

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

Augusta, Maine
2021

**CHAPTER 233
H.P. 212 - L.D. 299**

**An Act To Address Licensure
of Behavioral Health Practice
in the State**

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

Sec. 1. 32 MRSA §3814, as amended by PL 2007, c. 402, Pt. Q, §3, is further amended to read:

§3814. Penalties for unlicensed practice

Persons who hold themselves out to the public as psychologists or psychological examiners or engage in psychological practice as defined in this chapter and do not then possess in full force valid licenses to practice as psychological examiners or psychologists under this chapter are subject to the provisions of Title 10, section 8003-C. A person who engages in the practice of a psychological examiner or psychologist without a license under this chapter has engaged in an unfair trade practice in violation of Title 5, chapter 10.

Sec. 2. 32 MRSA §7002, as amended by PL 2007, c. 402, Pt. V, §2, is further amended to read:

§7002. Unlicensed practice

Notwithstanding Title 17-A, section 4-A, any person who makes a representation to the public or uses the title of social worker, unless licensed by the board, as a licensed clinical social worker, licensed master social worker, certified social worker or a licensed social worker is subject to the provisions of Title 10, section 8003-C. Any person performing the functions of a social worker as a part of a profession or occupation or in a voluntary capacity is not subject to this section. A person who engages in the practice of a clinical social worker, master social worker or social worker without a license under this chapter has engaged in an unfair trade practice in violation of Title 5, chapter 10.

Sec. 3. 32 MRSA §13851, sub-§8-A is enacted to read:

8-A. Professional counseling. "Professional counseling" means providing counseling services, marital and family therapy services and pastoral counseling services, including any procedures of counseling.

Sec. 4. 32 MRSA §13854, sub-§1, as amended by PL 2001, c. 421, Pt. B, §102 and affected by Pt. C, §1, is repealed and the following enacted in its place:

1. Licensing. A person may not, unless specifically exempted by this chapter, be engaged in the practice of professional counseling or profess to the public to be a, or assume or use the title or designation of, clinical professional counselor, professional counselor, marriage and family therapist, licensed pastoral counselor, registered counselor or conditional license holder or

assume or use the abbreviation "LP," "CC," "MF," "PC" or "RC" or any other title, designation, words, letters or device tending to indicate that such a person is licensed or registered, unless that person is licensed or registered with and holds a current valid license or registration from the board.

Sec. 5. 32 MRSA §13854, sub-§4 is enacted to read:

4. Unfair trade practice. A violation of subsection 1 is an unfair trade practice in violation of Title 5, chapter 10.

Sec. 6. Effective date. This Act takes effect July 1, 2022.

Effective July 1, 2022.

**CHAPTER 234
H.P. 223 - L.D. 319**

**An Act To Promote Socially
Responsible Investing by the
Maine Public Employees
Retirement System by
Prohibiting Investment in For-
profit Prisons**

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

Sec. 1. 5 MRSA §138, as amended by PL 2001, c. 44, §11 and affected by §14, is further amended by adding at the end a new paragraph to read:

The Treasurer of State shall review the extent to which the assets of any permanent funds held in trust by the State are invested in the stocks, securities or other obligations of any corporation or company or any subsidiary, affiliate or parent of any company that owns or operates prisons for profit. The Treasurer of State shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings and may not invest any assets in any such stocks, securities or other obligations. Nothing in this section precludes de minimis exposure of any permanent funds held in trust by the State to the stocks, securities or other obligations of any corporation or company or any subsidiary, affiliate or parent of any company that owns or operates prisons for profit.

Sec. 2. 5 MRSA §1957 is enacted to read:

§1957. For-profit prisons

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" has the same meaning as in section 17001, subsection 7.

B. "Retirement system" means the Maine Public Employees Retirement System.

2. Board may not invest. The board, in accordance with sound investment criteria and consistent with fiduciary obligations, may not invest the assets of the retirement system in any stocks or other securities of any corporation or company that owns or operates prisons for profit. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any corporation or company that owns or operates prisons for profit.

3. Board to divest. The board shall review the extent to which the assets of the retirement system are invested in any stocks or other securities of any corporation or company that owns or operates prisons for profit. The board shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any corporation or company that owns or operates prisons for profit.

Sec. 3. Policy review. The Board of Trustees of the Maine Public Employees Retirement System shall review its "Environmental, Social and Governance Policy" adopted January 8, 2015 and shall make any changes necessary to its policy to conform to the requirements of the Maine Revised Statutes, Title 5, section 1957. The board shall submit its report of the review of the policy and any amendments adopted by the board to the Joint Standing Committee on Labor and Housing by January 1, 2022.

See title page for effective date.

CHAPTER 235

H.P. 306 - L.D. 422

An Act To Enact the Maine Uniform Trust Decanting Act

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

Sec. 1. 18-B MRSA c. 12 is enacted to read:

CHAPTER 12

MAINE UNIFORM TRUST DECANTING ACT

§1201. Short title

This Act may be known and cited as "the Maine Uniform Trust Decanting Act." Any references in this chapter to "Act" mean "the Maine Uniform Trust Decanting Act."

§1202. Definitions

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

1. Appointive property. "Appointive property" means the property or property interest subject to a power of appointment.

2. Ascertainable standard. "Ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of 26 United States Code, Section 2041(b)(1)(A), as amended, or 26 United States Code, Section 2514(c)(1), as amended, and any applicable regulations.

3. Authorized fiduciary. "Authorized fiduciary" means:

A. A trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

B. A special fiduciary appointed under section 1208; or

C. A special-needs fiduciary under section 1212.

4. Beneficiary. "Beneficiary" means a person that:

A. Has a present or future, vested or contingent, beneficial interest in a trust;

B. Holds a power of appointment over trust property; or

C. Is an identified charitable organization that will or may receive distributions under the terms of the trust.

5. Charitable interest. "Charitable interest" means an interest in a trust that:

A. Is held by an identified charitable organization and makes the organization a qualified beneficiary;

B. Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the identified charitable organization a qualified beneficiary; or

C. Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the identified charitable organization a qualified beneficiary.

6. Charitable organization. "Charitable organization" means:

A. A person, other than an individual, organized and operated exclusively for charitable purposes; or

B. A government or governmental subdivision, agency or instrumentality, to the extent it holds funds exclusively for a charitable purpose.