

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

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

Augusta, Maine
2024

a defendant accepted for treatment in a mental health unit of a correctional facility under subsection 1. The department may not transfer to another unit of a correctional facility a defendant accepted for treatment in a mental health unit of a correctional facility under subsection 1.

3. Termination of placement. Termination of placement is governed by this subsection.

A. The commissioner may terminate the placement of a defendant accepted pursuant to this section if the commissioner determines that the likelihood of serious harm posed by the defendant has decreased or the security at a state mental health institute has increased or for any other reason.

B. At any time after 90 days of placement in a mental health unit of a correctional facility, except not within 60 days of resolution of a prior petition under this paragraph, the defendant may petition the court for return to placement in a less restrictive setting on the grounds that the criteria for placement under subsection 1 no longer exist. If a petition is filed under this paragraph, the court shall hold a hearing and issue a decision maintaining or terminating the placement.

4. Disclosure of information. With respect to a defendant who has previously been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a prerequisite to accepting placement of the defendant under this section that necessary information be disclosed to the department pursuant to Title 34-B, section 1207, subsection 1, paragraph B.

5. Application of other laws. All other applicable provisions of law governing defendants found incompetent to stand trial apply to defendants accepted for placement under this section.

6. Repeal. This section is repealed November 1, 2027.

Sec. 2. Stakeholder group; report. The Department of Health and Human Services shall convene a stakeholder group to examine issues related to certain defendants found incompetent to stand trial who are placed in a mental health unit of a Department of Corrections facility in accordance with the Maine Revised Statutes, Title 34-A, section 3069-C. The stakeholder group must develop a process and procedure for safely and effectively placing certain defendants found incompetent to stand trial, who pose a health or safety risk to Department of Health and Human Services personnel and patients, in the least restrictive setting possible. The process and procedure developed must ensure that a defendant's due process rights are maintained and protected. The stakeholder group must also determine and identify any resources required to establish this process and procedure. The membership of the stakeholder group must include, at a minimum, the Commissioner of Corrections or the

commissioner's designee, a criminal defense attorney licensed in this State and a representative of a statewide organization that advocates for civil liberties.

On or before January 1, 2027, the Department of Health and Human Services shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a report outlining the process and procedures developed, including recommended legislation. After reviewing the report, the committee may report out legislation relating to the report to the 133rd Legislature in 2027.

Sec. 3. Review; report. By January 1, 2027, the Department of Health and Human Services and the Department of Corrections shall jointly submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the number, circumstances and outcomes of the placement of defendants found incompetent to stand trial and placed in a mental health unit of a correctional facility pursuant to the Maine Revised Statutes, Title 34-A, section 3069-C. The report must include the number of defendants transferred to a mental health unit, the average length of stay, the number of defendants transferred to other facilities, which must be organized by type of facility, the impact on the mental health and criminal justice systems and any other relevant data. After reviewing the report, the committee may report out legislation to the 133rd Legislature in 2027 to address issues raised by the report and to repeal or amend the sunset provision in Title 34-A, section 3069-C, subsection 6.

See title page for effective date.

CHAPTER 601

S.P. 882 - L.D. 2089

An Act Regarding Drug Awareness Instruction in Secondary Schools

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

Sec. 1. 20-A MRSA §4723, as amended by PL 2019, c. 106, §3 and c. 196, §1, is further amended to read:

§4723. Health and physical education

The secondary course of study must include instruction in health, safety and physical education, as prescribed by the commissioner, and physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics and other dangerous drugs such as fentanyl upon the human system. Health education must include instruction that addresses the relationship between physical and mental

health in order to enhance student understanding of attitudes toward and behavior relating to mental illness and to eliminate the stigma associated with mental illness. The secondary course of study must also include instruction on affirmative consent, communication and decision making regarding sexual activity and the effects of alcoholic drinks, stimulants ~~and~~, narcotics ~~and~~ other dangerous drugs such as fentanyl on the ability to give affirmative consent, communicate and make appropriate decisions. For purposes of this section, "affirmative consent" means consent to sexual activity that can be revoked at any time and does not include silence, lack of resistance or consent given while intoxicated.

A secondary school may supplement instruction on youth substance use and youth substance use disorder by observing a drug awareness week during the month of October each year with appropriate activities and programming.

See title page for effective date.

**CHAPTER 602
S.P. 894 - L.D. 2101**

**An Act to Strengthen
Shoreland Zoning Enforcement**

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

Sec. 1. 12 MRSA §685-C, sub-§8-A is enacted to read:

8-A. Shoreland zoning violations; commission authority. The commission may take the following actions when an owner or occupant of land within the commission's jurisdiction violates a standard, rule, permit or order adopted or issued by the commission pursuant to this chapter applicable to development in a shoreland zone, as long as the commission sends written notice to the last known address of the owner and occupant, if applicable, by certified mail, return receipt requested, demanding the owner or occupant remove, abate or otherwise correct the violation within 10 days and the violation is not removed, abated or otherwise corrected in that time period:

A. Deny the issuance of a permit to or suspend or revoke a permit of the owner or occupant for further development in the shoreland zone of the land on which the violation occurred until the violation is removed, abated or otherwise corrected and any penalties and court-awarded costs are paid; and

B. File a civil action against the owner or occupant to recover unpaid penalties, the cost to remove, abate or otherwise correct the violation, court costs and reasonable attorney's fees.

If the commission is the prevailing party in a civil action filed pursuant to this subsection, the commission may claim a lien against the land on which the violation occurred for all costs awarded by the court. The commission shall file a notice of a lien with the register of deeds in the county in which the land is located.

For the purposes of this subsection, "shoreland zone" means the shoreland area as described in Title 38, section 435 and "occupant" means a person occupying land with the owner's permission.

Sec. 2. 30-A MRSA §4452, sub-§1-A is enacted to read:

1-A. Shoreland zoning violations; municipal authority. A municipality may take the following actions when an owner or occupant of land in the municipality violates a shoreland zoning ordinance adopted pursuant to Title 38, chapter 3, subchapter 1, article 2-B, including an ordinance or standard established or imposed by the State, as long as the municipality sends written notice to the last known address of the owner and occupant, if applicable, by certified mail, return receipt requested, demanding the owner or occupant remove, abate or otherwise correct the violation within 10 days and the violation is not removed, abated or otherwise corrected in that time period:

A. Deny the issuance of a permit to or suspend or revoke a permit of the owner or occupant for further development of the land on which the violation occurred until the violation is removed, abated or otherwise corrected and any penalties and court-awarded costs are paid; and

B. File a civil action against the owner or occupant to recover unpaid penalties, the cost to remove, abate or otherwise correct the violation, court costs and reasonable attorney's fees.

If the municipality is the prevailing party in a civil action filed pursuant to this subsection, the municipality may claim a lien against the land on which the violation occurred for all costs awarded by the court. The municipal officers or the officers' designee shall file a notice of the lien with the register of deeds in the county in which the land is located.

For the purposes of this subsection, "occupant" means a person occupying land with the owner's permission.

This subsection does not limit the powers of a municipality provided in any other provision of law.

A suspension or revocation of a permit pursuant to paragraph A remains in effect during any appeal of the suspension or revocation to a municipal board of appeals.

Sec. 3. 33 MRSA §173, sub-§5, as amended by PL 2017, c. 181, §2, is further amended to read:

5. Known defects. Any known defects; ~~and~~