

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2004**

contract is signed. A fee may not be based on current or future child support payments and may be assessed only on funds actually received by the child support obligee.

**2. Collection practices limitations.** Each person who enters into an agreement with another to collect child support is subject to the provisions of Title 32, chapter 109-A if either the support obligee or the support obligor is a resident of this State.

**3. Requirement for written contract.** Each agreement between a person who collects or offers to collect child support and a child support obligee must be in writing, dated and signed by the support obligee. The contract must contain a full and detailed description of the services to be performed for the support obligee and the terms and conditions of payment. The contract may not contain a penalty for termination at any time by the support obligee.

**4. Basis of compensation.** A collector of child support obligations may not impose a charge or fee for any child support payments collected primarily through the efforts of a governmental agency.

**Sec. 2. 32 MRSA §11002, sub-§5,** as enacted by PL 1985, c. 702, §2, is amended to read:

**5. Debt.** "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services ~~which~~ that are the subject of the transaction are primarily for personal, family or household purposes, whether or not the obligation has been reduced to judgment. "Debt" includes any obligation or alleged obligation for payment of child support owed to, or owed by, a resident of this State.

See title page for effective date.

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## CHAPTER 563

H.P. 1219 - L.D. 1642

### An Act To Provide an Exemption to the Laws Governing Patient Confidentiality Regarding Certain Former Patients of the State Mental Institutions

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

**Sec. 1. 34-B MRSA §1207, sub-§1, ¶F,** as amended by PL 1989, c. 335, §2, is further amended to read:

F. Nothing in this subsection precludes the disclosure or use of any information, including re-

corded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that, in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; ~~and~~

**Sec. 2. 34-B MRSA §1207, sub-§1, ¶G,** as enacted by PL 1989, c. 335, §3, is amended to read:

G. Information ~~shall~~ must be disclosed to the executive director and the members of the subcommittees on institutes and quality assurance of the Maine Commission on Mental Health for the purpose of carrying out the commission's statutory duties; ~~and~~

**Sec. 3. 34-B MRSA §1207, sub-§1, ¶H** is enacted to read:

H. The names and dates of death of individuals who died while patients at the Augusta Mental Health Institute, the Bangor Mental Health Institute or the Riverview Psychiatric Center may be made available to the public in accordance with rules adopted by the department. The rules must require the department to notify the public regarding the release of the information and to maintain the confidentiality of information concerning any deceased individual whose surviving relatives notify the department that they object to public disclosure. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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## CHAPTER 564

H.P. 1261 - L.D. 1739

### An Act To Clarify the Requirements of the Behavioral Treatment and Safety Device Review Teams 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 2003, c. 368, §1, is further amended to read:

B. Treatment programs involving the use of noxious or painful stimuli or other aversive or severely intrusive techniques, as defined in de-

partment rules, may be used only to correct behavior more harmful than the treatment program 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~~ For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate of from the department Office of Advocacy; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in non-medical community-based facilities funded under the Medicaid program.

The department may adopt rules as necessary to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 34-B MRSA §5605, sub-§13, ¶C** is enacted to read:

C. Notwithstanding paragraph B, for a child under 18 years of age, treatment programs involving the use of seclusion or any noxious or painful stimuli, as defined in department rules, may not be approved.

**Sec. 3. 34-B MRSA §5605, sub-§14, ¶D-1,** as amended by PL 2003, c. 368, §2, is repealed and the following enacted in its place:

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 and only:

(1) When recommended by a qualified professional after approval of the person's service plan;

(2) For an adult 18 years of age or older, when use of the device is approved by a review team composed of an advocate from the Office of Advocacy, a representative of the Division of Mental Retardation and a representative of the Consumer Advisory Board; and

(3) For a child under 18 years of age, when use of the device is approved by a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee.

See title page for effective date.

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## CHAPTER 565

H.P. 1325 - L.D. 1803

### An Act Requiring Blood Testing of All Drivers Involved in Fatal Accidents

**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. 29-A MRSA §2522, sub-§§1 and 2,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

**1. Mandatory submission to test.** If there is probable cause to believe that death has occurred or will occur as a result of an accident, an operator of a motor vehicle involved in the motor vehicle accident shall submit to a chemical test, as defined in section 2401, subsection 3, to determine blood-alcohol level or drug concentration in the same manner as for OUI.

**2. Administration of test.** The investigating law enforcement officer shall cause a blood test to be administered to the operator of the motor vehicle as soon as practicable following the accident as provided in section 2521 and may also cause a breath test or