

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

A. Immediate action is required to protect the undocumented property or property on loan; or

B. The undocumented property or the property on loan has become a hazard to the health or safety of the public or to the museum's staff and at least one of the following applies:

(1) The property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum may dispose of the property without delay and shall notify the owner of the action taken within 30 days;

(2) The museum is unable to reach the owner through available means of communication and action with respect to the property is necessary within 30 days; and

(3) The museum contacts the owner and the owner does not agree to the protective measures the museum recommends and does not, or is unable to, terminate the loan and collect the property within the time the museum determines the action is necessary.

**5. Protection for reasonable actions.** Unless a written loan agreement provides otherwise, a museum that applies conservation measures to or disposes of loaned property in accordance with subsection 4:

A. Shall acquire and may enforce a lien on the loaned property in the amount of the costs incurred by the museum;

B. Is not liable to the owner for damage to, or loss of, the loaned property as long as the museum had a reasonable belief at the time the action was taken that the action was necessary; and

C. Is not liable to the owner for damage to, or loss of, the loaned property due to conservation measures applied, as long as the museum exercised reasonable care in choosing and applying the conservation measures.

See title page for effective date.

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**CHAPTER 264**

**H.P. 817 - L.D. 1082**

**An Act Concerning the  
Protection of Personal  
Information in  
Communications with Elected  
Officials**

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

**Sec. 1.** **1 MRSA §402, sub-§3, ¶C-1** is enacted to read:

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(e) An individual's social security number; or

(2) Would be confidential if it were in the possession of another public agency or official;

**Sec. 2. Right To Know Advisory Committee.** The Right To Know Advisory Committee, as established in the Maine Revised Statutes, Title 1, section 411, subsection 1, shall examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and any recommendations must be included in its 2012 annual report pursuant to Title 1, section 411, subsection 10.

See title page for effective date.

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**CHAPTER 265**

**H.P. 1004 - L.D. 1365**

**An Act Regarding Protection  
Orders**

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

**Sec. 1.** **19-A MRSA §4012, sub-§11** is enacted to read:

**11. Service of protection from abuse order.** Every municipal, county and state law enforcement agency shall adopt a written policy on the service of protection from abuse orders that directs that every order issued under this chapter is served on the subject of the order as quickly as possible. Service of a protection from abuse order that is not in compliance with

a policy adopted under this subsection does not affect the validity of the service or the order.

**Sec. 2. 25 MRSA §2803-B, sub-§1, ¶D**, as amended by PL 2003, c. 361, §1, is further amended to read:

D. Domestic violence, which must include, at a minimum, the following:

(1) A process to ensure that a victim receives notification of the defendant's release from jail;

(2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; ~~and~~

(3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours notice to each party prior to the retrieval; and

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible;

**Sec. 3. 25 MRSA §2803-B, sub-§2**, as repealed and replaced by PL 2009, c. 652, Pt. A, §37, is amended to read:

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to ~~(3)~~ (4) must be established no later than January 1, ~~2003~~ 2012; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

**Sec. 4. 25 MRSA §2803-B, sub-§3**, as repealed and replaced by PL 2009, c. 652, Pt. A, §38, is amended to read:

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to ~~(3)~~ (4) must be made to the board no later than June 1, ~~2003~~ 2012; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; certification for orientation and training with respect to policies regarding the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the board no later than January 1, 2011; and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary com-

mitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

See title page for effective date.

**CHAPTER 266  
S.P. 483 - L.D. 1522**

**An Act To Make Technical  
Changes to Marine Resources  
Laws**

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

**PART A**

**Sec. A-1. 12 MRSA §6022, sub-§18** is enacted to read:

18. Commissioner's authority. The State assents to the provisions of the Federal Aid in Sport Fish Restoration Act, 16 United States Code, Chapter 10B, as amended. The commissioner may perform all acts necessary for the establishment and implementation of cooperative fish restoration and management projects as defined by that Act and the implementing regulations promulgated under that Act.

**Sec. A-2. 12 MRSA §6302-A, sub-§1,** as amended by PL 2011, c. 137, §1, is further amended to read:

**1. Tribal exemption; commercial harvesting licenses.** A member of the Passamaquoddy Tribe or Penobscot Nation who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6502-A, 6505-A, 6505-C, 6535, 6601, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or 6804 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe or nation to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe or Penobscot Nation issued a tribal license pursuant to this subsection to conduct activities is subject to all laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe or nation:

A. May utilize lobster traps tagged with trap tags issued by the tribe or nation in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe or nation is not required to pay trap tag fees under section 6431-B if the tribe or nation issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe or nation in a manner consistent with tags issued pursuant to section 6505-B. A member of the tribe or nation

is not required to pay elver fishing gear fees under section 6505-B if the tribe or nation issues that member elver fishing gear tags; and

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671.

**Sec. A-3. 12 MRSA §6310, sub-§1,** as enacted by PL 1999, c. 643, §1, is amended to read:

**1. Appeal of license denial.** A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A ~~or~~; a person who is denied a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license because that person does not meet the eligibility requirements of section 6749-O, subsection 2-A; or a person who is denied a hand fishing scallop license or a scallop dragging license because that person does not meet the eligibility requirements of section 6706, subsection 2 may appeal to the commissioner under this section for a review of that license denial.

**Sec. A-4. 12 MRSA §6310, sub-§2, ¶C** is enacted to read:

C. A hand fishing scallop license or a scallop dragging license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition; or

(2) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the scallop fishery and meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to entering the service. The person may not have served for more than 6 consecutive years since the most recent year in which the person held a license, and the person must have been honorably discharged from service. A person must request an appeal under this subparagraph within one year of discharge from service.