

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

6. Unable to properly perform. Demonstrated that the person is unable to properly perform the person's required duties.

An operator or operator in responsible charge whose certificate is revoked under this section may apply for reinstatement of a certification of a like classification if appropriate proof of competency is presented to the department. The department may establish a more stringent proof of competency and procedures for the reinstatement of certification for an operator or operator in responsible charge whose certificate has been revoked.

Sec. 12. 32 MRSA §4175-B is enacted to read:
§4175-B. Department contracting

The department may contract for or otherwise employ or retain services to fulfill the department's duties under this chapter, including for the administration of an educational program pursuant to section 4173-A, the provision of examinations pursuant to section 4174 and the issuance of certificates pursuant to section 4175.

Sec. 13. 32 MRSA §4176, first ¶, as amended by PL 1989, c. 890, Pt. A, §6 and affected by §40, is further amended to read:

The commissioner department, upon application therefor, may issue a certificate, without examination, in a comparable classification, to any person who holds a certificate in any state, territory or possession of the United States or any country, providing if the requirements for certification of operators under which the person's certificate was issued do not conflict with this chapter and are of a standard not lower than that specified by rules adopted under this chapter. The issuance of a certificate without examination does not exempt a person from any other requirement of an operator or an operator in responsible charge aside from the examination requirement. A person so certified is subject to disciplinary action under section 4175-A.

Sec. 14. 32 MRSA §4177, as amended by PL 1973, c. 625, §223, is repealed.

Sec. 15. 32 MRSA §4178, first ¶, as enacted by PL 1969, c. 237, is amended to read:

This chapter shall apply only to conventional wastewater treatment plants which are separate and apart from other facilities applies to all operators and operators in responsible charge and any wastewater treatment plant that is used to meet the requirements of a state pollutant discharge elimination system permit or waste discharge license under Title 38, section 413.

Sec. 16. 32 MRSA §4179, first ¶, as amended by PL 2019, c. 315, §2, is further amended to read:

The Department of Environmental Protection department shall adopt rules to administer this chapter that include, but are not limited to, provisions establishing the basis for classification of wastewater treatment

plants in accordance with section 4172 and provisions establishing requirements for examinations, qualifications and ethical standards required of candidates to obtain certification and procedures for examination of candidates. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 17. 32 MRSA §4181, first ¶, as amended by PL 1989, c. 890, Pt. A, §8 and affected by §40, is further amended to read:

It is unlawful for any person, firm or corporation, both either municipal and or private, to operate a wastewater treatment plant unless the competency of the operator or operator in responsible charge is certified to by the commissioner department under this chapter. It is unlawful for any person to perform the duties of an operator, as defined, or operator in responsible charge without being duly certified under this chapter. The commissioner department may further grant a waiver for a period not exceeding one year for the operation of a wastewater treatment plant serving not more than 500 services in the event the wastewater treatment plant can demonstrate, to the department's satisfaction, that the certification requirements cannot be met.

Sec. 18. 32 MRSA §4182, first ¶, as enacted by PL 1969, c. 237, is amended to read:

Any person, firm or corporation, both either municipal and or private, violating any provision of this chapter or the rules and regulations adopted thereunder pursuant to this chapter is guilty of a misdemeanor Class E crime and may also be subject to civil enforcement actions under Title 38, section 347-A and civil monetary penalties as established under Title 38, section 349. Each day of operation in violation of this chapter or any rules and regulations adopted thereunder shall constitute pursuant to this chapter constitutes a separate offense.

See title page for effective date.

CHAPTER 174
H.P. 587 - L.D. 782

**An Act To Implement the
Recommendations of the
Department of Corrections for
Certified Batterer Intervention
Programming**

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

Sec. 1. 17-A MRSA §1501, sub-§9, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

9. Recognize domestic violence and certified batterers' domestic violence intervention programs.

Recognize domestic violence as a serious crime against the individual and society and to recognize ~~batterers'~~ domestic violence intervention programs certified pursuant to Title 19-A, section 4014 as the most appropriate and effective community intervention in cases involving domestic violence.

Sec. 2. 17-A MRSA §1804, sub-§6, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

6. Exception to limits when person ordered to complete ~~batterers'~~ domestic violence intervention program and pay restitution. If the State pleads and proves that the enumerated Class D or Class E crime was committed by the person against a family or household member and the court orders the person to complete a certified ~~batterers'~~ domestic violence intervention program as defined in Title 19-A, section 4014, the person may be placed on probation for a period not to exceed 2 years, except that, on motion by the person's probation officer, the person or the court, the term of probation must be terminated by the court when the court determines that the person has:

- A. Served at least one year of probation;
- B. Completed the certified ~~batterers'~~ domestic violence intervention program;
- C. Paid in full any victim restitution ordered; and
- D. From the time the period of probation commenced until the motion for termination is heard, met all other conditions of probation.

As used in this subsection, "enumerated Class D or Class E crime" means any Class D crime in chapter 9, any Class D or Class E crime in chapter 11, the Class D crimes described in sections 302 and 506-B and the Class D crimes described in sections 554, 555 and 758.

Sec. 3. 17-A MRSA §1807, sub-§2, ¶D, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition is considered only as a violation of probation and may not, in itself, authorize involuntary treatment or hospitalization. ~~The court may not order and the State may not pay for the person to attend a ~~batterers'~~ intervention program unless the program is certified under Title 19-A, section 4014;~~

Sec. 4. 17-A MRSA §1807, sub-§2, ¶D-1 is enacted to read:

D-1. Complete a certified domestic violence intervention program. The court may not order and the State may not pay for the person to attend a domestic violence intervention program unless the program is certified under Title 19-A, section 4014;

Sec. 5. 17-A MRSA §1807, sub-§4, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

4. Findings or explanation required in certain cases when completion of ~~batterers'~~ domestic violence intervention program is not ordered as a condition of probation. If an individual is convicted of a crime under chapter 9 or 13 or section 758 that the State pleads and proves was committed by the individual against a spouse, domestic partner or sexual partner; a former spouse, domestic partner or sexual partner; a victim with whom the individual is living or lived as a spouse; or a victim who is or was a dating partner of the individual and the court does not order as a condition of probation that the individual complete a ~~batterers'~~ domestic violence intervention program certified pursuant to Title 19-A, section 4014, the court shall make findings on the record of the court's reasons for not ordering the individual to complete a ~~batterers'~~ certified domestic violence intervention program. If a plea agreement submitted to the court in accordance with Rule 11A(b) of the Maine Rules of Unified Criminal Procedure does not contain a provision ordering the individual to complete a ~~batterers'~~ certified domestic violence intervention program, the attorney for the State shall indicate, in a writing submitted to the court, the basis for the plea agreement's not including completion of a ~~batterers'~~ certified domestic violence intervention program. For purposes of this subsection, "dating partner" means a victim currently or formerly involved in dating the individual, whether or not the individual and the victim are or were sexual partners. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare.

Sec. 6. 17-A MRSA §2102, sub-§1, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

1. Information provided to victim. ~~When practicable, the~~ The attorney for the State shall make a good faith effort to inform each victim of the following:

- A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court;
- B. The right to comment on a plea agreement, including a deferred disposition, pursuant to section 2103;
- C. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Unified Criminal Procedure, Rule 48, before that action is taken;
- D. The time and place of the trial;
- E. The time and place of sentencing;
- F. The right to participate at sentencing pursuant to section 2104; ~~and~~

F-1. The termination of probation pursuant to section 1804, subsection 6; and

G. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 2105.

Sec. 7. 17-A MRSA §2108, sub-§2, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

A. A state agency if necessary to carry out the statutory duties of that agency;

B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice;

C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; ~~or~~

D. A person or agency upon request of the victim;

E. A certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll;
or

F. The domestic violence center serving the same county as the certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll.

Sec. 8. 19-A MRSA §1653, sub-§2, ¶E, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

E. The order of the court may not include a requirement that the State pay for the defendant to attend a ~~batterers' domestic violence~~ intervention program unless the program is certified under section 4014.

Sec. 9. 19-A MRSA §4013, sub-§1, ¶A, as amended by PL 2019, c. 188, §1, is further amended by amending subparagraph (9-F) to read:

(9-F) One member, appointed by the Governor, who has experience working in ~~batterers' domestic violence~~ intervention programs;

Sec. 10. 19-A MRSA §4013, sub-§4, ¶A, as amended by PL 2001, c. 240, §2 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse,

a law enforcement officer, the Commissioner of Health and Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified ~~batterers' domestic violence~~ intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term.

Sec. 11. 19-A MRSA §4014, as amended by PL 2013, c. 424, Pt. B, §8, is further amended to read:

§4014. ~~Certification of batterers'~~ Certified domestic violence intervention programs

1. Rules establishing standards and procedures for certification. The Department of Corrections, referred to in this section as the "department," shall adopt rules pursuant to the Maine Administrative Procedure Act, in consultation with the Maine Commission on Domestic and Sexual Abuse, that establish standards and procedures for certification of ~~batterers' domestic violence~~ intervention programs. The department, in consultation with the commission, shall review and certify programs that meet the standards. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Information sharing with certified domestic violence intervention programs. In a criminal proceeding that results in the issuance of a court order that directs a person to complete a certified domestic violence intervention program, within 7 days of the issuance of the order, the attorney for the State shall provide to the certified domestic violence intervention program in which the person has enrolled or will enroll:

A. The incident report from a law enforcement agency submitted to the attorney for the State that is most relevant to the criminal proceeding, which the certified domestic violence intervention program is authorized to receive pursuant to Title 16, section 805, subsection 5; and

B. The last known contact information for the victim in the criminal proceeding.

Sec. 12. 22 MRSA §4036, sub-§1, ¶I, as amended by PL 1995, c. 694, Pt. D, §43 and affected by Pt. E, §2, is further amended to read:

I. The court may not order and the State may not pay for the defendant to attend a ~~batterers' domestic~~

violence intervention program unless the program is certified under Title 19-A, section 4014.

Sec. 13. 34-A MRSA §1206-A, sub-§1, ¶B, as amended by PL 2017, c. 407, Pt. A, §151, is further amended to read:

B. "Community intervention program" means a program operated at the community level providing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance use disorder treatment programs, but not including a ~~batterers' domestic violence~~ domestic violence intervention program under Title 19-A, section 4014.

Sec. 14. 34-A MRSA §1214, sub-§5, as amended by PL 2017, c. 407, Pt. A, §153, is further amended to read:

5. Report regarding ~~batterers~~ domestic violence intervention programs. Beginning January 2003 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of ~~batterers~~ domestic violence intervention programs. The report must include information regarding: meeting program benchmarks and goals, developing and implementing new programs, measuring effectiveness of existing programs and communicating and coordinating efforts with providers of substance use disorder services, literacy support and other services with whom ~~batterers~~ persons ordered to complete a domestic violence intervention program may need to work in order to participate meaningfully in a ~~batterers~~ domestic violence intervention program.

See title page for effective date.

**CHAPTER 175
S.P. 225 - L.D. 822**

**An Act To Affirm That Food
Seeds Are a Necessity in Maine**

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

Sec. 1. 10 MRSA §1105, sub-§1, ¶C, as amended by PL 2019, c. 126, §1, is further amended to read:

C. "Necessities" includes food for human or animal consumption; seeds; potable water; pharmaceutical products, including prescription medications; wearing apparel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual

production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

- (1) Subject to continuous maximum price regulation under the provisions of any state or federal law;
- (2) As to which the State's authority is preempted; or
- (3) Furnished or provided by:
 - (a) Insurers; or
 - (b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A.

See title page for effective date.

**CHAPTER 176
H.P. 605 - L.D. 837**

**An Act To Amend the Child
and Family Services and Child
Protection Act**

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

Sec. 1. 22 MRSA §4002, sub-§1, as amended by PL 2015, c. 360, §2, is further amended to read:

1. Abuse or neglect. "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation including under Title 17-A, sections 282, 852, 853 and 855; or deprivation of essential needs, or lack of protection from these ~~or failure to ensure compliance with school attendance requirements, by a person responsible for the child.~~ "Abuse or neglect" also means truancy under Title 20-A, section 3272, subsection 2, paragraph ~~B~~ C or section 5051-A, subsection 1, paragraph ~~C~~; or D when truancy is the result of neglect by a person responsible for the child. "Abuse or neglect" also means a threat to a child's health or welfare caused by child sex trafficking by any person, regardless of whether or not the person is responsible for the child.

Sec. 2. 22 MRSA §4002, sub-§3-B is enacted to read:

3-B. Child sex trafficking. "Child sex trafficking" means the recruitment, harboring, transportation, provision or obtaining of a child for the purposes of a commercial sex act as defined in 22 United States Code, Section 7102(4).