

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

Sec. 2. 15 MRSA §1092, sub-§1, ¶B, as enacted by PL 2003, c. 452, Pt. H, §3 and affected by Pt. X, §2, is amended to read:

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more and the condition of release violated is one specified in section 1026, subsection 3, paragraph A, subparagraph (5), (8), (10-A) or (13).

Sec. 3. 15 MRSA §1096, first ¶, as enacted by PL 1995, c. 356, §19, is amended to read:

~~An order of a~~ A ~~preconviction bail entered by order of a bail commissioner may be revoked by any judge or justice, and a preconviction bail order of a judge or justice may be revoked by the any judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon a determination made after notice and opportunity for hearing that:~~

See title page for effective date.

CHAPTER 450

H.P. 867 - L.D. 1249

An Act To Amend the Crimes of Unlawful Sexual Contact and Unlawful Sexual Touching

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

Sec. 1. 17-A MRSA §255-A, sub-§1, ¶¶S and T, as enacted by PL 2001, c. 383, §23 and affected by §156, are amended to read:

S. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; ~~or~~

T. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled and the sexual contact in-

cludes penetration. Violation of this paragraph is a Class D crime;

Sec. 2. 17-A MRSA §255-A, sub-§1, ¶¶U and V are enacted to read:

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime; or

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy and the sexual contact includes penetration. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class C crime.

Sec. 3. 17-A MRSA §260, sub-§1, ¶I, as corrected by RR 2003, c. 2, §27, is amended to read:

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime; ~~or~~

Sec. 4. 17-A MRSA §260, sub-§1, ¶J, as enacted by PL 2003, c. 138, §5, is amended to read:

J. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years

of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; or

Sec. 5. 17-A MRSA §260, sub-§1, ¶K is enacted to read:

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a patient or client of the actor for mental health therapy. As used in this paragraph, "mental health therapy" means psychotherapy or other treatment modalities intended to change behavior, emotions or attitudes and based upon an intimate relationship involving trust and dependency with a substantial potential for vulnerability and abuse. Violation of this paragraph is a Class D crime.

See title page for effective date.

CHAPTER 451

H.P. 870 - L.D. 1273

An Act To Improve the Economic Development of the Indian Tribes

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

Sec. 1. 30-A MRSA §5250-J, sub-§1, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

1. Creation. One or more units of local government, or an organization representing one or more units of local government, or the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Penobscot Nation or the Passamaquoddy Tribe, may apply to the commissioner for the designation of a Pine Tree Development Zone within the boundaries of the unit or units of local government in accordance with the requirements of this subchapter. County governments may apply on behalf of unorganized territories. Groups of units of local government may apply for multijurisdictional or joint projects. Multijurisdictional applications require designation of one unit of local government as the lead applicant and consent for that designation by each participating unit of local government. Counties may also apply on behalf of a consortium of units of local government. The designation of a Pine Tree Development Zone may not conflict with the provisions of a municipal or other unit of local government charter. Zones that

meet the requirements of subsection 2 are authorized for designation as follows:

A. ~~Aroostook County, including up to 100 acres of land reserved for the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians;~~

B. The Androscoggin Valley region, including the Lewiston Enterprise Community Zone as designated by the federal Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Appropriations Act, Public Law 105-277 (1999);

C. ~~The Penobscot Valley region, including up to 500 acres of land reserved for the Penobscot Nation; and~~

D. ~~Washington County and the Downeast region, including up to 500 acres of land reserved for the Passamaquoddy Tribe; and~~

E. Up to 100 acres of land owned by the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians; up to 500 acres of land owned by the Penobscot Nation; and up to 500 acres of land owned by the Passamaquoddy Tribe.

~~Notwithstanding the property designated in paragraph E, no more than one zone may be established in each of the areas specified in paragraphs A to D, except that the commissioner may designate up to 4 additional zones through the process established in section 5250-L.~~

See title page for effective date.

CHAPTER 452

H.P. 1158 - L.D. 1643

An Act To Clarify and Harmonize State Policy on Groundwater Management

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

PART A

Sec. A-1. 12 MRSA §685-B, sub-§4, ¶C, as amended by PL 1973, c. 569, §11, is further amended to read:

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic