

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

**PART A**

**Sec. A-1. 19-A MRSA §4013, sub-§4, ¶C**, as amended by PL 2001, c. 240, §2, is further amended to read:

C. The panel shall collect and compile data related to domestic and sexual abuse, including data relating to deaths resulting from domestic abuse when the victim was pregnant at the time of death.

**Sec. A-2. 22 MRSA §3028, sub-§12** is enacted to read:

**12. Report to domestic abuse panel.** If the Chief Medical Examiner determines that a death resulted from criminal conduct and that the victim was pregnant at the time of death, the Chief Medical Examiner shall send a copy of any report prepared under this section to the Domestic Abuse Homicide Review Panel created pursuant to Title 19-A, section 4013.

**PART B**

**Sec. B-1. 17-A MRSA §1251, 2nd ¶**, as enacted by PL 1999, c. 536, §1, is amended to read:

In setting the length of imprisonment, if the victim is a child who had not in fact attained the age of 6 years at the time the crime was committed or if the victim is a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact in determining the final sentence in the 2nd and final step in the sentencing process. Nothing in this paragraph may be construed to restrict a court in setting the length of imprisonment from considering the age of the victim in other circumstances when relevant.

**Sec. B-2. 17-A MRSA §1252, sub-§5-C** is enacted to read:

**5-C.** In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion

of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

See title page for effective date.

**CHAPTER 89****H.P. 673 - L.D. 963**

**An Act To Set Standards for  
Electronic Methods Used for Wage  
Payment**

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

**Sec. 1. 26 MRSA §663, sub-§5**, as amended by PL 1965, c. 410, §4, is further amended to read:

**5. Wages.** "Wages" paid to any employee includes compensation paid to ~~such~~ the employee in the form of legal tender of the United States; and checks on banks convertible into cash on demand; and includes the reasonable cost to the employer who furnishes ~~such~~ the employee board or lodging. "Wages" also includes compensation paid through a direct deposit system, automated teller machine card or other means of electronic transfer as long as the employee either can make an initial withdrawal of the entire net pay without additional cost to the employee or the employee can choose another means of payment that involves no additional cost to the employee;

**Sec. 2. 26 MRSA §665, sub-§1**, as amended by PL 1971, c. 620, §13, is further amended to read:

**1. Examination of records, books; copies.** Every employer subject to this subchapter shall keep a true and accurate record of the hours worked by each employee and of the wages paid, such records to be preserved by the employer for a period of at least 3 years; and shall furnish to each employee with each payment of wages a statement ~~which shall that~~ clearly ~~show~~ shows the date of the pay period, the hours, total earnings and itemized deductions. An employer making payment by direct deposit or other means of electronic transfer shall provide each employee with an accurate record of the transfer, including the date of the pay period, the hours, total earnings and itemized deductions, when the transfer is made. If the record is provided in an electronic format the employer shall provide a method by which the employee may have ready access to the information and print it without cost to the employee. The director or his the director's authorized representative may, and upon written

complaint shall have authority to enter the place of business or employment of any employer or employees in the State, as defined in section 663, for the purpose of examining and inspecting such records; and copy any or all of such records as ~~he or his~~ the director or the director's authorized representative may deem ~~may deem~~ determines necessary or appropriate. ~~Any and all~~ All information ~~so~~ received ~~shall be~~ is considered as confidential and ~~shall may~~ may not be divulged to any other person or agency, except ~~insofar~~ as may be necessary for the enforcement of this subchapter.

See title page for effective date.

## CHAPTER 90

S.P. 374 - L.D. 1057

### An Act To Establish and Implement the Maine STEP-UP Program

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

Sec. 1. 38 MRSA §343-I is enacted to read:

#### §343-I. Smart Tracks for Exceptional Performers and Upward Performers Program

The Smart Tracks for Exceptional Performers and Upward Performers Program, known as "the STEP-UP Program" and referred to in this section as "the program," is established within the department and administered by the commissioner. In cooperation with program participants, the department shall establish guidelines for the program. The department shall create a contractual relationship between the commissioner and state organizations and businesses to achieve sustainability objectives, including energy and natural resources conservation. For the purposes of the program, "sustainability" means meeting the needs of the present without compromising the ability of future generations to meet their needs. The program must include a variety of sustainability tracks and goals and must be publicized at local and state levels. Beginning January 2006 and biennially thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the status of the program, progress toward meeting goals and recommended changes to improve the program.

See title page for effective date.

## CHAPTER 91

H.P. 214 - L.D. 289

### An Act To Protect Consumers and To Modernize Heating Oil Rules and Reporting Requirements

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

Sec. 1. 5 MRSA §3304, sub-§3, ¶M, as enacted by PL 1989, c. 501, Pt. DD, §7, is amended to read:

~~M. Administer any emergency fuel allocation program described in section 3307-D and have~~ Have the authority to collect inventory and product delivery data from the State's primary storage facilities of petroleum products, as described in section 3307-C, and shall afford confidential treatment to that information; and

Sec. 2. 5 MRSA §3307-C, sub-§5, ¶A, as enacted by PL 1999, c. 758, §3, is repealed.

Sec. 3. 5 MRSA §3307-C, sub-§5, ¶B, as enacted by PL 1999, c. 758, §3, is amended to read:

B. If the State Planning Office determines, based on available information, that there is or may be a significant shortfall in supply inventories or anticipated deliveries into the State of home heating oil ~~or kerosene~~, a report including:

- (1) The information that suggests a supply shortfall;
- (2) Current and anticipated inventories of home heating oil and kerosene storage supplies; and
- (3) Any recommendations of the State Planning Office for actions by the State in response to the anticipated supply shortfall; and

Sec. 4. 5 MRSA §3307-C, sub-§5, ¶C is enacted to read:

C. A report on inventories, deliveries, curtailments, shortfalls or other matters relating to the availability of petroleum products in this State, at the request of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

Sec. 5. 5 MRSA §3307-D, as amended by PL 1997, c. 455, §31, is repealed.

See title page for effective date.