

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

3. Documentation of input. The chief administrative officer of each correctional facility shall document input under this section from the facility's clients in the facility's yearly reports.

Sec. 2. 34-A MRSA §3031, sub-§2, ¶A-1 is enacted to read:

A-1. A client who is indigent is exempt from fees charged for requesting or obtaining records of medical, dental or mental health care provided to the client pursuant to this subsection.

Sec. 3. 34-A MRSA §3031, sub-§2, ¶B, as amended by PL 2015, c. 291, §5, is further amended to read:

B. Notwithstanding ~~paragraph~~ paragraphs A and A-1, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

- (1) Joint ownership, if any, that the client may have in real property;
- (2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and
- (3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family;

Sec. 4. Policies on property searches, strip searches and body cavity searches. The Commissioner of Corrections shall adopt policies distinguishing between searches of a client's physical property and cell or living space and searches of a client's person, including strip searches and body cavity searches, and establishing processes for conducting strip searches and body cavity searches. The policies must establish processes for conducting strip searches and body cavity searches in a trauma-informed and gender-responsive manner.

See title page for effective date.

CHAPTER 360

S.P. 549 - L.D. 1715

An Act To Amend the Laws Prohibiting Teachers, Employees and Other Officials from Engaging in Sexual Activity with Students

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

Sec. 1. 17-A MRSA §253, sub-§2, ¶F, as amended by PL 2015, c. 509, §1, is further amended to read:

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual act. Violation of this paragraph is a Class C crime;

Sec. 2. 17-A MRSA §253, sub-§2, ¶G, as amended by PL 2013, c. 179, §2, is further amended to read:

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, child care facility, facility operated by a family child care provider, children's residential care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual act. Violation of this paragraph is a Class C crime;

Sec. 3. 17-A MRSA §255-A, sub-§1, ¶K, as amended by PL 2015, c. 509, §2, is further amended to read:

K. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual contact. Violation of this paragraph is a Class D crime;

Sec. 4. 17-A MRSA §255-A, sub-§1, ¶L, as amended by PL 2015, c. 509, §2, is further amended to read:

L. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student and the sexual contact includes penetration or the actor was a substitute teacher who had instructional, supervisory

or disciplinary authority over the student at any time during the 12 months prior to the sexual contact and the sexual contact included penetration. Violation of this paragraph is a Class C crime;

Sec. 5. 17-A MRSA §260, sub-§1, ¶F, as amended by PL 2015, c. 509, §3, is further amended to read:

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student or the actor was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual touching. Violation of this paragraph is a Class D crime;

Sec. 6. 19-A MRSA §1653, sub-§6-A, ¶A, as amended by PL 2015, c. 509, §4, is further amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age or the victim was a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the person was a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student or the person was a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the time of the commission of the offense:

- (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- (2) Gross sexual assault, under Title 17-A, section 253;
- (3) Sexual abuse of a minor, under Title 17-A, section 254;
- (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section 255;
- (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258;
- (6-A) Solicitation of a child to commit a prohibited act, under Title 17-A, section 259-A; or
- (7) An offense in another jurisdiction that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3),

(4), (5), (6) or (6-A). For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

See title page for effective date.

CHAPTER 361

S.P. 570 - L.D. 1725

An Act To Clarify the Deferral of the Pooled Market and Link Small Employer Clear Choice to Pooling in the Made for Maine Health Coverage Act

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

Sec. 1. 24-A MRSA §2792, sub-§1, as enacted by PL 2019, c. 653, Pt. B, §2, is amended to read:

1. Pooled market established. Subject to the requirements of subsection 5, all individual and small group health plans offered in this State with effective dates of coverage on or after January 1, ~~2022~~ 2023 must be offered through a pooled market. A health insurance carrier offering an individual health plan subject to this section shall make the plan available to all eligible small employers within the plan's approved service area, and a health insurance carrier offering a small group health plan subject to this section shall make the plan available to all eligible individuals residing within the plan's approved service area. This subsection does not require the Maine Health Insurance Marketplace established in Title 22, chapter 1479 to offer identical choices of health plans to individuals and to small employers under Title 22, chapter 1479.

Sec. 2. 24-A MRSA §2792, sub-§5, as enacted by PL 2019, c. 653, Pt. B, §2, is amended to read:

5. Preconditions for pooled market. This section may not be implemented unless routine technical rules as defined in Title 5, chapter 375, subchapter 2-A are adopted to implement this section and the Federal Government approves a state innovation waiver amendment that extends reinsurance under section 3953 to the pooled market established pursuant to this section based on projections by the superintendent that both average