

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

(d) A counseling professional licensed under the provisions of Title 32, chapter 119; or

(e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

This subparagraph does not prohibit the disclosure of health care information between a licensed pharmacist and a health care practitioner or facility providing mental health services for the purpose of dispensing medication to an individual.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this section to a state-designated statewide health information exchange that satisfies the requirement in subsection 18, paragraph C of providing a general opt-out provision to an individual at all times and that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under Title 34-B, section 1207.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this paragraph to a health care practitioner or health care facility, or to a payor or person engaged in payment for health care, for purposes of care management or coordination of care. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2). A person who has made a disclosure under this subparagraph shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure.

Sec. 2. 34-B MRSA §1207, sub-§9 is enacted to read:

9. Disclosure for care management or coordination of care. Notwithstanding any provision of this section to the contrary, a health care practitioner may disclose without authorization health information for the purposes of care management or coordination of care pertaining to a client as provided in this subsection.

A. Disclosure is permitted to a health care practitioner or health care facility as defined in Title 22, section 1711-C, subsection 1.

B. Disclosure is permitted to a payor or person engaged in payment for health care for the purpose of care management or coordination of care.

C. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2).

D. A person who has made a disclosure under this subsection shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure.

See title page for effective date.

CHAPTER 327

H.P. 367 - L.D. 548

An Act To Amend the Laws Governing the Award of Spousal Support in Divorce Actions

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

Sec. 1. 19-A MRSA §951-A, sub-§4, as enacted by PL 1999, c. 634, §3, is amended to read:

4. Modification. An award of spousal support issued before October 1, 2013 is subject to modification when it appears that justice requires unless and to the extent the order awarding or modifying spousal support expressly states that the award, in whole or in part, is not subject to future modification. An award of spousal support issued on or after October 1, 2013 is subject to modification when it appears that justice requires.

Sec. 2. 19-A MRSA §951-A, sub-§12 is enacted to read:

12. Cessation upon cohabitation. When it appears that justice requires, an order awarding spousal support is subject to modification to terminate spousal support when it can be shown that the payee and another person have entered into a mutually supportive relationship that is the functional equivalent of marriage that has existed for at least 12 months of a period of 18 consecutive months.

See title page for effective date.

CHAPTER 328

H.P. 497 - L.D. 724

An Act To Require Firearms Used in the Commission of Certain Acts To Be Civilly Forfeited to the State and Destroyed

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

Sec. 1. 15 MRSA §5821, sub-§3-A, as amended by PL 2011, c. 465, §2, is further amended to read:

3-A. Firearms and other weapons. Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs or synthetic hallucinogenic drugs, as defined in Title 17-A, section 1101, subsection 16-A, in which scheduled drugs or synthetic hallucinogenic drugs are found. Except for those seized weapons listed in a petition filed in the Superior Court pursuant to section 5822, all weapons seized, after notice and opportunity for hearing, must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon need not be forfeited if the owner appears prior to the declaration of forfeiture and satisfies the court, by a preponderance of evidence, of all of the following:

- A. That the owner had a possessory interest in the weapon at the time of the seizure sufficient to exclude every person involved with the seized drugs or every person at the site of the seizure;
- B. That the owner had no knowledge of or involvement with the drugs and was not at the site of the seizure; and
- C. That the owner had not given any involved person permission to possess or use the weapon.

Post-hearing procedures are as provided in section 5822.

A confiscated or forfeited ~~handgun~~ firearm that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the ~~handgun~~ firearm was stolen and the rightful owner was not the person who committed the homicide, in which case the ~~handgun~~ firearm must be returned to the owner if ascertainable. ~~For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand.~~

Sec. 2. 15 MRSA §5821, sub-§3-B is enacted to read:

3-B. Forfeiture of firearms used in the commission of certain acts. In addition to the provisions of subsection 3-A and Title 17-A, section 1158-A, this subsection controls the forfeiture of firearms used in the commission of certain acts.

A. Except as provided in paragraph B, a firearm is subject to forfeiture to the State if the firearm is used by a person to commit a criminal act that in fact causes serious bodily injury or death to another human being and, following that act, the person either commits suicide or attempts to

commit suicide and the attempt results in the person's becoming incompetent to stand trial or the person is killed or rendered incompetent to stand trial as the result of a justifiable use of deadly force by a law enforcement officer. Except as provided in paragraph B, a property right does not exist in the firearm subject to forfeiture.

B. A firearm that is used in the commission of a criminal act described in paragraph A is exempt from forfeiture under this subsection if the firearm belongs to another person who is the rightful owner from whom the firearm has been stolen and the other person is not a principal or accomplice in the criminal act. In that case, the firearm must be transferred to the other person unless that person is otherwise prohibited from possessing a firearm under applicable law.

A firearm subject to forfeiture pursuant to this subsection that is declared by a court to be forfeited pursuant to section 5822 must be promptly destroyed, or caused to be promptly destroyed, by the law enforcement agency that has custody of the firearm.

Sec. 3. 17-A MRSA §1158-A, sub-§2, ¶¶A and C, as enacted by PL 2003, c. 657, §7, are amended to read:

A. Other than in the context of either subsection 1, paragraph A, subparagraph (1) or subsection 1, paragraph B relative to murder or any other unlawful homicide crime ~~in which the firearm used is a handgun~~, the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant;

C. In the context of subsection 1, paragraph B relating to murder or any other unlawful homicide crime ~~in which the firearm used is a handgun~~, the other person, at the time of the commission of the crime, was the rightful owner from whom the ~~handgun~~ firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime.

Sec. 4. 17-A MRSA §1158-A, sub-§4, as enacted by PL 2003, c. 657, §7, is amended to read:

4. The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A ~~handgun~~ firearm not excepted under subsection 2, paragraph C must be destroyed by the State.

Sec. 5. 17-A MRSA §1158-A, sub-§5, as enacted by PL 2003, c. 657, §7, is repealed.

See title page for effective date.