but whose purpose is to maintain or ensure the safety of the person is not considered behavioral treatment. Such a device may be used only in conformity with applicable state and federal rules and regulations, when recommended by a qualified professional after approval of the person's service plan and when use of the device is approved by ~~the chief administrative officer of the residential care facility; a representative of the person's residence, day program or work site;~~ an advocate of the department; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board.

See title page for effective date.

CHAPTER 369

S.P. 494 - L.D. 1488

An Act To Extend Licensing Periods for Agencies Providing Mental Health Services

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

Sec. 1. 34-B MRSA §1203-A, sub-§1, ¶B, as enacted by PL 1989, c. 227, §1, is amended to read:

B. A full license ~~shall~~ must be issued for a specified period of time appropriate to the type of agency or facility, but not to exceed ~~2~~ 3 years.

Sec. 2. Effective date. This Act takes effect October 1, 2003, except that, for any agency or facility that holds a full license, conditional license or provisional license from the Department of Behavioral and Developmental Services for the provision of mental health services or treatment as of October 1, 2003, this Act takes effect upon completion of the term of the current license held by that agency or facility on October 1, 2003.

See title page for effective date.

CHAPTER 370

H.P. 1053 - L.D. 1434

An Act To Ensure Basic Standards for Death Investigations by Law Enforcement Agencies

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 25 MRSA §2803-B, sub-§1, ¶¶G and H, as enacted by PL 1993, c. 744, §5, are amended to read:

G. Citizen complaints of police misconduct; ~~and~~

H. Criminal conduct engaged in by law enforcement officers; ~~and~~ and

Sec. 2. 25 MRSA §2803-B, sub-§1, ¶I is enacted to read:

I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations.

Sec. 3. 25 MRSA §2803-B, sub-§§2 and 3, as amended by PL 2001, c. 686, Pt. B, §1, are further amended to read:

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) ~~may~~ must be established no later than January 1, 2003 and policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003 and certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004. This certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D must be made to the board no later than January 1, 2004 and certification for orientation and training with respect to policies regarding death investigations must be made to the board no later than January 1, 2005.

Sec. 4. 25 MRSA §2803-B, sub-§4, as enacted by PL 1993, c. 744, §5, is amended to read:

4. Penalty. An agency that fails to comply with any provision of subsection 3 commits a civil violation for which the State Government or local government entity whose officer or employee committed the violation may be adjudged a ~~forfeiture~~ fine not to exceed \$500.

See title page for effective date.

CHAPTER 371

H.P. 1107 - L.D. 1514

An Act To Amend the Sex Offender Registration and Notification Laws

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 34-A MRSA §11203, sub-§5, as enacted by PL 1999, c. 437, §2, is amended to read:

5. Sex offender. "Sex offender" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

Sec. 2. 34-A MRSA §11203, sub-§6, ¶A, as enacted by PL 1999, c. 437, §2, is amended to read:

A. A violation under Title 17, section 2922, 2923 or 2924;

Sec. 3. 34-A MRSA §11203, sub-§8, as amended by PL 2001, c. 439, Pt. OOO, §10, is further amended to read:

8. Sexually violent predator. "Sexually violent predator" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

A. Sexually violent offense; or

B. Sex offense when the person has a prior conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense.

Sec. 4. 34-A MRSA §11221, sub-§1, ¶B, as enacted by PL 1999, c. 437, §2, is amended to read:

B. Place of employment ~~or~~ and college or school being attended, if applicable, and the corresponding address and location;

Sec. 5. 34-A MRSA §11221, sub-§5, as enacted by PL 1999, c. 437, §2, is repealed.

Sec. 6. 34-A MRSA §11221, sub-§6, as enacted by PL 1999, c. 437, §2, is repealed and the following enacted in its place: