

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND THIRTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 2022 to March 30, 2023**

**FIRST SPECIAL SESSION**  
**April 5, 2023 to July 26, 2023**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NONEMERGENCY LAWS IS**  
**JUNE 29, 2023**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NONEMERGENCY LAWS IS**  
**OCTOBER 25, 2023**

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

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**Augusta, Maine**  
**2023**

vidual or group related to interpersonal and intrapersonal stress, family background, family interaction, living arrangements and socioeconomic problems and treatment, evaluation, plans and goals, including the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention, but excluding the ~~diagnosis of organic mental illness or treatment of any illness by organic therapy, to the extent permitted by the licensure provision of this chapter. In the process of making a diagnosis and formulating a treatment plan for mental illness or emotional disorder, the social worker shall assure, consistent~~ comply with rules to be promulgated adopted by the board, that the person is examined by a physician and may take into account the physician's opinion in forming the psychosocial evaluation. When a person has been seen by a physician within 3 months prior to seeking mental health treatment, a telephone conversation between that physician and the social worker may be held in lieu of the examination required by this subsection. The medical visit or the telephone conversation shall be documented in the clinical records of the person. This requirement shall apply only in cases where there is a presence of psychopathology. The board shall define standards by rule, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, for implementation of this subsection.

**Sec. 2. 32 MRSA §7031**, as enacted by PL 1993, c. 584, §1, is repealed.

**Sec. 3. 32 MRSA §7053-A, first ¶**, as enacted by PL 1985, c. 736, §12, is repealed and the following enacted in its place:

A person licensed under this chapter may act in accordance with the following requirements.

See title page for effective date.

**CHAPTER 316**

**H.P. 931 - L.D. 1435**

**An Act to Reduce Commercial Sexual Exploitation**

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

**Sec. 1. 5 MRSA §3360-I, first ¶**, as amended by PL 2013, c. 607, §1, is further amended to read:

As part of the sentence or fine imposed, the court shall impose an assessment of \$35 on any person convicted of murder, a Class A crime, a Class B crime or a Class C crime and \$20 on any person convicted of a Class D crime or a Class E crime, except that the court shall impose an assessment of \$1,000 on any person convicted of aggravated sex trafficking as described in Title 17-A, section 852, an assessment of \$500 on any person convicted of sex trafficking as described in Title

17-A, section 853, an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of engaging a ~~prostitute person for prostitution~~ as described in Title 17-A, section 853-B and an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of ~~patronizing prostitution commercial sexual exploitation of a minor or patronizing prostitution commercial sexual exploitation of a mentally disabled person with a mental disability~~ as described in Title 17-A, section 855. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this section. For purposes of collection and collection procedures, this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any unpaid balances on assessments owed by the offender to the Victims' Compensation Fund. All funds collected as a result of these assessments accrue to the Victims' Compensation Fund.

**Sec. 2. 17-A MRSA §151, sub-§10** is enacted to read:

10. It is a defense to prosecution under this section that the objective of the conspiracy is a violation of section 853-B and the actor's participation was engaging or agreeing to personally engage in a sexual act or sexual contact for pecuniary benefit.

**Sec. 3. 17-A MRSA §259-B**, as enacted by PL 2017, c. 135, §1, is amended to read:

**§259-B. Solicitation of a child to engage in prostitution for commercial sexual exploitation**

1. A person is guilty of soliciting a child ~~to engage in prostitution for commercial sexual exploitation~~ if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in an act of prostitution, as defined in section 851.

2. Violation of this section is a Class ~~D~~ C crime.

**Sec. 4. 17-A MRSA §851, sub-§1**, as amended by PL 1995, c. 638, §1, is further amended to read:

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person ~~engaging in prostitution being prostituted or~~ engaging in prostitution being prostituted or a 3rd person;

**Sec. 5. 17-A MRSA §851, sub-§1-A**, as amended by PL 1995, c. 638, §2, is further amended to read:

1-A. "Engages a ~~prostitute person for prostitution~~" means providing, ~~offering to provide or agreeing to provide, either to the person whose prostitution who is~~

sought for an act of prostitution or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251;

**Sec. 6. 17-A MRSA §853, sub-§1, ¶B**, as amended by PL 2015, c. 360, §1, is further amended to read:

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are any violation of this section or section 852, ~~853-A~~, 853-B or 855 or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

**Sec. 7. 17-A MRSA §853, sub-§4** is enacted to read:

4. It is a defense to prosecution under this section that the act alleged to constitute sex trafficking consisted of the person publicly soliciting a patron to engage in prostitution only with the person.

**Sec. 8. 17-A MRSA §853-A**, as amended by PL 2021, c. 315, §§1 and 2, is repealed.

**Sec. 9. 17-A MRSA §853-B**, as amended by PL 2013, c. 407, §4, is further amended to read:

**§853-B. Engaging a prostitute person for prostitution**

1. A person is guilty of engaging a prostitute person for prostitution if:

A. The person engages a prostitute person for prostitution within the meaning of section 851, subsection 1-A. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A 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. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime.

**Sec. 10. 17-A MRSA §855**, as amended by PL 2021, c. 447, §§2 and 3, is further amended to read:

**§855. Patronizing prostitution Commercial sexual exploitation of minor or person with mental disability**

1. A person is guilty of patronizing prostitution commercial sexual exploitation of a minor if:

A. The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person whose prostitution is sought being prostituted or to a 3rd person and the person whose prostitution is sought being prostituted has not in fact attained 18 years of age or the person knows or believes that the person whose prostitution is sought being prostituted has not attained 18 years of age. Violation of this paragraph is a Class C crime; or

3. A person is guilty of patronizing prostitution commercial sexual exploitation of a ~~mentally disabled~~ person with a mental disability if:

A. The person, in return for ~~another's~~ an act of prostitution, gives, offers to give or agrees to give a pecuniary benefit either to the person whose prostitution is sought being prostituted or to a 3rd person and the person whose prostitution is sought being prostituted suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the ~~other~~ person with a mental disability substantially incapable of appraising the nature of the conduct or conduct involved. Violation of this paragraph is a Class C crime.

**Sec. 11. 17-A MRSA §1111-B, sub-§1, ¶A**, as enacted by PL 2021, c. 724, §1, is amended by amending subparagraph (16) to read:

(16) ~~Patronizing prostitution~~ Commercial sexual exploitation of a minor or person with a mental disability as described in section 855;

**Sec. 12. 17-A MRSA §1604, sub-§5, ¶B**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

B. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 12, 13, 27 or 35, ~~excluding section 853-A~~; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, or an attempt of any such crime was committed, the individual had 2 or more prior convictions under chapter 9, 11, 12, 13, 27 or 35, ~~excluding section 853-A~~; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C, or for an attempt of any such crime, or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be.

(1) In the case of a Class A crime, the sentencing class is not elevated, but the prior record must be assigned special weight by the court when imposing a sentence.

(2) Section 9-A governs the use of prior convictions when determining a sentence, except

that, for the purposes of this paragraph, for violations under chapter 11, the dates of prior convictions may have occurred at any time.

This paragraph does not apply to section 210-A if the prior convictions have already served to elevate the sentencing class under section 210-A, subsection 1, paragraph C or E or any other offense in which prior convictions have already served to elevate the sentencing class.

**Sec. 13. 17-A MRSA §1902, sub-§6**, as corrected by RR 2019, c. 2, Pt. A, §21, is repealed.

**Sec. 14. 18-C MRSA §9-401, sub-§4, ¶F**, as amended by PL 2019, c. 417, Pt. A, §106, is further amended to read:

F. Has in that child's family background factors such as severe mental illness, substance use disorder, prostitution, commercial sexual exploitation, genetic or medical conditions or illnesses that place the child at risk for future problems.

See title page for effective date.

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CHAPTER 317

S.P. 571 - L.D. 1453

An Act to Amend the Physical Therapist Practice Laws

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

**Sec. 1. 32 MRSA §3111, sub-§3**, as enacted by PL 1979, c. 555, §2, is amended to read:

**3. Physical therapist.** "Physical therapist" means a person who ~~practices~~ is licensed pursuant to this chapter to practice physical therapy.

**Sec. 2. 32 MRSA §3111, sub-§4**, as enacted by PL 1979, c. 555, §2, is amended to read:

**4. Physical therapist assistant.** "Physical therapist assistant" means a person who is licensed pursuant to this chapter and who assists a physical therapist in specific components of treatment, prevention and educational interventions within the practice of physical therapy.

**Sec. 3. 32 MRSA §3111, sub-§5**, as amended by PL 2007, c. 402, Pt. N, §1, is further amended to read:

**5. Physical therapy or physiotherapy.** "Physical therapy" ~~is or "physiotherapy" means the practice provision of services in the scope of which practice that is set forth in section 3111-A.~~

**Sec. 4. 32 MRSA §3111, sub-§6**, as enacted by PL 1979, c. 555, §2, is amended to read:

**6. Practice of physical therapy.** "Practice of physical therapy" means the rendering of or offering to render any service involving physical therapy ~~for a fee, salary or other compensation, monetary or otherwise, paid directly or indirectly to detect, assess, prevent, correct, alleviate or limit physical disability, bodily malfunction and pain from injury, disease or any other bodily condition.~~

**Sec. 5. 32 MRSA §3111, sub-§7**, as amended by PL 1983, c. 468, §9, is further amended to read:

**7. Referral.** "Referral" means the request of ~~a~~ an advanced practice registered nurse, certified nurse midwife, physician assistant, naturopathic doctor or doctor of medicine, surgery, osteopathy, podiatry or dentistry or any other health care provider acting within the scope of that health care provider's license to a physical therapist to accept one of his ~~that health care provider's~~ patients for treatment.

**Sec. 6. 32 MRSA §3113-A**, as amended by PL 1991, c. 885, Pt. E, §41 and affected by §47, is further amended to read:

**§3113-A. License required; limitations and exceptions**

A person may not practice or profess to be authorized to practice physical therapy or physiotherapy as a physical therapist in this State or use the words "physical therapist" or "physiotherapist" or the letters "P.T." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist unless that person is licensed in accordance with the provisions of this chapter.

~~After one year from the effective date of this chapter, a~~ A person may not act or profess to be able to act as a physical therapist assistant or physiotherapist assistant in this State or use the words "physical therapist assistant" or the letters "P.T.A." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist assistant unless that person is licensed in accordance with the provisions of this chapter.

Nothing in this chapter may be construed as authorizing a physical therapist or physical therapist assistant, licensed or not licensed, to practice medicine, osteopathy, dentistry, chiropractic or any other form of healing, except that physical therapists may utilize manipulative techniques if practiced within the scope of their profession. ~~Physical therapists may not apply manipulative thrust to the vertebrae of the spine except upon consultation with, and referral by, a duly licensed doctor of medicine, surgery, chiropractic or osteopathy.~~ A licensed physical therapist or physical therapist assistant may not administer drugs except upon the referral of a duly licensed doctor of medicine, surgery, osteopathy, podiatry or dentistry, ~~and~~ or other licensed health care provider who has authority to prescribe drugs. A licensed physical therapist may not use roentgen rays or