

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

Penmor Lithographers
Lewiston, Maine
2005

CHAPTER 366

H.P. 850 - L.D. 1232

**An Act To Protect Children from
Individuals Who Have Engaged in
Sexual Abuse of Children in the Past**

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

Sec. 1. 18-A MRSA §9-304, sub-§(b-1) is enacted to read:

(b-1) There is a rebuttable presumption that the petitioner would create a situation of jeopardy for the child if the adoption were granted and that the adoption is not in the best interest of the child if the court finds that the petitioner for the adoption of a minor child:

(1) Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the petitioner was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the petitioner and the minor victim at the time of the offense; or

(2) Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The petitioner may present evidence to rebut the presumption.

Sec. 2. 19-A MRSA §1653, sub-§6-A, ¶A, as amended by PL 2003, c. 711, Pt. C, §1, is further amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

- (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- (2) Gross sexual assault, under Title 17-A, section 253;
- (3) Sexual abuse of a minor, under Title 17-A, section 254;

(4) Unlawful sexual contact, under ~~former~~ Title 17-A, section 255-A or former section 255;

(5) Visual sexual aggression against a child, under Title 17-A, section 256;

(6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258; ~~or~~

(6-A) Solicitation of a child by computer to commit a prohibited act, under Title 17-A, section 259; or

(7) An offense in another jurisdiction, including, but not limited to, that of a state, federal, military or tribal court, that includes the essential elements of an offense listed in subparagraph (1), (2), (3), (4), (5) ~~or~~ (6) or (6-A).

Sec. 3. 19-A MRSA §1653, sub-§6-B is enacted to read:

6-B. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the petitioner would create a situation of jeopardy for the child if any contact were to be permitted and that any contact is not in the best interests of the child if the court finds that the person seeking primary residence or contact with the child:

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The person seeking primary residence or contact with the child may present evidence to rebut the presumption.

Sec. 4. 19-A MRSA §1803, sub-§8 is enacted to read:

8. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the grandparent would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best

interest of the child if the court finds that the grandparent:

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparent was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the grandparent and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The grandparent seeking contact with the child may present evidence to rebut the presumption.

Sec. 5. 19-A MRSA §4007, sub-§1, ¶G, as amended by PL 2001, c. 273, §4, is further amended to read:

G. Either awarding some or all temporary parental rights and responsibilities with regard to minor children or awarding temporary rights of contact with regard to minor children, or both, under such conditions that the court finds appropriate as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6 6-B. The court's award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act;

Sec. 6. 22 MRSA §4005-E, sub-§3 is enacted to read:

3. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the grandparent would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the grandparent:

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparent was at least 5 years older than the minor at the time of the offense except that, if the offense was gross

sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the grandparent and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The grandparent seeking visitation with or access to the child may produce evidence to rebut the presumption.

Sec. 7. 22 MRSA §4035, sub-§2-A is enacted to read:

2-A. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption:

A. That the person seeking custody or contact with the child would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the person:

(1) Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

(2) Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The person seeking custody or contact with the child may produce evidence to rebut the presumption; and

B. That the parent or person responsible for the child would create a situation of jeopardy for the child if the parent or person allows, encourages or fails to prevent contact between the child and a person who:

(1) Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person

was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

(2) Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The parent or person responsible for the child may produce evidence to rebut the presumption.

See title page for effective date.

CHAPTER 367

S.P. 466 - L.D. 1339

**An Act To Amend the Laws
Governing the Powers and Duties of
the Washington County Development
Authority**

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

Sec. 1. 5 MRSA §13083-A, as enacted by PL 2001, c. 568, §1, is amended to read:

**§13083-A. Washington County Development
Authority established**

The Washington County Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article. The authority is authorized to take title, acquire and manage in the name of the State and by agreement with the Federal Government the property located within the geographical boundaries of any decommissioned federal military facility located within Washington County. The authority is also authorized to purchase, develop, redevelop, sell and lease commercial, residential and public property for the purpose of developing the economy of Washington County. This authorization allows the authority to provide financial and technical assistance to any governmental entity and nonprofit located within Washington County in support of community and economic development projects.

Sec. 2. 5 MRSA §13083-B, sub-§§3 and 5, as enacted by PL 2001, c. 568, §1, are amended to read:

3. Primary impact community. "Primary impact community" means ~~the municipalities of Cutler, Machias, East Machias, Eastport, Lubec, Whiting and Dennysville~~ all municipalities in Washington County, including the unorganized territories.

5. Real or personal property. "Real or personal property" means any property or assets transferred by the Federal Government or the United States Department of Defense pursuant to the closure of a federal military installation located in Washington County. "Real or personal property" also means any property or assets purchased, sold, developed, redeveloped or leased by the authority pursuant to its authority under this article.

Sec. 3. 5 MRSA §13083-C, sub-§1, ¶¶F-1 to F-3 are enacted to read:

F-1. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for the purposes provided in this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance;

F-2. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article;

F-3. Employ an executive director and other staff as considered necessary by the board of trustees;

Sec. 4. 5 MRSA §13083-C, sub-§2, as enacted by PL 2001, c. 568, §1, is amended to read:

2. Membership; appointment. The authority is governed by a board of trustees composed of ~~9~~ 13 voting members appointed or designated by the Governor.

A. The Governor shall make ~~8~~ 12 appointments to the board of trustees, ~~6 of which must be 9 of whom must be selected from a pool of candidates who are residents of Washington County and are nominated by the primary impact communities private, nonprofit, countywide, federally recognized Washington County-based economic development organizations other than the authority. Primary impact communities also may make nominations.~~ The Governor shall appoint members who reflect the diversity of interests represented by these communities. The Governor shall ensure that all regions of the county, as defined by the 3 county commissioner districts, are equally represented on the board of trustees. A