

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

**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**  
**2008**

~~record of those elected officials who have completed the training required by this section and make that record available to the public in accordance with the requirements of this chapter. The record must identify the training completed and the date of completion. The elected official shall keep the record or file it with the public entity to which the official was elected.~~

**4. Application.** This section applies to the following elected officials:

- A. The Governor;
- B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;
- C. Members of the Legislature elected after November 1, 2008; and
- ~~D. An elected official of a county, municipality, school district or school board or any regional or other political subdivision who, as part of the duties of the office, exercises executive or legislative powers.~~
- E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;
- F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments;
- G. Officials of school units and school boards; and
- H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 7, 2008.

## CHAPTER 577

### H.P. 1604 - L.D. 2243

#### An Act To Increase the Number of Mandated Reporters of Abuse, Neglect or Exploitation and To Clarify the Probation Laws Relating to Violation of Protection Orders

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

**Sec. 1. 16 MRSA §53-A, sub-§2,** as enacted by PL 1983, c. 319, is amended to read:

**2. Privileged communications.** Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, ~~no~~ a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information ~~which he~~ that the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion ~~deems~~ determines the disclosure necessary to the proper administration of justice, ~~no~~ information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services ~~may be~~ is not privileged and disclosure may be required.

**Sec. 2. 16 MRSA §53-B, sub-§3, ¶A,** as enacted by PL 1995, c. 128, §1, is amended to read:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of ~~that~~ either chapter;

**Sec. 3. 16 MRSA §53-C, sub-§3, ¶B,** as enacted by PL 1999, c. 369, §1, is amended to read:

B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with ~~that~~ either chapter;

**Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-1,** as repealed and replaced by PL 2007, c. 475, §14, is 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 that the State pleads and proves was committed against a family or household member; ~~or 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;~~

(2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15, section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

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

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

(4-A) A Class E crime under section 552;

(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. 5. 22 MRSA §3477, sub-§1, ¶A**, as repealed and replaced by PL 2003, c. 653, §9, is amended to read:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;

- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician;
- (21) Unlicensed assistive personnel;
- (22) A humane agent employed by the Department of Agriculture, Food and Rural Resources; ~~or~~
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor; or
- (25) A family or domestic violence victim advocate;

**Sec. 6. 22 MRSA §4011-A, sub-§1, ¶A**, as repealed and replaced by PL 2003, c. 599, §8 and affected by §§9 and 14, is amended to read:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;

- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; ~~and~~
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (30) A sexual assault counselor; and
- (31) A family or domestic violence victim advocate;

See title page for effective date.

## CHAPTER 578

### H.P. 1468 - L.D. 2082

#### An Act To Preserve Successful Historic Neighborhood Schools

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** historic school buildings have provided an educational foundation for many of the

State's current and past leaders and added significant value to Maine communities; and

**Whereas,** deliberations about the future of historic school buildings across the State are in progress, including deliberations regarding the 100-year-old Nathan Clifford School in Portland, designed by renowned architect John Calvin Stevens; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 20-A MRSA §15908-A**, as enacted by PL 2003, c. 497, §2 and affected by §5, is amended to read:

#### **§15908-A. School energy efficiency standards rules**

**1. Definition.** For purposes of this section, "substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

**2. Rules.** The state board, in consultation with the Department of Administrative and Financial Services and the Public Utilities Commission, shall by rule require as a condition for state funding for construction that, except as provided in subsection 4, all planning and design for new or substantially renovated schools or school buildings subject to state board approval:

A. Involve consideration of architectural designs and energy systems that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, section 1415-D; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

The state board shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Requirements for approval.** The Except as provided in subsection 4, the state board shall withhold approval of a state-funded new or substantially renovated school or school building if the local school