

# 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**

Sec. 18. 12 MRSA §12551-A, sub-§6, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending subparagraph (1) to read:

(1) When engaged in taking, or assisting in taking, live baitfish for resale from inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the commissioner upon request. A person who violates this subparagraph commits a Class E crime for which the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5;

Sec. 19. 12 MRSA §12551-A, sub-§6, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

Each Except for a violation of subparagraph (1), each day a person violates this paragraph that person commits a class Class E crime for which the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5.

Sec. 20. 12 MRSA §12551-A, sub-§7, ¶B, as amended by PL 2005, c. 237, §3, is further amended by amending subparagraph (1) to read:

(1) When engaged in taking, or assisting in taking, live smelts for resale from inland waters, fail to exhibit the license to any agent of the commissioner upon request. A person who violates this subparagraph commits a Class E crime for which the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5;

Sec. 21. 12 MRSA §12551-A, sub-§7, ¶B, as amended by PL 2005, c. 237, §3, is further amended by amending the first blocked paragraph to read:

Each Except for a violation of subparagraph (1), each day a person violates this paragraph that person commits a Class E crime for which the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5.

Sec. 22. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides one-time funding for computer programming costs to update classifications of offenses.

GENERAL FUND	2023-24	2024-25
All Other	\$3,400	\$0

GENERAL FUND TOTAL	\$3,400	\$0
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Sec. 23. Effective date. This Act takes effect January 1, 2024.

Effective January 1, 2024.

CHAPTER 432

H.P. 265 - L.D. 432

An Act to Clarify MaineCare Program Requirements Regarding Certain High-risk Health Care Providers

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

Sec. 1. 22 MRSA §5307, sub-§1, as enacted by PL 2021, c. 400, §1, is repealed and the following enacted in its place:

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Final adverse action" has the same meaning as in 42 Code of Federal Regulations, Section 424.502 (2008) in effect on November 19, 2008.

B. "High-risk provider" means a provider the department has determined is high risk in accordance with subsection 2-A.

C. "Person with ownership interest" means a person who has at least a 5% direct or indirect ownership interest in a high-risk provider or a provider in a high-risk provider category.

D. "Provider" has the same meaning as "provider" or "supplier" in 42 Code of Federal Regulations, Section 400.202 (1983) in effect on January 1, 2022.

E. "Provider in a high-risk provider category" has the same meaning as "high categorical risk: Provider and supplier categories" in 42 Code of Federal Regulations, Section 424.518(c)(1) (2020) in effect on December 28, 2020.

F. "State Police" means the Department of Public Safety, Bureau of State Police.

Sec. 2. 22 MRSA §5307, sub-§2, as enacted by PL 2021, c. 400, §1, is amended to read:

2. Background check. The department shall request a background check for a MaineCare provider applicants applicant who are is a high-risk providers or provider, a provider in a high-risk provider categories as those terms are defined by department rule category or a person with ownership interest. The applicant subject to the background check is responsible for the fees

associated with the background check. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

C. A provider applicant shall submit to having fingerprints taken. The State Police, upon payment by the provider applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

E. State and national criminal history record information of a provider applicant must be used by the department for the purpose of screening that provider applicant.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the department are for official use only and may not be disseminated to any other person or entity.

G. An individual whose enrollment as a MaineCare provider has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the individual's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the individual's fingerprints from the fingerprint file and provide written confirmation of that removal.

**Sec. 3. 22 MRSA §5307, sub-§2-A** is enacted to read:

**2-A. High-risk provider adjustments by the department.** The department shall adjust the categorical risk for a provider to high if any of the following conditions exist:

A. Within the previous 10-year period:

(1) The MaineCare program has imposed a payment suspension on the provider based on credible allegations of fraud, waste or abuse;

(2) The United States Department of Health and Human Services, Office of Inspector General or another state's Medicaid program has excluded the provider from Medicaid;

(3) A Medicare contractor revoked the provider's billing privileges and the provider is attempting to:

(a) Enroll as a new provider; or

(b) Establish billing privileges for a new service location; or

(4) The provider was subject to a final adverse action;

B. Within the previous 6-month period, the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services lifted a temporary moratorium for a particular provider type that prevented the provider from enrolling as a MaineCare provider and that provider is now a MaineCare provider applicant;

C. The United States Department of Health and Human Services, Office of Inspector General excluded the provider from Medicare; or

D. The provider:

(1) Owes \$1,000 or more to the department as a result of a Medicaid overpayment that is not currently under appeal or in a payment plan;

(2) Has been terminated or is otherwise precluded from billing Medicaid; or

(3) Has been excluded from any federal health care program.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF**

**Office of MaineCare Services 0129**

Initiative: Provides one-time funding for technology changes.

GENERAL FUND	2023-24	2024-25
All Other	\$0	\$9,250
GENERAL FUND TOTAL	\$0	\$9,250

FEDERAL EXPENDITURES	2023-24	2024-25
FUND		
All Other	\$0	\$27,750
FEDERAL EXPENDITURES	\$0	\$27,750
FUND TOTAL		

See title page for effective date.

**CHAPTER 433  
H.P. 272 - L.D. 439**

**An Act to Allow Death by  
Suicide to Be Considered a  
Death While in the Line of  
Duty**

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

**Sec. 1. 25 MRSA c. 195-A, headnote** is amended to read:

**CHAPTER 195-A**

**DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY MEDICAL SERVICES PERSONS, DEPARTMENT OF CORRECTIONS LAW ENFORCEMENT OFFICERS AND CORRECTIONS OFFICERS WHO DIE WHILE IN THE LINE OF DUTY**

**Sec. 2. 25 MRSA §1611, sub-§1-C** is enacted to read:

**1-C. Department of Corrections law enforcement officer.** "Department of Corrections law enforcement officer" means a person who is employed by the Department of Corrections as an investigative officer, as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer, as described in Title 34-A, section 5602, or a probation officer. "Department of Corrections law enforcement officer" does not include a corrections officer.

**Sec. 3. 25 MRSA §1611, sub-§5,** as amended by PL 2017, c. 229, §6, is further amended to read:

**5. Law enforcement officer or officer.** "Law enforcement officer" or "~~officer~~" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, judicial marshal, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, ~~a person employed by the Department of Corrections as an investigative officer as defined in Title 34 A, section 1001, subsection 10 A, a juvenile community corrections officer as described in Title 34 A, section 5602, a probation officer,~~ a security officer appointed by the

Commissioner of Public Safety pursuant to section 2908, a motor vehicle detective or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, a military security police officer appointed by the Adjutant General, a University of Maine System police officer or marine patrol officer in this State. "Law enforcement officer" does not include a Department of Corrections law enforcement officer.

**Sec. 4. 25 MRSA §1612, sub-§1,** as amended by PL 2019, c. 658, §6, is further amended to read:

**1. Amount; recipients.** In a case in which the chief determines under rules adopted pursuant to this section that a law enforcement officer has died while in the line of duty, in a case in which the State Fire Marshal determines under rules adopted pursuant to this section that a firefighter has died while in the line of duty, in a case in which the director determines under rules adopted pursuant to this section that an emergency medical services person has died while in the line of duty or in a case in which the Commissioner of Corrections determines under rules adopted pursuant to this section that a Department of Corrections law enforcement officer or corrections officer has died while in the line of duty prior to July 1, 2021, the State shall pay a benefit of \$100,000. When determining whether an individual has died while in the line of duty, the chief, the State Fire Marshal, the director or the Commissioner of Corrections, as applicable, shall evaluate whether an individual who died by suicide died as a result of events or actions experienced by the individual while in the line of duty.

Beginning July 1, 2021 and annually thereafter, the benefit amount must be indexed to the Consumer Price Index whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th of the previous year. A firefighter, law enforcement officer, emergency medical services person, Department of Corrections law enforcement officer or corrections officer who dies while in the line of duty must be paid the benefit amount as indexed immediately prior to that firefighter's, law enforcement officer's, emergency medical services person's, Department of Corrections law enforcement officer's or corrections officer's death. The Department of Administrative and Financial Services shall adopt rules to calculate the annual percentage increase in the death benefit.

The State shall pay the benefit as follows:

A. If there is no surviving child of the firefighter, law enforcement officer, emergency medical services person, Department of Corrections law enforcement officer or corrections officer, to the surviving spouse of the person;

B. If there is a surviving child or children and a surviving spouse of the firefighter, law enforcement officer, emergency medical services person, Department of Corrections law enforcement officer