

# 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-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

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

---

---

**Augusta, Maine**  
**2012**

the unit from the State or a member municipality be paid to the region until the amount determined by the court is satisfied. The court shall promptly notify the disbursing agency or municipality of the determination and direct the agency or municipality to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the region, the court may order the attachment or trustee process and sale of real or personal property owned by the unit or the attachment of the unit's bank accounts and may pay the amount owed the region from the proceeds and return any excess to the unit.

See title page for effective date.

**CHAPTER 490**

**H.P. 1230 - L.D. 1640**

**An Act To Promote POW/MIA Recognition Day**

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

**Sec. 1. 1 MRSA §136**, as enacted by PL 1999, c. 302, §1, is amended to read:

**§136. Prisoner of War - Missing in Action Recognition Day**

The Governor annually shall issue a proclamation designating the 3rd Friday in September as Prisoner of War - Missing in Action Recognition Day in remembrance of the courage and plight of American prisoners of war and those missing in action. The proclamation must recommend that the day be observed in an appropriate manner. The State of Maine flag must be flown at half staff when the Governor considers it appropriate. The Governor may issue the proclamation through a media outlet as defined in Title 3, section 312-A, subsection 10-B. The Department of Education and the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall make appropriate information available to citizens, schools, organizations and groups within the limits of their budgets.

See title page for effective date.

**CHAPTER 491**

**H.P. 1327 - L.D. 1800**

**An Act To Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations**

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

**Sec. 1. 1 MRSA §72, sub-§17-A**, as enacted by PL 1993, c. 630, Pt. B, §1, is amended to read:

**17-A. Registered apprenticeship.** "Registered apprenticeship" means an apprenticeship program registered with the ~~State Apprenticeship and Training Council under Title 26, chapter 11~~ Maine Apprenticeship Program in accordance with Title 26, chapter 37.

**Sec. 2. 5 MRSA §7072, 2nd ¶**, as amended by PL 1993, c. 630, Pt. B, §2, is further amended to read:

~~The Bureau of Labor Standards~~ Department of Labor, Bureau of Employment Services shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of registered apprenticeship programs or other training programs.

**Sec. 3. 5 MRSA §7072, 3rd ¶**, as enacted by PL 1985, c. 785, Pt. B, §38 and amended by PL 1997, c. 530, Pt. A, §34, is repealed.

**Sec. 4. 5 MRSA §7072, sub-§1**, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

**Sec. 5. 5 MRSA §7072, sub-§2**, as amended by PL 1993, c. 630, Pt. B, §3, is repealed.

**Sec. 6. 5 MRSA §7072, sub-§3, ¶B**, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

**Sec. 7. 5 MRSA §12004-G, sub-§25**, as amended by PL 1989, c. 483, Pt. A, §24 and c. 503, Pt. A, §17, is repealed.

**Sec. 8. 5 MRSA §12004-I, sub-§54-D** is enacted to read:

**54-D.**

<u>Labor</u>	<u>Maine</u>	<u>Expenses</u>	<u>26 MRSA</u>
	<u>Apprenticeship</u>	<u>Only</u>	<u>§3209</u>
	<u>Council</u>		

**Sec. 9. 26 MRSA §2006, sub-§5-A**, as enacted by PL 1997, c. 683, Pt. D, §9 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 545, §5, is repealed.

**Sec. 10. 26 MRSA §2006, sub-§7, ¶A**, as amended by PL 1999, c. 6, §1, is further amended to read:

A. The council shall create 4 3 standing committees of up to 12 members. Each standing committee may include up to 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership. The standing committees shall make recommendations to the full council. The 4 3 standing committees are as follows:

- (1) ~~Apprenticeship, with its membership specified in subsection 5 A, paragraph B;~~
- (2) School-to-work;
- (3) Employment of people with disabilities; and
- (4) Women's employment issues.

**Sec. 11. 26 MRSA §2172, sub-§4,** as amended by PL 2003, c. 114, §21, is repealed.

**Sec. 12. 26 MRSA §2172-A, sub-§2,** as amended by PL 2003, c. 114, §23, is further amended to read:

**2. Referral.** When an individual's employability development plan has been developed, the ~~Department of Labor~~ Maine Workforce Investment System service provider shall:

- A. Determine whether the individual's employment goal includes an apprenticeable occupation ~~by reference to a list of apprenticeable occupations provided by the State Apprenticeship and Training Council as defined in section 3201, subsection 2; and~~
- B. ~~If the occupation appears on the list of apprenticeable occupations under paragraph A, contact the State Apprenticeship and Training Council for assistance in establishing a registered apprenticeship program as part of or following Maine Workforce Investment System training;~~
- C. ~~Ensure that the State Apprenticeship and Training Council provides to the Commissioner of Labor a semiannual and annual list of the number of Maine Workforce Investment System referrals received and the number of registered apprenticeship positions established from these referrals; and~~
- D. ~~If a registered apprenticeship program is developed under this subsection, provide~~ Provide the trainee with information on educational and training opportunities that may be of assistance for indenturing in the registered apprenticeship program.

**Sec. 13. 26 MRSA c. 37** is enacted to read:

**CHAPTER 37**

**REGISTERED APPRENTICESHIP**

**§3201. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Apprentice.** "Apprentice" means a person who is at least 16 years of age, except when a higher minimum age standard of 18 years of age is otherwise fixed by law or a sponsor, who is employed to learn an

apprenticeable occupation that is approved by the department and who is registered with the Maine Apprenticeship Program.

**2. Apprenticeable occupation.** "Apprenticeable occupation" means an occupation that is specified by industry and that:

- A. Involves skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- B. Is clearly identified and commonly recognized throughout an industry;
- C. Involves manual, mechanical or technical skills and knowledge that, in accordance with the industry standard for the occupation, require the completion of at least 2,000 hours of on-the-job learning to attain; and
- D. Requires related instruction.

**3. Apprenticeship agreement.** "Apprenticeship agreement" means a written agreement between an apprentice and a sponsor or employer that contains the terms and conditions of the employment and training of the apprentice.

**4. Apprenticeship committee.** "Apprenticeship committee" means those persons designated by a sponsor to administer an apprenticeship program. An apprenticeship committee may be either a joint committee or a nonjoint committee, as follows.

- A. A joint committee is composed of an equal number of representatives of the employer and representatives of the employees who are represented by a bona fide collective bargaining agent.
- B. A nonjoint committee is composed of employer representatives and may include employees but does not have a bona fide collective bargaining agent as a participant.

**5. Apprenticeship program.** "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for an apprenticeship agreement, a schedule of work experience outlining the skills to be learned on the job, a schedule of related instruction courses necessary to supplement the on-the-job learning and a schedule of progressively increasing wages to be paid to an apprentice consistent with the skill proficiencies achieved and leading toward a journeyman wage rate.

**6. Competency.** "Competency" means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.

**7. Completion rate.** "Completion rate" means the percentage of an apprenticeship cohort that receives a certificate of completion of apprenticeship within one year of the projected completion date. As used in this subsection, "apprenticeship cohort" means the group of apprentices registered to a specific apprenticeship program during a one-year time frame, except that "apprenticeship cohort" does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period as described in section 3205, subsection 8.

**8. Department.** "Department" means the Department of Labor.

**9. Electronic media.** "Electronic media" means media that use electronics or electromechanical energy for the end user to access content and includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks and the physical movement of removable or transportable electronic media and interactive distance learning.

**10. Employer.** "Employer" means a person or organization employing an apprentice, whether or not the person or organization is a party to an apprenticeship agreement with the apprentice.

**11. Federal purposes.** "Federal purposes" includes any federal contract, grant, agreement or arrangement dealing with apprenticeship and any federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

**12. Interim credential.** "Interim credential" means a credential issued by the department to document attainment of certain benchmarks toward completion of an apprenticeship.

**13. Journeyman.** "Journeyman" means a worker who has attained a level of skills, abilities and competencies recognized within an industry as the skills, abilities and competencies required for an occupation. "Journeyman" includes a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training, as determined by the sponsor.

**14. Maine Apprenticeship Council.** "Maine Apprenticeship Council" means the Maine Apprenticeship Council under section 3209.

**15. Maine Apprenticeship Program.** "Maine Apprenticeship Program" means the Maine Apprenticeship Program established in section 3202.

**16. Provisional registration.** "Provisional registration" means the one-year initial provisional registration of newly registered apprenticeship programs under section 3202, subsection 5.

**17. Quality assurance assessment.** "Quality assurance assessment" means a comprehensive review conducted by the department regarding all aspects of an apprenticeship program's performance, including but not limited to determining if apprentices are receiving on-the-job learning in all phases of the apprenticeable occupation, scheduled wage increases consistent with the standards of the program submitted under section 3203 and related instruction through appropriate curricula and delivery systems and determining if the apprenticeship program has provided to the registration agency notification of all new registrations, transfers, suspensions, cancellations and completions as required in this chapter.

**18. Registration.** "Registration" means registration with the Maine Apprenticeship Program under section 3202.

**19. Registration agency.** "Registration agency" means the state apprenticeship agency, which is responsible for registering apprenticeship programs and apprentices, providing technical assistance and conducting compliance and quality assurance assessments.

**20. Related instruction.** "Related instruction" means an organized and systematic form of instruction designed to provide an apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation and given in a classroom, through occupational or industrial courses or by correspondence courses of equivalent value, electronic media or other forms of self-study approved by the department.

**21. Sponsor.** "Sponsor" means a person, association, apprenticeship committee or organization operating an apprenticeship program and in whose name the apprenticeship program is or is to be registered or approved.

**22. State apprenticeship agency.** "State apprenticeship agency" means the department, which is the state government agency that has responsibility and accountability for apprenticeship in the State and is recognized by the United States Department of Labor, Office of Apprenticeship as an agency that has been properly constituted under state law and authorized by the Office of Apprenticeship to register and oversee apprenticeship programs and apprenticeship agreements for federal purposes.

**23. Technical assistance.** "Technical assistance" means guidance provided by the Bureau of Employment Services within the department in the development, revision, amendment or processing of a potential or current sponsor's standards of apprenticeship or apprenticeship agreements or advice or consultation provided by the bureau to a sponsor to further compliance with or remedy nonconformance to state and federal law, regulation or rule.

**24. Transfer.** "Transfer" means a shift of registration from one apprenticeship program to another or from one employer within a program to another employer within that same program, in accordance with an agreement between the apprentice and the affected sponsors.

**§3202. Maine Apprenticeship Program; eligibility and registration procedure**

The Maine Apprenticeship Program is established for the purposes of registration and oversight of apprenticeship programs in the State. The Maine Apprenticeship Program is administered by the department, which is the state apprenticeship agency and registration agency for the purposes of 29 Code of Federal Regulations, Parts 29 and 30.

**1. Registration; eligibility.** A sponsor may apply with the Maine Apprenticeship Program for review and approval of an apprenticeship program or apprenticeship agreement. To be eligible for registration, the apprenticeship program or apprenticeship agreement must meet the requirements of this chapter, must involve training in an apprenticeable occupation and must comply with state and federal law regarding equal employment opportunity in apprenticeship and training. An apprenticeship program is registered upon its acceptance and recording by the Maine Apprenticeship Program as meeting the basic standards and requirements for approval of such a program for federal purposes, as evidenced by a certificate of registration or other written indicia. An apprenticeship agreement is registered upon its acceptance and recording by the Maine Apprenticeship Program as evidence of an apprentice's participation in a particular registered apprenticeship program.

**2. Apprentices registered.** Except as provided under subsection 3, apprentices must be individually registered under a registered sponsor and in a registered apprenticeship program. Such individual registration may be effected by filing copies of each individual apprenticeship agreement with the Maine Apprenticeship Program.

**3. Probationary employment.** A sponsor shall submit the name of a person in a period of probationary employment under section 3203, subsection 1, paragraph H as an apprentice under a registered apprenticeship program within 45 days of employment to the Maine Apprenticeship Program for certification and to establish the apprentice in probationary status.

**4. Certificate.** If the Maine Apprenticeship Program approves an apprenticeship program, it shall register that apprenticeship program and issue a sponsor approval certificate.

**5. Review.** The Maine Apprenticeship Program shall review an application for registration of an apprenticeship program. An apprenticeship program that meets the standards for registration must be given pro-

visional registration for a period of one year. The Maine Apprenticeship Program shall review an apprenticeship program for quality and conformity with the requirements of this chapter at the end of the first year after registration. A program that conforms to the requirements may have its registration be made permanent or may continue to be provisionally registered through the first full training cycle. An apprenticeship program that is not in operation or does not conform to the requirements must be deregistered pursuant to section 3206.

The Maine Apprenticeship Program shall review a provisionally registered apprenticeship program for quality and conformity with the requirements of this chapter at the end of the first full training cycle. If the provisionally registered apprenticeship program receives a satisfactory review, the Maine Apprenticeship Program shall convert the provisional registration to permanent registration. Subsequent reviews must be conducted no less frequently than every 5 years. An apprenticeship program that is not in operation or does not conform to the requirements must be deregistered pursuant to section 3206.

**6. Change of program.** A sponsor may not make a change to a registered apprenticeship program unless the change is approved by the Maine Apprenticeship Program. To make a change to a registered apprenticeship program, a sponsor must submit a request to the Maine Apprenticeship Program. The Maine Apprenticeship Program shall approve or disapprove the requested change within 90 days from receipt of the request. If approved, the change must be recorded and acknowledged by the Maine Apprenticeship Program within 90 days of approval. If not approved, the Maine Apprenticeship Program shall notify the sponsor of the disapproval and the reason for the disapproval and provide the appropriate technical assistance.

**7. Union participation.** An apprenticeship program may be proposed for registration by an employer or group of employers or an employers association. An employer or employers association with the respect to which there exists a standard or a collective bargaining agreement or other instrument that provides for participation by a union in any aspect of the operation of the substantive matters of an apprenticeship program must, if such participation is exercised, include in the apprenticeship program proposed for registration written acknowledgment of union agreement or no objection to the registration. If such participation is not so provided for or practiced, the employer or employers association must simultaneously furnish to an existing union, if any, that is the collective bargaining agent of the employees to be trained a copy of its application for registration and of the apprenticeship program. The registration agency shall provide for receipt of union comments within 45 days before final action on the application for registration.

**§3203. Standards of apprenticeship**

An apprenticeship program must conform to the following standards to be eligible for approval and registration by the Maine Apprenticeship Program.

**1. Standards.** An apprenticeship program must have organized, written standards containing the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the program. The standards must contain:

A. A description of the employment and training of the apprentice in a skilled occupation;

B. A description of how successful apprenticeship will be measured, which for an individual apprentice may be a time-based approach, a competency-based approach or a hybrid approach. An apprenticeship program must require a minimum of 2,000 hours of on-the-job learning.

(1) The time-based approach measures skill acquisition through the individual apprentice's completion of 2,000 to 10,000 hours of on-the-job learning as described in a work process schedule.

(2) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as demonstrated by an appropriate written and hands-on proficiency measurement. An apprenticeship program using the competency-based approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The apprenticeship program's standards must address how on-the-job learning will be integrated into the apprenticeship program, describe competencies and identify an appropriate means of testing and evaluation for such competencies.

(3) The hybrid approach measures the individual apprentice's skill acquisition through a combination of a specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

The determination of the appropriate approach for the apprenticeship program's standards is made by the sponsor, subject to approval by the Maine Apprenticeship Program of the determination as appropriate to the apprenticeable occupation for which the apprenticeship program is registered;

C. An outline of the work processes in which the apprentice will receive supervised work experience and training on the job and the allocation of

the approximate amount of time to be spent in each major process;

D. Provision for at least 144 hours of related instruction for each year of apprenticeship. An apprenticeship instructor must:

(1) Meet the Department of Education's requirements for a career and technical education instructor or be a subject matter expert, such as a journeyman, who is recognized within an industry as having expertise in a specific occupation; and

(2) Have training in teaching techniques and adult learning styles. This training may occur before or after the apprenticeship instructor has started to provide the related instruction;

E. A schedule of progressively increasing wages to be paid to an apprentice consistent with the skill acquired. The entry wage may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act of 1938 for student pre-apprentices and not less than \$10 per hour or 50% of the journeyman rate, whichever is highest, for adult registered apprentices, unless a higher wage is required by other applicable federal law or regulation or state law or rule or by collective bargaining agreement. For purposes of this paragraph, "journeyman rate" is the rate of pay established by the sponsor for an apprentice who has met all of the skill, knowledge and competency requirements for that occupation;

F. Provision for periodic review and evaluation of the apprentice's performance on the job and in related instruction and for the maintenance of appropriate progress records;

G. Provision for a numeric ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment and with applicable provisions in collective bargaining agreements, except when a minimum ratio is expressly provided for by the collective bargaining agreements. The ratio language must be specific and clear as to its application to the job site, workforce, department or plant;

H. Provision for a probationary period reasonable in relation to the full apprenticeship term, with full credit given for such a period toward completion of apprenticeship. The probationary period may not exceed 25% of the length of the apprenticeship program or one year, whichever is shorter;

I. Provision for adequate and safe equipment and facilities for training and supervision, safety training for apprentices on the job and in related instruction and qualified training personnel and adequate supervision on the job;

J. The minimum qualifications required by the sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years of age, or 18 years of age if required by federal occupational safety and health laws or regulations;

K. Provision for the placement of an apprentice under an apprenticeship agreement that meets the requirements of this chapter and 29 Code of Federal Regulations, Section 29.7 and is approved by the Maine Apprenticeship Program and directly or by reference incorporates the standards of the apprenticeship program as part of the agreement;

L. Provision for the granting of advanced standing or credit for demonstrated competency, acquired experience, training or skills, which must be applied to all applicants equally, with commensurate wages for standing or credit so granted;

M. Provision for transfer of an apprentice between apprenticeship programs and within an apprenticeship program in accordance with section 3204, subsection 3;

N. Provision for recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued by the Maine Apprenticeship Program;

O. With respect to an apprenticeship program that uses the competency-based or hybrid approach under paragraph B and that includes the issuance of interim credentials, program standards that clearly identify the interim credentials, demonstrate how the credentials link to the components of the apprenticeable occupation and establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential. Interim credentials may be issued only for recognized components of an apprenticeable occupation;

P. Provision for the registration and deregistration of the apprenticeship program and for the prompt submission of any program standard modification or amendment to the Maine Apprenticeship Program for approval;

Q. Provision for registration of and amendments to apprenticeship agreements and for notice to the Maine Apprenticeship Program in accordance with section 3204, subsection 4;

R. Provision for authority for the cancellation of an apprenticeship agreement during the probationary period under section 3205, subsection 8 by either party without stated cause;

S. Provision for compliance with the equal employment opportunity requirements of this chapter and be in accordance with all aspects of 29 Code of Federal Regulations, Section 30;

T. The name, address, telephone number and e-mail address, if appropriate, for the appropriate individual with authority under the apprenticeship program to receive, process and make disposition of complaints; and

U. Provision for recording and maintenance of all records concerning apprenticeship as may be required by the Maine Apprenticeship Program and other applicable law.

#### **§3204. Apprenticeship program performance standards**

**1. Minimum number of apprentices.** A registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time if the periods do not exceed one year:

A. Between the date when the apprenticeship program is registered and the date of registration for its first apprentice; and

B. Between the date that the apprenticeship program graduates an apprentice and the date of registration for the next apprentice in the program.

**2. Evaluation.** The Maine Apprenticeship Program shall evaluate the performance of a registered apprenticeship program. The tools and factors to be used must include, but are not limited to:

A. Quality assurance assessments;

B. Equal employment opportunity compliance reviews; and

C. Completion rates. The cancellation of an apprenticeship agreement during the probationary period under section 3205, subsection 8 does not have an adverse impact on an apprenticeship program's completion rate.

**3. Transfers.** A transfer of an apprentice between apprenticeship programs or within an apprenticeship program must be based on agreement between the apprentice and the affected sponsors and:

A. The sponsor must provide the transferring apprentice with a transcript of related instruction and on-the-job learning;

B. The transfer may be only to an apprenticeship program for the same occupation as the one from which the apprentice is being transferred; and

C. If the transfer occurs between sponsors, a new apprenticeship agreement must be executed.

**4. Notice.** A sponsor shall notify the Maine Apprenticeship Program of a person who has completed an apprenticeship program, of a transfer under subsection 3 or of a suspension or cancellation of an apprenticeship agreement under section 3205 within 45 days



of the completion, transfer, suspension or cancellation. Notice of a transfer, suspension or cancellation must include the reasons for the transfer, suspension or cancellation.

### **§3205. Apprenticeship agreement**

An apprenticeship agreement must contain, explicitly or by reference:

**1. Names.** The names and signatures of the contracting parties, including the apprentice and the sponsor or employer, and the name and signature of a parent or guardian of the apprentice if the apprentice is a minor;

**2. Apprentice.** The gender, race and ethnicity of the apprentice in such detail as required to conform to the federal Equal Employment Opportunity Act, 42 United States Code, Chapter 21, subchapter VI and for affirmative action compliance in apprenticeship programs, including records of the following races and ethnic groups: African-American or black; Native American, including Alaskan Native; Asian, including Pacific Islander; Hispanic, including persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish origin or culture regardless of race; and white other than Hispanic, as well as the date of birth, contact information and, on a voluntary basis, the social security number of the apprentice;

**3. Contact information.** Contact information of the sponsor and registration agency;

**4. Occupation; term.** A statement of the occupation in which the apprentice is to be trained and the beginning date and term of apprenticeship;

**5. Hours.** A statement setting forth:

A. For an apprenticeship program using the time-based approach under section 3203, subsection 1, paragraph B, the number of hours to be spent by the apprentice in on-the-job learning; for an apprenticeship program using the competency-based approach under section 3203, subsection 1, paragraph B, a description of the skill sets to be attained to complete the program, including the on-the-job learning component; and, for an apprenticeship program using the hybrid approach under section 3203, subsection 1, paragraph B, the minimum number of hours to be spent by the apprentice in on-the-job learning and a description of the skill sets to be attained to complete the program; and

B. The number of hours, which must be at least 144 hours per year, to be spent by the apprentice in related instruction;

**6. Schedule.** A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process;

**7. Wages.** A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated;

**8. Probationary period.** Statements providing:

A. For a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the registration agency, without adverse impact on the sponsor; and

B. That, after the probationary period in paragraph A, the apprenticeship agreement may be:

(1) Cancelled at the request of the apprentice; or

(2) Suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action and with written notice to the apprentice and to the department of the final action taken;

**9. Standards.** A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;

**10. Equal opportunity.** A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin or gender; and

**11. Dispute resolution authority.** The name, address, telephone number and e-mail address, if appropriate, of the appropriate authority designated under the apprenticeship program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted between the sponsor and apprentice or resolved in accordance with established procedure or applicable collective bargaining provisions.

### **§3206. Deregistration of a registered apprenticeship program**

As set out in this section, deregistration of an apprenticeship program may be effected upon the voluntary action of the sponsor or by the Maine Apprenticeship Program upon reasonable cause.

**1. Deregistration at the request of the sponsor.** Upon receipt of a request for deregistration from a sponsor, the Maine Apprenticeship Program may deregister an apprenticeship program by written acknowledgment of the request stating:

A. That the apprenticeship program is deregistered at the sponsor's request and the effective date of the deregistration; and

B. That, within 15 days of the date of the acknowledgment, the sponsor must notify all apprentices of the deregistration and the effective date; that the deregistration automatically deprives the apprentices of individual registration; that the deregistration removes the apprentices from coverage for federal purposes; and that all apprentices are referred to the Maine Apprenticeship Program for information about potential transfer to other registered apprenticeship programs.

**2. Deregistration by the Maine Apprenticeship Program upon reasonable cause.** The Maine Apprenticeship Program may undertake deregistration proceedings with respect to an apprenticeship program if the apprenticeship program is not conducted, operated or administered in accordance with the apprenticeship program's standards under section 3203 or with the requirements of this chapter, including not but limited to failure to provide on-the-job learning; failure to pay an apprentice a progressively increasing wage consistent with skills acquired; and persistent and significant failure to perform successfully. For purposes of this subsection, persistent and significant failure to perform successfully occurs when a sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assurance assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years or shows no indication of improvement in the areas identified by the Maine Apprenticeship Program during a review process as requiring corrective action. The Maine Apprenticeship Program shall follow procedures regarding agency-initiated deregistration as outlined in 29 Code of Federal Regulations, Section 29.8.

**3. Consequences of deregistration.** An apprentice who is enrolled in an apprenticeship program that is deregistered pursuant to subsection 1 or 2 is denied individual registration under the Maine Apprenticeship Program and is removed from coverage for federal purposes.

### **§3207. Limitations**

**1. Invalidate.** Nothing in this chapter or in an apprenticeship agreement may be construed to invalidate:

A. An apprenticeship provision in a collective bargaining agreement between employers and employees establishing more stringent apprenticeship standards; or

B. A special provision for veterans, minorities or women in the standards, apprentice qualifications or operation of an apprenticeship program or in the apprenticeship agreement that is not otherwise prohibited by law, executive order or authorized regulation or rule.

### **§3208. Complaints**

**1. Review.** A controversy or difference arising under an apprenticeship agreement that cannot be resolved between the sponsor and the apprentice and that is not covered by a collective bargaining agreement may be submitted by an apprentice, or the apprentice's authorized representative, to the Maine Apprenticeship Program for review. Matters covered by a collective bargaining agreement are not subject to such review.

**2. Complaint procedure.** A complaint submitted under subsection 1 by an apprentice or the apprentice's authorized representative to the Maine Apprenticeship Program must be in writing and signed by the complainant or authorized representative and must be submitted within 60 days of the final decision of the sponsor. The complaint must set forth the specific matter giving rise to the complaint, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

**3. Decision; resolution.** The Maine Apprenticeship Program, as appropriate, shall render an opinion on a complaint under this section within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as the Maine Apprenticeship Program finds necessary and the record before it. During the 90-day period, the Maine Apprenticeship Program shall make reasonable efforts to effect a satisfactory resolution between the parties involved. If the complaint is so resolved, the Maine Apprenticeship Program shall notify the parties that the case is closed. If an opinion is rendered, the Maine Apprenticeship Program shall send copies of the opinion to all interested parties. The decision of the Maine Apprenticeship Program constitutes final agency action and is subject to court review except as otherwise provided in this section.

**4. Other remedies.** This section does not preclude an apprentice from pursuing any other remedy authorized under another federal, state or local law.

**5. Application.** This section does not apply to a complaint concerning discrimination or other equal opportunity matters. All such complaints must be submitted, processed and resolved in accordance with applicable state or federal law.

### **§3209. Maine Apprenticeship Council**

**1. Establishment.** The Maine Apprenticeship Council, as established in Title 5, section 12004-I, subsection 54-D and referred to in this section as "the council," consists of 16 members appointed in accordance with this subsection. Members of the council must be familiar with apprenticeable occupations.

A. Twelve members of the council are appointed by the Governor as follows:

(1) Four members must be representatives of employees and be bona fide members of a recognized major labor organization;

(2) Four members must be representatives of employers and be bona fide employers or authorized representatives of employers; and

(3) Four members must be representatives of the public and may not be industrial employers or employees or be directly concerned with any particular industrial employer or employee. At least 2 of these members must represent the interests of women and minorities and recipients of benefits under the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B who are in registered apprenticeship.

B. Four nonvoting members of the council are appointed by their respective agencies as follows:

(1) One representative of the Maine Jobs Council established in section 2006, appointed by the chair of the Maine Jobs Council;

(2) One representative of the Maine Community College System, appointed by the President of the Maine Community College System;

(3) One representative of the Department of Education, appointed by the Commissioner of Education; and

(4) One representative of the Department of Economic and Community Development, appointed by the Commissioner of Economic and Community Development.

2. Term; vacancy. A member of the council serves a 4-year term. A member serves until the member's successor is appointed and qualified. A vacancy on the council must be filled for the remainder of the unexpired term in the same manner as the original appointment.

3. Chair. The council shall appoint one of its members as chair of the council.

4. Duties. The council shall meet on a quarterly basis and shall assist and advise the department in its duties administering the Maine Apprenticeship Program with respect to:

A. Developing, approving and registering new apprenticeship programs;

B. Identifying and registering new sponsors;

C. Representing the Maine Apprenticeship Program to the Maine Jobs Council established in section 2006;

D. Reviewing and recommending additions or changes to Maine Apprenticeship Program rules, policies and processes;

E. Ensuring availability of related instruction for apprentices;

F. Ensuring registered apprenticeship programs meet the requirements of this chapter;

G. Ensuring appropriate records of registered apprenticeship programs, registered apprentices and sponsors are created and maintained;

H. Reviewing complaints;

I. Developing a biennial plan and evaluation tools and processes to be used to review apprenticeship program outcomes; and

J. Ensuring an annual report is provided by March 1st of each year to the Governor, the joint standing committee of the Legislature having jurisdiction over labor and economic development matters and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs that includes the following:

(1) The name and location of each sponsor;

(2) The number of apprentices registered into and completing apprenticeship; and

(3) The return on investment.

#### **§3210. State office**

The department shall administer the Maine Apprenticeship Program through the Bureau of Employment Services within the department, referred to in this section as "the bureau." The bureau is the state office for the purposes of 29 Code of Federal Regulations, Parts 29 and 30.

1. Director. The bureau shall employ a director of apprenticeship, who supervises the execution of apprenticeship agreements and the maintenance of standards.

2. Records; instruction. The bureau shall keep a record of apprenticeship agreements and apprenticeship programs and ensure that all aspects of related instruction are delivered and coordinated in a timely manner.

#### **§3211. Additional powers and duties**

1. Investment system. The Maine Apprenticeship Program shall partner with the Maine Workforce Investment System under chapter 33 to use registered apprenticeship as a key talent development approach that serves both workforce investment system participants and industry in the State.

2. Economic development. The Maine Apprenticeship Program shall cooperate with the Department

of Economic and Community Development in matters relating to workforce and economic development.

**3. Outreach.** The Maine Apprenticeship Program shall cooperate, consult and coordinate with workforce development entities that serve individuals seeking employment.

**4. Technical assistance.** The Maine Apprenticeship Program may provide sponsors with technical assistance.

**5. Federal regulations.** The Maine Apprenticeship Program shall ensure that all apprenticeship programs established under this chapter conform to 29 Code of Federal Regulations, Parts 29 and 30 and any applicable regulations of the United States Department of Labor, Office of Apprenticeship.

**6. Education.** The Maine Apprenticeship Program shall cooperate with the Department of Education, local school authorities such as adult education and career and technical education centers and other groups in organizing and establishing related instruction for apprentices employed under approved apprenticeship agreements.

A. A public educational institution or sponsor may provide related instruction according to established policies. As funds permit, the Department of Labor shall underwrite 50% of tuition costs for apprentices in good standing at public educational institutions and provide training cost assistance to sponsor groups in accordance with sponsor policies. To ensure that adequate funds are available for related instruction, the Maine Apprenticeship Program shall establish a biennial plan, including projected apprenticeship enrollments and a subsequent budget request.

B. The Maine Apprenticeship Program shall assist the Department of Education, the State's community colleges, local school authorities such as adult education and career and technical education centers and other groups in promoting, developing and establishing student preapprenticeship programs and adult preapprenticeship programs if the community colleges, local school authorities and other groups wish to do so. A participant who successfully completes a preapprenticeship program meets the qualifying standards of a registered apprenticeship program.

### **§3212. Rulemaking**

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the provisions of this chapter.

**Sec. 14.** **32 MRSA §1101, sub-§1**, as amended by PL 2009, c. 415, Pt. A, §17, is further amended to read:

**1. Apprentice electrician.** "Apprentice electrician" means an apprentice, as defined in Title 26, ~~section 2006, subsection 5-A, paragraph A, subparagraph (4)~~ section 3201, subsection 1, who is engaged in a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician.

**Sec. 15.** **32 MRSA §1202, sub-§1, ¶A**, as repealed and replaced by PL 2007, c. 695, Pt. A, §36, is amended to read:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours ~~shall~~ consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional applied technology high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited community college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may sit for the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the ~~State Apprenticeship and Training Council~~ Department of Labor and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour ap-

proved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may sit for the journeyman's examination after completion of the 576 hours of instruction if application is made within one year of the completion of the instruction.

**Sec. 16. 34-A MRSA §1403, sub-§9, ¶F**, as amended by PL 1987, c. 589, is further amended to read:

F. The commissioner shall, in consultation with the ~~State Apprenticeship and Training Council~~ Maine Apprenticeship Program established in Title 26, section 3202, develop policies concerning job displacement and safety and policies to develop opportunities in the prison industries programs.

See title page for effective date.

**CHAPTER 492**

**S.P. 285 - L.D. 897**

**An Act To Amend the Application Process for the Progressive Treatment Program**

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

**Sec. 1. 34-B MRSA §3873-A, sub-§§1 to 3**, as enacted by PL 2009, c. 651, §29, are amended to read:

**1. Application.** The superintendent or chief administrative officer of a psychiatric hospital, the commissioner ~~or~~ the director of an ACT team, ~~except as limited by subsection 10,~~ a medical practitioner, a law enforcement officer or the legal guardian of the patient who is the subject of the application may obtain an order from the District Court to admit a patient to a progressive treatment program upon the following conditions:

- A. The patient suffers from a severe and persistent mental illness;
- B. The patient poses a likelihood of serious harm;
- C. The patient has the benefit of a suitable individualized treatment plan;
- D. ~~Community resources~~ Licensed and qualified community providers are available to support the treatment plan;
- E. The patient is unlikely to follow the treatment plan voluntarily;

F. Court-ordered compliance will help to protect the patient from interruptions in treatment, relapses or deterioration of mental health; and

G. Compliance will enable the patient to survive more safely in a community setting without posing a likelihood of serious harm.

**2. Contents of the application.** The application must be accompanied by a certificate of a medical practitioner providing the facts and opinions necessary to support the application. The certificate must indicate that the examiner's opinions are based on one or more recent examinations of the patient or upon the examiner's recent personal treatment of the patient. Opinions of the examiner may be based on personal observation ~~or on~~ and must include a consideration of history and information from other sources considered reliable by the examiner when such sources are available. The application must include a proposed individualized treatment plan and identify one or more licensed and qualified community providers willing to support the plan.

The applicant must also provide a written statement certifying that a copy of the application and the accompanying documents have been given personally to the patient and that the patient and the patient's guardian or next of kin, if any, have been notified of:

- A. The patient's right to retain an attorney or to have an attorney appointed;
- B. The patient's right to select or to have the patient's attorney select an independent examiner; and
- C. How to contact the District Court.

**3. Notice of hearing.** Upon receipt by the District Court of the application or any motion relating to the application, the court shall cause written notice of hearing to be mailed within 2 days to the applicant, to the patient and to the following persons if known: to anyone serving as the patient's guardian and to the patient's spouse, a parent or an adult child, if any. If no immediate relatives are known or can be located, notice must be mailed to a person identified as the patient's next of kin or a friend, if any are known. If the applicant has reason to believe that notice to any individual would pose risk of harm to the patient, notice to that individual may not be given. A docket entry is sufficient evidence that notice under this subsection has been given. If the patient is not hospitalized, the applicant shall serve the notice of hearing upon the patient personally and provide proof of service to the court.

**Sec. 2. 34-B MRSA §3873-A, sub-§10**, as enacted by PL 2009, c. 651, §29, is repealed.

See title page for effective date.