

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

**NON-EMERGENCY LAWS IS**

**AUGUST 23, 2006**

**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**

**2006**

certify to the Secretary of State and the Revisor of Statutes when transfers total or exceed \$14,648.

**Sec. 6. Application.** This Act applies to tax years beginning on and after January 1, 2006.

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES,  
DEPARTMENT OF**

**Maine Asthma and Lung Disease Research Fund (new)**

Initiative: Allocates funds for the administrative costs associated with the Maine Asthma and Lung Disease Research Fund income tax checkoff.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$0	\$14,648
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$14,648
<b>ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF</b>	<b>2005-06</b>	<b>2006-07</b>
<b>DEPARTMENT TOTALS</b>		
OTHER SPECIAL REVENUE FUNDS	\$0	\$14,648
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$14,648</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Maine Asthma and Lung Disease Research Fund (new)**

Initiative: Allocates funds for the newly authorized Maine Asthma and Lung Disease Research Fund.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$0	\$42,500
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$42,500
<b>HEALTH AND HUMAN SERVICES, DEPARTMENT OF</b>	<b>2005-06</b>	<b>2006-07</b>
<b>DEPARTMENT TOTALS</b>		
OTHER SPECIAL REVENUE FUNDS	\$0	\$42,500
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$42,500</b>
<b>SECTION TOTALS</b>	<b>2005-06</b>	<b>2006-07</b>
OTHER SPECIAL REVENUE FUNDS	\$0	\$57,148
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<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$57,148</b>

**Sec. 8. Contingent effective date.** With the exception of section 5, this Act takes effect 90 days after the certification pursuant to section 5 occurs.

See title page for effective date, unless otherwise indicated.

**CHAPTER 673**

**H.P. 1224 - L.D. 1717**

**An Act Regarding the Sentencing of Persons Convicted of Gross Sexual Assault against Victims under 12 Years of Age**

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

**Sec. 1. 17-A MRSA §1202, sub-§1-A, ¶C,** as enacted by PL 2003, c. 711, Pt. B, §16, is repealed.

**Sec. 2. 17-A MRSA §1231,** as amended by PL 2003, c. 711, Pt. B, §18, is further amended to read:

**§1231. Inclusion of period of supervised release after imprisonment**

**1.** The court, in imposing a sentence of a term of imprisonment that does not include probation for a violation of section 253, may include as part of the sentence a requirement that the defendant be placed on a period of supervised release after imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 1254.

**1-A.** Notwithstanding subsection 1, the court shall impose as part of the sentence a requirement that a defendant convicted of violating section 253, subsection 1, paragraph C be placed on a period of supervised release after imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 1254 and must include the best available monitoring technology for the duration of the period of supervised release.

**2.** The authorized period of supervised release is:

A. Any period of years for a person sentenced as a repeat sexual assault offender pursuant to section 1252, subsection 4-B; ~~and~~

B. For a person not sentenced under section 1252, ~~subsection~~ subsections 4-B or 4-E, a period not to exceed 10 years for a Class A violation of section 253 and a period not to exceed 6 years

for a Class B or Class C violation of section 253-~~;~~  
and

C. Life for a person sentenced under section 1252, subsection 4-E.

3. During the period of supervised release specified in the sentence made pursuant to subsections 1 and 2, and upon application of a person on supervised release or the person's probation officer, or upon its own motion, the court may, after a hearing upon notice to the probation officer and the person on supervised release, modify the requirements imposed by the court, add further requirements authorized by section 1232, or relieve the person on supervised release of any requirement imposed by the court that, in its opinion, imposes on the person an unreasonable burden.

Notwithstanding this subsection, the court may grant, ex parte, a motion brought by the probation officer to add further requirements if the requirements are immediately necessary to protect the safety of an individual or the public and if all reasonable efforts have been made to give written or oral notice to the person on supervised release. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on supervised release.

4. On application of the probation officer, or of the person on supervised release, or on its own motion, and if warranted by the conduct of the person, the court may terminate a period of supervised release and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsections 1 and 2. A termination and discharge may not be ordered ~~upon the motion of the person on supervised release unless notice of the motion is given to the probation officer by the person on supervised release and the attorney for the State.~~ A termination and discharge relieves the person on supervised release of any obligations imposed by the sentence of supervised release.

5. Any justice, in order to comply with section 1256, subsection 8, may terminate a period of supervised release that would delay commencement of a consecutive unsuspended term of imprisonment. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

6. The court may revoke a period of supervised release pursuant to section 1233. If the court revokes a period of supervised release, the court ~~may~~ shall require the person to serve time in prison under the custody of the Department of Corrections. This time in prison may equal all or part of the period of

supervised release, without credit for time served on post-release supervision, ~~but may not exceed 1/3 of the straight term of imprisonment imposed.~~ The remaining portion of the period of supervised release that is not required to be served in prison remains in effect to be served after the person's release and is subject to revocation at a later date.

**Sec. 3. 17-A MRSA §1252, sub-§4-D**, as enacted by PL 2003, c. 711, Pt. B, §20, is repealed and the following enacted in its place:

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

**Sec. 4. 17-A MRSA §1252, sub-§4-E** is enacted to read:

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

See title page for effective date.

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## CHAPTER 674

### S.P. 749 - L.D. 1952

#### **An Act To Prevent the Use of Performance-enhancing Substances by Maine Student Athletes**

**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. 5 MRSA §20005, sub-§§19 and 20**, as enacted by PL 1993, c. 410, Pt. LL, §10, are amended to read:

**19. Fiscal and program accountability.** Enhance its current efforts to ensure fiscal and program