

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

Sec. 1. Study by Community Preservation Advisory Committee. Resolved: That the Community Preservation Advisory Committee, as established by the Maine Revised Statutes, Title 5, section 12004-I, subsection 24-F, shall study the Executive Department, State Planning Office's review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals. The study must include a review of the rules governing the State Planning Office's review and the time frames for the State Planning Office's review. The Community Preservation Advisory Committee shall submit a report of its findings and recommendations, including any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources by December 1, 2003. The report may be included in the annual report submitted by the Community Preservation Advisory Committee pursuant to Title 30-A, section 4350, subsection 9, paragraph A. The Joint Standing Committee on Natural Resources may report out legislation relating to the study during the Second Regular Session of the 121st Legislature.

See title page for effective date.

CHAPTER 35

H.P. 417 - L.D. 532

Resolve, Directing the Maine Health Data Organization To Evaluate the Current System of Annual Assessments and User Fees

Sec. 1. Evaluation of assessments and user fees. Resolved: That the Maine Health Data Organization shall evaluate its annual assessments and user fees, including the computation methodology for assessments and the equity of the distribution of assessments across providers and payors, with particular attention to the category of nonhospital providers. With respect to user fees, the Maine Health Data Organization shall examine current fees and develop potential strategies to reduce or eliminate user fees for providers and payors that are required to pay assessments to the organization; and be it further

Sec. 2. Report and recommendations. Resolved: That the Maine Health Data Organization shall report the results of its work and recommendations for improvements to the annual assessments and user fees to the Joint Standing Committee on Health and Human Services by January 30, 2004.

See title page for effective date.

CHAPTER 36

H.P. 408 - L.D. 523

Resolve, Requiring the Maine Human Rights Commission To Report on Complaints Involving Supervisors

Whereas, the Maine Supreme Court ruled, in *Gordan v. Cummings*, No. CUM-99-254, 2000 WL 419716 (Me. 4/19/00), withdrawn, 756 A.2d 942 (Me. 2000), in a decision that the court later vacated on procedural grounds, that a supervisor may be personally liable under the Maine Human Rights Act for acts of sexual harassment constituting a "hostile work environment"; and

Whereas, the language of the Maine Human Rights Act defining "employer" under the Maine Revised Statutes, Title 5, section 4553, subsection 4 as including "any person acting in the interest of any employer, directly or indirectly" is distinguishable from the language of the comparable federal statute, Title VII of the Civil Rights Act of 1964, 42 United States Code, Section 2000e(b); and

Whereas, the Maine Human Rights Commission has consistently interpreted the current language of the Maine Human Rights Act as providing for supervisory liability in some circumstances; and

Whereas, the Legislature is mindful of the fact that an opposite interpretation would leave victims of invidious discrimination without a remedy and might leave the victim with no option other than to file a complaint against the owner for acts of discrimination committed by someone outside the scope of agency law; and

Whereas, the Legislature recognizes that there are a limited number of circumstances in which a supervisory employee should be held liable for actions of intentional discrimination amounting to sexual harassment producing a hostile work environment; and

Whereas, the Legislature is concerned that persons violating the law should not go unpunished, that victims should not be left without a remedy and that faultless business owners should not be subjected to lawsuits because of acts committed by supervisory personnel outside the purview of agency law; and

Whereas, the Legislature is not confident that revision of the statute is necessary in order to protect victims of sexual harassment or to insulate innocent business owners in appropriate circumstances; now, therefore, be it:

Sec. 1. Report. Resolved: That the Maine Human Rights Commission shall report to the Joint