

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

waste for landfilling, is consistent with the state waste management and recycling plan; ~~and~~

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal; ~~and~~

D. For a determination of public benefit under subsection 1-A only, facilitates the operation of a solid waste disposal facility that provides a substantial public benefit and the operation of that solid waste disposal facility would be precluded or significantly impaired if the waste is not accepted.

4. **Application.** This section does not apply to facilities described in section 1310-N, subsection 3-A, paragraph A or to facilities owned by the State.

Sec. 4. Legislative findings. Maine's municipalities have the obligation to provide for the disposal of the solid waste generated by their citizens and businesses. Public waste disposal corporations and refuse disposal districts are formed by municipalities to provide for the disposal of the solid waste generated within the geographical boundaries of the participating municipalities. Municipal and public regional landfills, however, are becoming increasingly limited in capacity and expensive to Maine's people. The creation of new municipal and public regional landfills is often prohibitively expensive. The Legislature, in exercising its powers over municipalities, public waste disposal corporations and refuse disposal districts as instrumentalities and creations of the State, seeks to maximize the use of these landfills for the benefit of the people of the State and to prevent their potential diversion to uses by others. This law will ensure that municipal and public regional landfills are used for these public purposes.

Sec. 5. Retroactivity. This Act applies retroactively to January 1, 2007.

See title page for effective date.

**CHAPTER 339
S.P. 306 - L.D. 955**

**An Act To Amend the
Employment Practices Law
Regarding Substance Abuse
Testing of Temporary Workers**

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

Sec. 1. 26 MRSA §683, sub-§4, as enacted by PL 1989, c. 536, §§1 and 2 and affected by c. 604, §§2 and 3, is amended to read:

4. Consent forms prohibited. ~~No~~ An employer may not require, request or suggest that any employee

or applicant sign or agree to any form or agreement that attempts to:

A. Absolve the employer from any potential liability arising out of the imposition of the substance abuse test; or

B. Waive an employee's or applicant's rights or eliminate or diminish an employer's obligations under this subchapter except as provided in subsection 4-A.

Any form or agreement prohibited by this subsection is void.

Sec. 2. 26 MRSA §683, sub-§4-A is enacted to read:

4-A. Waivers for temporary employment. An employment agency, as defined in section 611, may request a written waiver for a temporary placement from an individual already in its employ or on a roster of eligibility as long as the client company has an approved substance abuse testing policy and the individual has not been assigned work at the client company in the 30 days previous to the request. The waiver is only to allow a test that might not otherwise be allowed under this subchapter. The test must otherwise comply with the standards of this subchapter and the employment agency's approved policy regarding applicant testing. The agency may not take adverse action against the individual for refusal to sign a waiver.

See title page for effective date.

**CHAPTER 340
H.P. 748 - L.D. 988**

**An Act To Improve the
Protection from Abuse Laws**

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

Sec. 1. 17-A MRSA §1201, sub-§1, ¶A-1, as amended by PL 2005, c. 265, §7, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A,

Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime committed against a family or household member, a dating partner or a victim of sexual assault or stalking under chapter 9 or 13 or section 506-B, 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A; "victim of sexual assault or stalking" means a person who has been a victim of conduct defined as stalking in section 210-A or described as sexual assault in chapter 11 committed by someone other than a family or household member or dating partner;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug; or

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B.

Sec. 2. 19-A MRSA §4002, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Abuse. "Abuse" means the occurrence of the following acts between family or household members or dating partners or by a family or household member or dating partner upon a minor child of a family or household member or dating partner:

A. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, chapter 11, except that contact as described in Title 17-A, section 106, subsection 1 is excluded from this definition;

B. Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior;

C. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

(1) Removing that person from that person's residence, place of business or school;

(2) Moving that person a substantial distance from the vicinity where that person was found; or

(3) Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved;

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment.

Sec. 3. 19-A MRSA §4002, sub-§3-A is enacted to read:

3-A. Dating partners. "Dating partners" means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

Sec. 4. 19-A MRSA §4005, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Filing. An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a

minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

Sec. 5. 19-A MRSA §4007, sub-§1, as amended by PL 2005, c. 510, §§10 to 12, is further amended to read:

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

A. Directing the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

A-1. Directing the defendant not to possess a firearm or other dangerous weapon for the duration of the order;

A-2. Prohibiting the defendant from the use, attempted use or threatened use of physical force that would reasonably be expected to cause bodily injury against the plaintiff or a minor child residing in the household;

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

C. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; ~~or~~

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; or

(3) Engaging in conduct defined as stalking in Title 17-A, section 210-A;

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff;

E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:

(1) Granting or restoring possession of the residence or household to one party, excluding the other; or

(2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing;

F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court, including an order to refrain from taking, converting or damaging property in which the plaintiff has a legal interest;

F-1. Ordering the termination of a life insurance policy or rider under that policy owned by the defendant if the plaintiff is the insured life under the policy or rider. Upon issuance, a copy of the court order must be sent to the insurer that issued the policy;

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-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;

H. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014;

I. Ordering the payment of temporary support for the dependent party or for a child in the dependent party's custody in accordance with chapter 63, or both, when there is a legal obligation to support that dependent party or that child, or both;

J. Ordering the payment of temporary support payments to the State as provided in chapters 63 and 67;

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon

the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

L. Ordering the defendant or, if the complaint is dismissed, the plaintiff to pay court costs or reasonable attorney's fees;

M. Entering any other orders determined necessary or appropriate in the discretion of the court; or

N. Directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

See title page for effective date.

CHAPTER 341

S.P. 312 - L.D. 995

An Act To Reduce the Expense of Health Care Treatment and Protect the Health of Maine Citizens by Providing Early Screening, Detection and Prevention of Cancer

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

Sec. 1. 22 MRSA §1407, as enacted by PL 2003, c. 215, §1, is amended to read:

§1407. Comprehensive cancer prevention, research and treatment

1. Program established. The Bureau of Health shall establish a cancer prevention and control program to provide leadership for and coordination of cancer prevention, research and treatment activities. The program may include, but is not limited to:

A. Monitoring cancer prevalence at the state and community levels through the cancer-incidence registry under section 1404 and other means;

B. Education and training of health professionals on the current methods of diagnosing and treating cancer;

C. Patient and family education on how to manage the disease and the treatment of the disease; ~~and~~

D. Consultation with and support of community-based cancer prevention, research and treatment programs; ~~and~~

E. Implementation of a comprehensive cancer screening, detection and prevention program.

2. Consultation. In implementing the program established in subsection 1, the Bureau of Health shall consult with the Medicaid program administered by the department and with the Department of Education. In addition, the bureau shall seek advice from other organizations and private entities concerned with cancer prevention, research and treatment.

3. Funding. The Bureau of Health may accept federal funds and grants for implementing the program established in subsection 1 and may contract for work with outside vendors or individuals.

4. Comprehensive Cancer Screening, Detection and Prevention Fund; funding. The Comprehensive Cancer Screening, Detection and Prevention Fund is established within the department to fund or assist in funding the comprehensive cancer screening, detection and prevention program should it be established pursuant to subsection 1, paragraph E. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the department. The fund may receive funds from any non-General Fund source, including grants or contributions of money from the public or private sector, to carry out the purposes of subsection 1, paragraph E.

5. Rulemaking. The Bureau of Health shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Maine cancer plan implementation. The Department of Health and Human Services shall, contingent upon availability of funding, establish a comprehensive cancer screening, detection and prevention program pursuant to the Maine Revised Statutes, Title 22, section 1407, subsection 1, paragraph E based on the implementation strategy developed by the Maine Cancer Consortium for The Maine Comprehensive Cancer Control Plan 2006-2010.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY DHS)**

Comprehensive Cancer Screening, Detection and Prevention Fund Z054