

# 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-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

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

---

---

**Augusta, Maine**  
**2016**

D. Being a parent, legal guardian or other person having care or custody of another person who ~~is in fact a minor~~ has not in fact attained 16 years of age, that person knowingly or intentionally permits that ~~minor person who has not in fact attained 16 years of age~~ to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. Violation of this paragraph is a Class B crime;

E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime; or

F. The person violates paragraph D and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

**Sec. 2. 17-A MRSA §282, sub-§2, ¶A**, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

A. A court shall impose upon a person convicted under subsection 1, paragraph A, A-1 or D a sentencing alternative involving a term of imprisonment of at least 5 years.

**Sec. 3. 17-A MRSA §283, sub-§1, ¶A**, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

A. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any ~~minor person who has not in fact attained 16 years of age~~ who the person knows or has reason to know is a ~~minor person under 16 years of age~~ engaging in sexually explicit conduct, except that it is not a violation of this paragraph if the person depicted is 14 or 15 years of age and the person is less than 5 years older than the person depicted. Violation of this paragraph is a Class C crime;

**Sec. 4. 17-A MRSA §284, sub-§1, ¶A**, as amended by PL 2011, c. 50, §1, is further amended to read:

A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

- (1) The other person has not in fact attained 16 years of age; or
- (2) The person knows or has reason to know that the other person has not attained 16 years of age.

It is not a violation of this paragraph if the person depicted is 14 or 15 years of age and the person is less than 5 years older than the person depicted.

Violation of this paragraph is a Class D crime;

**Sec. 5. 17-A MRSA §511-A, sub-§1, ¶A**, as enacted by PL 2015, c. 339, §1, is repealed.

See title page for effective date.

**CHAPTER 395**

**H.P. 1005 - L.D. 1464**

**An Act To Revise the Educational Personnel Certification Statutes and To Direct the Department of Education To Review Department Rules Regarding Educational Personnel Certification**

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

**Sec. 1. 20-A MRSA §6103, first ¶**, as amended by PL 1999, c. 791, §1, is further amended to read:

Beginning July 1, 2000, approval, certification, authorization and renewal under chapters 501 and 502 are subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring approval, certification or authorization under chapters 501 and 502. A person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment. Fingerprinting of immediately affected applicants for certification, authorization or renewal, conducting of the needed state and national criminal history record checks by the State Bureau of Identification and forwarding of the results by the bureau to the department must begin on September 1, 1999.

**Sec. 2. 20-A MRSA §6103, 2nd ¶**, as amended by PL 1999, c. 791, §2, is repealed.

**Sec. 3. 20-A MRSA §6103, sub-§3-A**, as amended by PL 2015, c. 267, Pt. SSS, §1, is further amended to read:

**3-A. Fees.** The Commissioner of Public Safety shall assess a fee of ~~\$55 set annually by the Commissioner of Education~~ for each initial criminal history record check and ~~\$24 a fee set annually by the Commissioner of Education~~ for each renewal criminal history record check required by this section.

**Sec. 4. 20-A MRSA §13007, sub-§1,** as amended by PL 2005, c. 457, Pt. FF, §1, is repealed and the following enacted in its place:

**1. Fees.** The commissioner shall establish and assess fees for the initial issuance of and the renewal of teacher, education specialist and administrator certificates. The commissioner shall, by rule, establish the following fees and the procedures required to assess them:

A. Fees for the initial certification process for those teachers, education specialists and administrators found eligible and those found ineligible;

B. Renewal fees for each active and inactive teacher, education specialist and administrator;

C. A fee for each additional evaluation of teacher endorsements beyond the initial endorsement;

D. A fee for duplicate certificates; and

E. A fee for administrative portfolios.

The department shall annually post the fees established by the commissioner for the initial issuance of and the renewal of teacher, education specialist and administrator certificates on its publicly accessible website. The commissioner shall adopt rules to carry out this subsection. Rules adopted under this subsection to establish and assess fees for the initial issuance of and the renewal of teacher, education specialist and administrator certificates are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 5. 20-A MRSA §13007, sub-§2, ¶D,** as enacted by PL 2011, c. 702, §1, is amended to read:

D. Report and pay no more than \$150,000 in fiscal year 2012-13, no more than \$240,000 in fiscal year 2013-14 and no more than \$335,000 in fiscal year 2014-15 and each fiscal year thereafter from fees collected pursuant to subsection 1 to the Treasurer of State to be credited to the National Board Certification Salary Supplement Fund, Other Special Revenue Funds account within the Department of Education.

**Sec. 6. 20-A MRSA §13011, sub-§9,** as amended by PL 2003, c. 445, §1, is further amended to read:

**9. Targeted need area certificate; exception.** The state board shall adopt rules that establish criteria under which a targeted need area certificate may be issued. This certificate may be issued only to a person holding a bachelor's degree and teaching in a teacher

shortage area. The teacher shortage area is determined by the commissioner. Rules adopted pursuant to this subsection are major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A. Any amendment to the rules adopted pursuant to this subsection that revises the qualifications for a targeted need area certificate does not apply to a person who was issued a targeted need area certificate prior to or during the school year preceding the adoption of revisions to the original rules as long as the holder of the targeted need area certificate ~~annually~~ completes within 3 years the required course work and testing as determined by the department for the school year preceding the adoption of revised rules.

**Sec. 7. 20-A MRSA §13011, sub-§10,** as amended by PL 2011, c. 635, Pt. B, §3, is further amended to read:

**10. Conditional certificate; transitional endorsement; exception.** A conditional certificate is a certificate for teachers and educational specialists who have not met all of the requirements for a provisional or professional certificate. A school administrative unit may employ a conditionally certified teacher or educational specialist who is in the process of becoming professionally certified notwithstanding the availability of provisionally or professionally certified teachers or educational specialists. Any amendment to the rules adopted pursuant to this chapter that revises the qualifications for a conditional certificate or transitional endorsement does not apply to a person who was issued a conditional certificate or transitional endorsement prior to or during the school year preceding the adoption of revisions to the rules as long as the holder of the conditional certificate or transitional endorsement ~~annually~~ completes within 3 years the required course work and testing as determined by the department for the school year preceding the adoption of revised rules.

**Sec. 8. 20-A MRSA §13023, sub-§6,** as enacted by PL 2005, c. 457, Pt. FF, §2, is amended to read:

**6. Fees.** The commissioner shall assess fees for authorization under this section. The fee for each initial educational technician authorization and for renewal of an educational technician authorization ~~is \$25~~ must be set annually by the commissioner.

**Sec. 9. Department of Education and State Board of Education review of educational certification rules.** The Department of Education in conjunction with the State Board of Education shall review all department rules regarding certification of educational personnel and shall submit by January 7, 2017 a report regarding the review to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs. The joint standing committee may report out legislation related to the

report to the First Regular Session of the 128th Legislature.

See title page for effective date.

**CHAPTER 396**

**S.P. 574 - L.D. 1476**

**An Act To Improve the Law  
Concerning Carbon Monoxide  
Detectors**

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

**Whereas,** this legislation needs to take effect as soon as possible in order to minimize confusion and expense for building owners and educational facilities; 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. 25 MRSA §2468, sub-§2, ¶A,** as amended by PL 2015, c. 375, §2 and affected by §5, is further amended to read:

A. Each unit in any building of multifamily occupancy; a fraternity house, sorority house or dormitory that is affiliated with an educational facility; a children's home, emergency children's shelter, children's residential care facility, shelter for homeless children or specialized children's home as defined in Title 22, section 8101; or a hotel, motel, inn or bed and breakfast licensed as an eating and lodging place or a lodging place under Title 22, chapter 562. The owner shall use a carbon monoxide detector that is powered by:

- (1) Both the electrical service in the building and a battery; ~~or~~
- (2) A nonreplaceable 10-year battery; or
- (3) A replaceable battery if the carbon monoxide detector uses a low-power radio frequency wireless communication signal, uses multiple sensors, has low-frequency audible notification capability or is connected to a control panel;

**Sec. 2. 25 MRSA §2468, sub-§11,** as enacted by PL 2015, c. 375, §3 and affected by §5, is amended to read:

**11. Educational facilities.** An educational facility shall install, or cause to be installed, by the manufacturer's requirements at least one approved carbon monoxide detector in each building of the educational facility that is used for educational purposes by at least 6 persons for at least 4 hours per day or more than 12 hours per week. The owner shall use a carbon monoxide detector that is powered by:

- A. Both the electrical service in the building and a battery; ~~or~~
- B. A nonreplaceable 10-year battery; ~~or~~
- C. A replaceable battery if the carbon monoxide detector uses a low-power radio frequency wireless communication signal, uses multiple sensors, has low-frequency audible notification capability or is connected to a control panel.

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

Effective March 16, 2016.

**CHAPTER 397**

**S.P. 586 - L.D. 1524**

**An Act To Update the Laws  
Governing the Maine Veterans'  
Homes**

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

**Sec. 1. 22 MRSA §1812-D,** as enacted by PL 1987, c. 830, §1 and amended by PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. 2. 22 MRSA §1867,** as repealed and replaced by PL 1993, c. 205, §1, is amended to read:

**§1867. Distance restriction on placement of  
Medicaid recipients**

The department may make Medicaid reimbursement for a nursing facility contingent on a maximum distance between a patient's home and the nursing facility if the maximum distance is not more than 60 miles; except that the distance restriction may not be applied to a the Maine Veterans' Home Homes.

**Sec. 3. 37-B MRSA §509, sub-§2, ¶G,** as amended by PL 2015, c. 175, §3, is further amended to read:

G. The ~~administrator~~ chief executive officer of the Maine Veterans' ~~Home Homes~~ when in the conduct of official duties; or

**Sec. 4. 37-B MRSA §601,** as repealed and replaced by PL 2009, c. 652, Pt. A, §59, is amended to read: