

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 15, 2015

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

Augusta, Maine
2015

18. Model policy; child sexual abuse prevention. The commissioner shall develop a model policy for child sexual abuse prevention education and response that may be used for public preschool programs operated in compliance with chapter 203, subchapter 3 and for all students enrolled in kindergarten to grade 5.

A. No later than July 1, 2016, the commissioner, in consultation with the Department of Health and Human Services, organizations that have expertise in child sexual abuse prevention education and organizations representing school boards, administrators, teachers and parents, shall develop a model policy based on nationally recognized best practices that includes:

- (1) Child sexual abuse response and reporting procedures;
- (2) Child sexual abuse awareness training and prevention education for school personnel;
- (3) Age-appropriate child sexual abuse prevention education for students, aligned to the system of learning results established pursuant to section 6209 and delivered by qualified instructors;
- (4) School response and reporting procedures; and
- (5) Resources a victim of child sexual abuse or nonoffending caregivers of a victim of child sexual abuse may access for services and support.

B. The department shall offer technical assistance to school administrative units that operate a public preschool program or an elementary school to aid in the establishment of a local child sexual abuse prevention education and response policy that is consistent with the model policy developed under paragraph A.

C. The department shall send a copy of the model policy developed under paragraph A to each school administrative unit in the State and post the model policy on the publicly accessible portion of the department's website along with any related resources that the commissioner determines necessary.

Sec. 2. 20-A MRSA §4502, sub-§5-C is enacted to read:

5-C. Child sexual abuse prevention education and response. Beginning in the 2017-2018 school year, a school administrative unit that operates a public preschool program or an elementary school shall adopt a written local policy for child sexual abuse prevention education and response that is consistent with the model policy developed by the commissioner pursuant to section 254, subsection 18.

See title page for effective date.

CHAPTER 293

S.P. 305 - L.D. 861

An Act To Protect Victims of Domestic Violence, Sexual Assault or Stalking

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

Sec. 1. 14 MRSA §6000 is enacted to read:

§6000. Definitions

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

1. Domestic violence. "Domestic violence" means conduct described in Title 17-A, chapters 9, 11, 12 and 13; Title 17-A, sections 432, 433, 506, 506-A, 506-B, 758, 805, 806, 852 and 853; and Title 19-A, section 4002, subsection 1, when the victim of that conduct or threat is a family or household member, as defined in Title 19-A, section 4002, subsection 4 or dating partner, as defined in Title 19-A, section 4002, subsection 3-A.

2. Sexual assault. "Sexual assault" means any conduct described under Title 17-A, chapters 11, 12 and 35 and Title 17-A, sections 852 and 853.

3. Stalking. "Stalking" means any conduct described in Title 17-A, section 210-A.

4. Victim. "Victim" means an individual who has been subject to domestic violence, sexual assault or stalking.

Sec. 2. 14 MRSA §6001, sub-§3, ¶C, as amended by PL 1989, c. 484, §1, is further amended to read:

C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; ~~or~~

Sec. 3. 14 MRSA §6001, sub-§3, ¶E, as amended by PL 2011, c. 405, §1, is further amended to read:

E. Prior to being served with an eviction notice, filed, in good faith, a fair housing complaint for which there is a reasonable basis with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint for which there is a reasonable basis with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy; ~~or~~

Sec. 4. 14 MRSA §6001, sub-§3, ¶F is enacted to read:

F. Prior to being served with an eviction notice, provided the landlord or the landlord's agent with notice that the tenant or tenant's minor child is a victim.

Sec. 5. 14 MRSA §6001, sub-§6 is enacted to read:

6. Domestic violence, sexual assault and stalking. This subsection applies to incidents involving domestic violence, sexual assault or stalking.

A. A victim may not be evicted based on an incident or incidents of actual or threatened domestic violence, sexual assault or stalking occurring at the premises or reporting to any agency such incidents that otherwise may be construed as:

- (1) A nuisance under section 6002;
- (2) Damage to property under section 6002; or
- (3) A lease violation arising from a nuisance, a disturbance or damage to premises.

B. A victim may not be held liable for damage to the property related to an incident or incidents of actual or threatened domestic violence, sexual assault or stalking beyond the value of the victim's security deposit, as long as the alleged perpetrator is a tenant and the victim provides written notice of the damage and documentation required pursuant to paragraph H within 30 days of the occurrence of the damage.

C. A landlord may bifurcate a lease or tenancy without regard to whether a household member who is a victim is a signatory to the lease in order to evict or terminate the tenancy of a perpetrator of domestic violence, sexual assault or stalking. In bifurcating a tenancy, a landlord may not interfere with a victim's property rights as allocated in a valid court order. Nothing in this section may be construed to create a tenancy that previously did not exist.

D. A victim may terminate a lease early due to an incident or threat of domestic violence, sexual assault or stalking by providing:

- (1) Seven days' written notice and documentation required pursuant to paragraph H, in the case of a lease of less than one year; or
- (2) Thirty days' written notice and documentation required pursuant to paragraph H, in the case of a lease with a term of one year or more.

A victim is not liable for any unpaid rent under the victim's lease.

E. Nothing in this section prohibits a landlord from evicting a tenant for reasons unrelated to domestic violence, sexual assault or stalking.

F. Nothing in this section prohibits a landlord from instituting a forcible entry and detainer action against the tenant of the premises who perpetrated the domestic violence, sexual assault or stalking or obtaining a criminal no trespass order against a nontenant who perpetuates such violence or abuse at the premises.

G. Nothing in this section limits the rights of a landlord to hold a perpetrator of the domestic violence, sexual assault or stalking liable for damage to the property.

H. When a victim asserts any of the provisions contained within this chapter specifically available to a victim, except for changing locks according to section 6025, subsection 1, a victim shall provide to the landlord documentation of the alleged conduct by the perpetrator, including the perpetrator's name. Acceptable documentation includes, but is not limited to:

- (1) A statement signed by a Maine-based sexual assault counselor as defined in Title 16, section 53-A, subsection 1, paragraph B, an advocate as defined in Title 16, section 53-B, subsection 1, paragraph A or a victim witness advocate as defined in Title 16, section 53-C, subsection 1, paragraph C;
- (2) A statement signed by a health care provider, mental health care provider or law enforcement officer, including the license number of the health care provider, mental health care provider or law enforcement officer if licensed;
- (3) A copy of a protection from abuse complaint or a temporary order or final order of protection;
- (4) A copy of a protection from harassment complaint or a temporary order or final order of protection from harassment;
- (5) A copy of a police report prepared in response to an investigation of an incident of domestic violence; and
- (6) A copy of a criminal complaint, indictment or conviction for a domestic violence charge.

Sec. 6. 14 MRSA §6002, first ¶, as amended by PL 2009, c. 171, §1, is further amended to read:

Tenancies at will must be terminated by either party by a minimum of 30 days' notice, except as provided in ~~subsection~~ subsections 2 and 4, in writing for that purpose given to the other party, but if the landlord or the landlord's agent has made at least 3 good

faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. In cases when the tenant has paid rent through the date when a 30-day notice would expire, the notice must expire on or after the date through which the rent has been paid. Either party may waive in writing the 30 days' notice at the time the notice is given, and at no other time prior to the giving of the notice. A termination based on a 30-day notice is not affected by the receipt of money, whether previously owed or for current use and occupation, until the date a writ of possession is issued against the tenant during the period of actual occupancy after receipt of the notice. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of landlord and tenant unless the tenant has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party. Termination of the tenancy is deemed to occur at the expiration of the time fixed in the notice. A 30-day notice under this paragraph and a 7-day notice under subsection 2 may be combined in one notice to the tenant.

Sec. 7. 14 MRSA §6002, sub-§1, ¶¶B and C, as enacted by PL 2009, c. 171, §2, are further amended to read:

B. The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy; ~~or~~

C. The tenant is 7 days or more in arrears in the payment of rent; ~~and~~

Sec. 8. 14 MRSA §6002, sub-§1, ¶D is enacted to read:

D. The tenant is a perpetrator of domestic violence, sexual assault or stalking and the victim is also a tenant.

Sec. 9. 14 MRSA §6002, sub-§4 is enacted to read:

4. Victims of domestic violence, sexual assault or stalking. A victim may terminate the victim's tenancy in a tenancy-at-will or a lease with a term of less than one year with 7 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H due to an incident or threat of domestic violence, sexual assault or stalking. A victim of domestic violence, sexual assault or stalking may terminate the victim's tenancy in a lease with a term of one year or more with 30 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H. When written notice is pro-

vided to the landlord, the victim is not liable for any rent due beyond the date the notice expires or the date the victim vacates the unit, whichever is later, unless the victim has prepaid rent for the month, in which case the landlord is not required to refund the rent for that month.

Sec. 10. 14 MRSA §6010 as corrected by RR 2013, c. 2, §26, is amended by adding at the end 2 new paragraphs to read:

A perpetrator of domestic violence, sexual assault or stalking that occurs in a residential rental property against a tenant of the property, household member or a tenant's guest is liable to the tenant for the tenant's damages as a result of the domestic violence, sexual assault or stalking regardless of whether or not the perpetrator is also a tenant. Such damages include, but are not limited to, moving costs, back rent, current rent, damage to the unit, court costs and attorney's fees.

Nothing in this section relating to damages as a result of domestic violence, sexual assault or stalking creates liability on behalf of a landlord.

Sec. 11. 14 MRSA §6025, sub-§1, as amended by PL 1999, c. 204, §1, is further amended to read:

1. Tenant obligations. A tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

A tenant may not change the lock to the dwelling unit without giving notice to the landlord and giving the landlord a duplicate key within 48 hours of the change. A victim may change the locks to the unit at the victim's expense. If the victim changes the locks to the unit, the victim shall provide the landlord with a duplicate key within 72 hours of changing the locks. For the purposes of this subsection, "victim" has the same meaning as in section 6000, subsection 4.

See title page for effective date.

CHAPTER 294

S.P. 307 - L.D. 862

An Act To Clarify Who May Authorize Repairs in a Burying Ground

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