

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 29, 2013**

**SECOND REGULAR SESSION**  
**January 8, 2014 to May 2, 2014**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**EMERGENCY LAW IS**  
**SEPTEMBER 6, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 1, 2014**

**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**  
**2014**

**CHAPTER 477**  
**H.P. 1194 - L.D. 1622**

**An Act To Amend the Laws  
Governing Firefighter Absence  
from Work for Emergency  
Response**

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

**Whereas,** the Maine Revised Statutes, Title 26, section 809 pertains to absence for emergency response by members of a volunteer fire department; and

**Whereas,** many volunteer fire departments are becoming municipal fire departments; and

**Whereas,** because current law does not apply to municipal fire departments, the members of municipal fire departments are not protected from being discharged or having disciplinary action taken against them by their employers for responding to emergencies; and

**Whereas,** it is imperative that this legislation take effect immediately so that members of municipal fire departments will have the same protection as members of volunteer fire departments; 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. 26 MRSA §809, sub-§1, ¶A-1** is enacted to read:

A-1. "Firefighter" has the same meaning as "municipal firefighter" and "volunteer firefighter" in Title 30-A, section 3151, subsections 2 and 4.

**Sec. 2. 26 MRSA §809, sub-§1, ¶C,** as enacted by PL 2005, c. 296, §1, is repealed.

**Sec. 3. 26 MRSA §809, sub-§2,** as enacted by PL 2005, c. 296, §1, is amended to read:

**2. Prohibition against discharge or disciplinary action.** An employer may not discharge or take any other disciplinary action against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours if the employee failed to do so because the employee was responding to an emergency in the employee's capacity as a ~~volunteer~~ firefighter and the employee reported for work as soon as reasonably possible after being released from the emergency. An employer may

charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of a ~~volunteer~~ firefighter from the ~~volunteer~~ firefighter's regular employment as a law enforcement officer, a utility worker or medical personnel when the services of that person are essential to protect public health or safety or if the employee has been designated as essential by the employer pursuant to subsection 6.

**Sec. 4. 26 MRSA §809, sub-§3,** as enacted by PL 2005, c. 296, §1, is amended to read:

**3. Notification; verification.** If time permits, when an employee is responding as a ~~volunteer~~ firefighter to an emergency, the employee, the employee's designee or the fire department supervisor shall notify the employer that the employee will not report to work at the appointed time. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the chief of the ~~volunteer~~ fire department or the chief's designee stating that the employee was responding to an emergency call and the time of release from the call.

**Sec. 5. 26 MRSA §809, sub-§5,** as enacted by PL 2005, c. 296, §1, is amended to read:

**5. Impact on individual agreements.** This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to an emergency as a ~~volunteer~~ firefighter. This subsection applies only if:

A. The local official in charge of calling out firefighters has a written policy that:

- (1) Specifies the circumstances under which firefighters will be ordered to remain at an emergency; and
- (2) Affirms that firefighters will be released as soon as practicable; and

B. The employee presents a copy of the policy to the employer upon notifying the employer of the employee's status as a ~~volunteer~~ firefighter.

**Sec. 6. 26 MRSA §809, sub-§6,** as enacted by PL 2005, c. 296, §1, is amended to read:

**6. Designation as essential.** Upon receiving notice of an employee's ~~volunteer~~ firefighter status, an employer may designate the employee essential to the employer's operations when the absence of the employee would cause disruption of the employer's business.

**Sec. 7. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 26, chapter 7, subchapter 4-C, in the subchapter headnote, the words "volunteer firefighter;

absence from work" are amended to read "firefighter; absence from work" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

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

Effective March 16, 2014.

## CHAPTER 478 S.P. 649 - L.D. 1656

### An Act To Increase Safety for Victims of Domestic Violence and Victims of Sexual Assault

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

**Whereas,** a victim of domestic violence or sexual assault is further traumatized when the alleged offender engages in unwanted contact with the victim; and

**Whereas,** current law does not prohibit a person accused of domestic violence or sexual assault from contacting the victim prior to the setting of bail; and

**Whereas,** the protection of a victim of domestic violence or sexual assault from unwanted contact by the alleged offender is paramount to a successful prosecution of the criminal conduct and the ability of the victim to repair the victim's life; 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. 5 MRSA §90-B, sub-§§4 to 6,** as enacted by PL 2001, c. 539, §1, are amended to read:

**4. Use of designated address.** Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept and use only the designated address as a program participant's address ~~when creating a new public record~~ unless the secretary has determined that:

A. The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties

and obligations without the residential address; and

B. The program participant's address or mailing address will be used only for those statutory and administrative purposes.

**5. Disclosure to law enforcement and state agencies.** If the secretary determines appropriate, the secretary may make a program participant's address or mailing address available for ~~inspection or copying~~ use under the following circumstances:

A. If requested of the secretary by a law enforcement agency in the manner provided for by rule; or

B. Upon request to the secretary by a commissioner of a state agency or the commissioner's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the commissioner or the commissioner's designee is unable to fulfill statutory duties and obligations without the address or mailing address.

**6. Disclosure pursuant to court order or canceled certification.** If the secretary determines appropriate, the secretary shall ~~make allow~~ a program participant's address and mailing address ~~to be made~~ available for ~~inspection or copying~~ use under the following circumstances:

A. To a person identified in a court order, upon the secretary's receipt of that court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or

B. If the certification has been canceled because the applicant or program participant violated subsection 2, paragraph E, subparagraph (1).

**Sec. 2. 15 MRSA §1094-B** is enacted to read:

#### **§1094-B. Improper contact with a family or household member prior to the setting of preconviction bail**

**1. Improper contact.** A person is guilty of improper contact with a family or household member prior to the setting of preconviction bail if:

A. The person is being detained as a result of the person's arrest for an offense specified in section 1023, subsection 4, paragraph B-1;

B. Preconviction bail has not been set by a justice or judge;

C. The person is notified, in writing or otherwise, by the county jail staff not to make direct or indirect contact with the specifically identified alleged victim of the offense for which the person is being detained;