

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

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FIRST REGULAR SESSION
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SEPTEMBER 13, 2003

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 372

S.P. 527 - L.D. 1568

**An Act To Protect Plaintiffs and
Minor Children in Certain Civil
Protection Order Cases**

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

Sec. 1. 19-A MRSA §4005, sub-§5 is enacted to read:

5. Notice. Prior to the plaintiff signing a complaint, the court shall notify the plaintiff, orally or in writing, that it is a crime to make a false statement under oath in a court document.

Sec. 2. 19-A MRSA §4006, sub-§2-A is enacted to read:

2-A. Temporary orders; possession of dangerous weapons. The court may direct the defendant not to possess a firearm or other dangerous weapon for the duration of the temporary order if the complaint demonstrates:

A. Abuse that involves a firearm or other dangerous weapon; or

B. A heightened risk of immediate abuse to the plaintiff or a minor child. In determining whether a heightened risk of immediate abuse is present, the court shall consider, but is not limited to consideration of, whether:

(1) The temporary order of protection is not likely to achieve its purpose in the absence of such a condition;

(2) The defendant has violated orders of protection;

(3) Past or present abuse to a victim resulted in injury;

(4) The abuse occurred in public; and

(5) The abuse includes:

(a) Threats of suicide or homicide;

(b) Killing or threatening to kill pets;

(c) An escalation of violence;

(d) Stalking behavior or extreme obsession;

(e) Sexual violence;

(f) Excessive alcohol or drug use; and

(g) Abuse against a pregnant victim.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon in a temporary order and if the defendant moves for dissolution or modification of an order pursuant to subsection 7, the court must hear and decide the motion as expeditiously as possible and must issue a written decision on the motion within 24 hours after a hearing on that motion.

If the court prohibits the defendant from possessing a dangerous weapon other than a firearm in a temporary order, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon in a temporary order, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

Sec. 3. 19-A MRSA §4007, sub-§1-A is enacted to read:

1-A. No possession of firearm or dangerous weapons for duration of order. If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name

and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

See title page for effective date.

CHAPTER 373

S.P. 558 - L.D. 1604

An Act To Expedite the Drilling of Private Drinking Water Wells

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

Sec. 1. 23 MRSA §3360-A, sub-§3, ¶A, as enacted by PL 1991, c. 437, §3 and affected by §12, is amended to read:

A. In addition to any other notices required under this section, each excavator shall notify the system of the location of the intended excavation at least 3 business days but not more than 30 calendar days prior to the commencement of excavation, except as provided in paragraph G.

Sec. 2. 23 MRSA §3360-A, sub-§3, ¶G is enacted to read:

G. If an excavator notifies the system and non-member operators as required by this section and is informed by the system and each nonmember operator, including private landowners, that no underground facilities exist in the proposed excavation area, then the excavator is not required to wait the 3 days as required by this subsection and subsection 10 and may begin excavation immediately.

Sec. 3. 23 MRSA §3360-A, sub-§5-F is enacted to read:

5-F. Water well construction; rulemaking. The Public Utilities Commission shall by rule establish notice requirements for excavation associated with drinking water well construction. In establishing the rule, the commission shall consider:

A. Whether notice requirements established in the rule should be limited to the drilling of a well or should also apply to other excavation associated with well construction activities, such as trenching for installation of pipes and equipment;

B. Whether notice requirements established in the rule should be based on factors such as geographic location, population density or other criteria bearing on the efficiency and effectiveness of the notification process and any offsetting public safety risks;

C. Whether the amount of time required for notice prior to excavation should be reduced; and

D. Any notice requirements associated with drinking water well construction that the commission determines appropriate.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Rulemaking. The Public Utilities Commission shall submit rules made pursuant to the Maine Revised Statutes, Title 23, section 3360-A, subsection 5-F to the Joint Standing Committee on Utilities and Energy for review no later than February 1, 2004.

See title page for effective date.

CHAPTER 374

S.P. 559 - L.D. 1605

An Act To Amend the Law Relating to Multiple-employer Welfare Arrangements

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

Whereas, the Legislature authorizes employers to secure health insurance through multiple-employer welfare arrangements; and

Whereas, there are few options available to employers to secure health insurance for their employees; and

Whereas, multiple-employer welfare arrangements provide health insurance to thousands of Maine residents, and that health insurance should not be disrupted; and

Whereas, technical changes are required to the multiple-employer welfare arrangement laws to ensure the continued availability of health insurance through the multiple-employer welfare arrangement to Maine employers and employees; 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