



127th Legislature First Regular Session 2015 Legislation in Review

MECASA worked on a wide range of bills this session, many of which we supported and which are now law. Summaries of the new public laws and most of either the complete public law or relevant excerpts can be found in the following pages. A few highlights include the passage of:

- **LD 199** which, among other things, outlaws employers from prohibiting or discouraging their employees from making mandated reports to Child Protective Services. (Sponsor: Sen. Bill Diamond)
- **LD 679** which creates a new crime of “Unauthorized Dissemination of Certain Private Images” to address the form of image exploitation commonly known as revenge porn. (Sponsor: Rep. Ken Fredette)
- **LD 774** which provides another avenue for victims to seek restitution. (Sponsor: Rep. Barry Hobbins)
- **LD 861** which provides significant new protections for victims of sexual violence (including sex trafficking), victims of domestic violence, and victims of stalking with regard to housing. (Sponsor: Sen. Bill Diamond)
- **LD 921** which provides remedies for victims who were wrongfully denied workplace leave. (Sponsor: Rep. Matthea Daughtry)
- **LD 1180** which will require steps to improve schools’ engagement in child sexual abuse intervention. (Sponsor: Rep. Joyce Maker)
- **LD 1413** which allows an attorney to provide an oral or written statement on behalf a victim at a sentencing hearing. (Sponsor: Rep. Erin Herbig)

We are grateful to the sponsors of these bills and to our statewide partners for their work to help pass them.

As always, there were a range of bills which were not passed this session. Among them were two bills which MECASA felt needed to be significantly amended if they were going to be passed. Those bills would have criminalized consensual relationships between patients and their healthcare providers and clergy members and their parishioners. In addition, unfortunately, the Legislature upheld the Governor’s veto of a bill which would have converted an at large seat on the Maine Commission on Domestic and Sexual Abuse to one named for the Wabanaki Women’s Coalition. We plan to revisit that issue in the 128th session.

Finally, there were a number of bills that were carried over to next session for further consideration, and on which we plan to work with the interested parties between now and next session. Those include:

- **LD 268**, “An Act Regarding the Penobscot Nation’s and Passamaquoddy Tribe’s Authority to Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013”
- **LD 622**, “An Act to Require Training of Mandated Reporters under the Child Abuse Laws”
- **LD 951**, “An Act to Restore Judicial Discretion in the Administration of Fines”
- **LD 1114**, “An Act to Protect Maine’s Children from Sexual Abuse and Exploitation”

If you have questions about the bills featured in this report please feel free to contact us at info@mecasa.org or 207-626-0034. Selected Public Laws are attached after this report.

2015 Bills Passed

LD 1275: An Act Regarding Notice to the Public Pertaining to a Resident Person Deported from Canada to the United States for Committing a Sex Offense against a Child

Public Law 76

Sponsor: Representative Lori A. Fowle

Enacted Law Summary

Public Law 2015, chapter 76 authorizes a law enforcement agency that obtains from the United States Customs and Border Protection written documentation that a person resident in the jurisdiction of the agency has been deported from Canada to the United States because the person was convicted in Canada of a sex offense against a child to provide notice to the public as determined by the agency to be appropriate to ensure the public safety. The law states that neither the failure to perform the actions permitted by the bill nor the taking of actions in compliance with the bill subjects any state, municipal or county official or employee to liability in a civil action.

LD 379: An Act To Create the Sex Offender Management and Risk Assessment

Public Law 86

Sponsors: Senator Bill Diamond & Representative Lori A. Fowle

Enacted Law Summary

Public Law 2015, chapter 86 moves the law establishing the Sex Offender Risk Assessment Advisory Commission from Title 17-A to Title 34-A and changes the name of the commission to the Sex Offender Management and Risk Assessment Advisory Commission. The law changes the commission's powers and duties by requiring the commission to study and offer amendments to the sex offender registration and notification laws and allowing the commission to accept funding.

LD 774: An Act To Assist Victims of Crime To Obtain Restitution

Public Law 109

Sponsor: Representative Barry Hobbins

Enacted Law Summary

Public Law 2015, chapter 109 provides a civil remedy for victims of crime when restitution has not been paid as ordered. Chapter 109 requires that an order to make restitution be entered by the clerk in the same manner as a judgment in a civil action at the request of the attorney for the State or a person entitled to restitution under the order. After the order is entered in the same manner as a judgment in a civil action, the order is deemed a money judgment enforceable in accordance with the Maine Revised Statutes, Title 14, chapter 502.

Sponsor: Senator Bill Diamond**Enacted Law Summary**

Public Law 2015, chapter 117 requires a mandated reporter of child abuse and neglect to acknowledge in writing that the mandated reporter has received confirmation that the report has been made by the institution, facility or agency to the department. If the mandated reporter does not receive that confirmation within 24 hours of notifying the institution, facility or agency, the mandated reporter is required to report directly to the department. An employer is prohibited from taking any action to prevent or discourage an employee from making a report. Chapter 117 adds similar requirements for reports that must be made to the appropriate district attorney's office.

**LD 206: An Act To Clarify
Restrictions on Disclosure
of E-9-1-1 System Information****Public Law 153****Sponsor: Representative Barry Hobbins****Enacted Law Summary**

Public Law 2015, chapter 153 amends the confidentiality provisions regarding the E-9-1-1 system to provide that personally identifying information of a caller, a person receiving medical services or any other third party mentioned in an E-9-1-1 call is confidential. It amends the current definition of "confidential information" and defines "personally identifying information" and "medical information." In addition, chapter 153 allows release of audio recordings of E-9-1-1 calls to a person accused of a crime or that person's agent or attorney for the purposes of trial and sentencing if authorized by the prosecutor or prosecutorial office or a rule or order of a court of competent jurisdiction.

It is now illegal for an employer to discourage or forbid their employee from making a mandated report to DHHS.

**LD 1238: An Act To Allow the Release of Child
Protective Records to Certain Providers of Child
and Adult Services****Public Law 194****Sponsors: Senator Eric Brakey & Representative Deborah Sanderson****Enacted Law Summary**

Public Law 2015, chapter 194 amends the Child and Family Services and Child Protection Act to make it clear that, in addition to searching and providing information in its records to professional and occupational licensing boards, the Department of Health and Human Services also may provide information for a person or employer to conduct background or employment-related screening for persons to engage in child-related activities or employment or activities or employment relating to disabled adults. This change is based on the federal Child Abuse Prevention and Treatment Act.

LD 1112: An Act To Make Technical Changes to the Sex Offender Registration and Notification Acts of 1999 and 2013

Public Law 280

Sponsor: Representative Lori A. Fowle

Enacted Law Summary

Public Law 2015, chapter 280 amends the Sex Offender Registration and Notification Act of 1999 and the Sex Offender Registration and Notification Act of 2013 to make technical changes.

With respect to the Sex Offender Registration and Notification Act of 1999, Chapter 280:

1. Amends the Act to provide that, with respect to individuals convicted in other jurisdictions, only those individuals convicted before September 18, 1999 may apply for relief from the registration requirement, in order to parallel the provision applicable to registrants with Maine convictions. It also amends the law to require persons found not criminally responsible to be included in reinstating the registration requirement;
2. Amends the Act to require registration of a person sentenced after September 17, 1999 for a crime added after that date to the Act;
3. Amends the Act to not require verifications to be sent if the verification requirement has been suspended and to change the time period from 90 days to three months in order to require only four verifications a year. The bill also amends the law to clarify that in-person verification should occur every five years on the anniversary of the initial registration;
4. Amends the Act to require verifications from lifetime registrants who move to Maine from other jurisdictions;
5. Amends the Act to begin the registration period only after the duty to register has occurred;
6. Amends the Act to allow the Department of Public Safety, State Bureau of Identification to suspend the verification requirement for a registrant who is incarcerated, incapacitated or hospitalized; and
7. Amends the Act to provide for notice if a custodian of records certification is challenged.

With respect to the Sex Offender Registration and Notification Act of 2013, Chapter 280:

1. Amends the Act to make the crime of gross sexual assault against a person with intellectual disabilities or autism receiving services from a program of the Department of Health and Human Services a Tier II offense regardless of the age of the victim;
2. Amends the Act to include incest with prior convictions as a Tier III offense;
3. Amends the Act to clarify that the bureau's duty to collect and post information occurs after the initial registration form is received;
4. Amends the Act to not require verifications to be sent if the verification requirement has been suspended, to change the time period from 90 days to three months for Tier III registrants in order to require only four verifications a year and to change the time period from 180 days to six months for Tier II registrants;
5. Amends the Act to allow the bureau to suspend the verification requirement for a registrant who is incapacitated or hospitalized;

6. Amends the violations section in the Act to include cross-references to relevant provisions of the Sex Offender Registration and Notification Act of 1999; and
7. Amends the Act to provide for notice if a custodian of record certification is challenged.

Beginning in 2017, all school staff and faculty will need to have training on CSA awareness and response, all students will need to have prevention education, and schools must have policies and protocols for how to respond to disclosures and make reports.

LD 1413: An Act To Allow an Attorney To Speak or Provide a Written Statement for a Victim at Sentencing

Public Law 282

Sponsors: Senator Roger Katz & Representative Erin Herbig

Enacted Law Summary

Public Law 2015, chapter 282 allows an attorney for a victim of a crime to submit a written statement or speak on the victim's behalf in the court sentencing procedure.

LD 1180: An Act To Require Education in Public Preschool Programs and Elementary Schools Regarding Child Sexual Abuse

Public Law 292

Sponsor: Representative Joyce Maker

Enacted Law Summary

Public Law 2015, chapter 292 provides that the Commissioner of Education must develop a model policy on child sexual abuse prevention education and response for public preschool programs and elementary schools. The law requires the Department of Education to develop the model policy by July 1, 2016, to make the model policy available to school administrative units and to assist school administrative units in developing their own policies for child sexual abuse prevention education and response, based upon the model policy, which schools must develop for the 2017-2018 school year.

LD 861: An Act To Protect Victims of Domestic Violence, Sexual Assault or Stalking

Public Law 293

Sponsor: Senator Bill Diamond

Enacted Law Summary

Public Law 2015, chapter 293 amends the laws governing residential leases in instances where a tenant is a victim of domestic violence, sexual assault or stalking. It prohibits a landlord from evicting a tenant because of an instance of domestic violence, sexual assault or stalking. It also renders the perpetrator liable for certain damages.

Among several other protections, a landlord may not evict a tenant solely on the basis of being a sexual violence (including sex trafficking), domestic violence, or stalking victim.

LD 1439: An Act To Establish a Secure Internet-based Background Check Center for Providers of Long-term Care, Child Care and In-home and Community-based Services

Public Law 299

Sponsored: Senator David Burns

Enacted Law Summary

Public Law 2015, chapter 299 establishes an interagency comprehensive background check program to protect Maine citizens vulnerable to abuse, neglect or exploitation by individuals in positions of trust who are charged with the physical and financial care of these individuals. Providers are required to perform background checks prior to hiring new direct care workers as well as current on direct access

personnel. It creates the Background Check Center, which allows direct access care providers to secure background information from abuse and neglect databases, sex offender registries, the registry of certified nursing assistants and direct care workers, professional licensing authorities, Medicare and Medicaid exclusion databases and criminal history record repositories. The Background Check Center provides a report that identifies offenses that disqualify an individual from employment as a direct access worker. It also authorizes a system of continued criminal record monitoring through a rap back program to ensure that employers are informed of any new disqualifying criminal offense that may occur after a direct access worker's initial background check. It provides for a conditional employment process that allows direct access workers to correct inaccurate background check report records and procedures to gradually implement background checks for current employees. It establishes a process for an individual who has a disqualifying offense to secure a waiver from the employment ban. It establishes compliance requirements including penalties and the impact of violations on provider licensing for noncompliance with the requirements.

LD 1272: An Act To Strengthen the Protections for Senior Citizens in the State (Emergency)

Public Law 306

Sponsor: Senator David Burns

Enacted Law Summary

Public Law 2015, chapter 306 strengthens the protections for senior citizens in the State by amending the purposes of the criminal sentencing provisions to specifically reference the factor of a victim's ability to self-protect due to age and by specifically including financial exploitation in the definition of "abuse." The Attorney General may accept funds to fund on a limited-period basis positions within the Department of the Attorney General to investigate and prosecute the financial exploitation of dependent adults. Public Law 2015, chapter 306 was enacted as an emergency measure effective July 6, 2015.

LD 756: An Act To Enhance the Address Confidentiality Program Regarding Property Records

Public Law 313

Sponsor: Representative Michelle Dunphy

Enacted Law Summary

Public Law 2015, chapter 313 amends the Address Confidentiality Program to clarify when the address or mailing address may be released to law enforcement or other governmental entities. It also adds a provision to the tax laws allowing an Address Confidentiality Program participant to request that the municipal assessor redact the participant's name on the declaration of value form on file at the municipal office prior to disclosure.

LD 679: An Act To Prohibit the Unauthorized Distribution of Certain Private Images

Public Law 339

Sponsor: Representative Kenneth Fredette

The unauthorized distribution of certain private images is now a Class D crime.

Enacted Law Summary

Public Law 2015, chapter 339 prohibits unauthorized dissemination of certain private images. The law prohibits the dissemination of images that show a person in a state of nudity or engaged in a sexual act or engaged in sexual contact if the dissemination is done:

- In a manner in which there is no public or newsworthy purpose;
- With the intent to harass, torment or threaten; and
- The actor knows or should have known that the person depicted is an adult, is identifiable from the image or from information displayed with the image and has not consented to the dissemination, display or publication of the images.

Chapter 339 amends protection from abuse procedure to allow a complaint to be filed by a victim of unauthorized dissemination of certain private images without regard to whether a criminal prosecution has occurred. It designates unauthorized dissemination of certain private images as a Class D crime. It provides exceptions for lawful and common practices of medical treatment, images that involve voluntary exposure in a public or commercial setting and interactive computer and information services as defined in 47 United States Code, Sections 153 and 230(f)(2).

LD 921: An Act To Strengthen the Right of a Victim of Sexual Assault or Domestic Violence To Take Necessary Leave from Employment and To Promote Employee Social Media Privacy

Public Law 343

Sponsor: Representative Matthea Daughtry

Enacted Law Summary

Public Law 2015, chapter 343, Part A changes the penalties that may be assessed for violations of the employment leave for victims of violence law, as follows.

- It increases the fine from up to \$200 per violation to up to \$1,000 per violation and provides that the fine applies only to denials of leave in violation of the law.
- It provides that, for denial of leave in violation of the law, the employer must pay the affected individual an amount three times the total assessed fines.
- It provides that, for termination in connection with exercising a right granted under the law, the affected individual may choose either to receive an amount three times the total assessed fines or reemployment with the employer with back wages.

LD 210: An Act To Provide for Special Restrictions on Dissemination and Use of Criminal History Record Information for Class E Crimes Committed by an Adult under 21 Years of Age

Sponsor: Senator Linda Valentino

Public Law 354

Victims of sexual assault have a right to take necessary leave from work for court and medical appointments that are a direct result of their victimization.

Enacted Law Summary

Public Law 2015, chapter 354 establishes a process to apply special restrictions on the dissemination and use of criminal history record information about a Class E criminal conviction, other than a conviction for a sexual assault, if the person committed the crime when at least 18 years of age but no more than 21. The person must have no other convictions and no charges pending. The person must file a motion with the court in the underlying criminal proceeding to apply for the special treatment.

Upon receipt of a court order, the Department of Public Safety, Bureau of State Police, State Bureau of Identification must promptly alter its records relating to the person's qualifying criminal conviction to reflect that future dissemination of this criminal history record information must be pursuant to the new procedure.

The criminal history record information relating to the criminal conviction is confidential and may not be disseminated by a criminal justice agency, whether directly or through any intermediary, except to the person and to a criminal justice agency for the purpose of the administration of criminal justice and criminal justice agency employment. Unlawfully releasing the restricted information is a violation of the release of confidential information under the criminal history record information laws.

If the person is convicted of a subsequent crime, the person is required to file a written notice in the underlying criminal proceeding.

The provisions establishing the process to apply special restrictions on the dissemination and use of criminal history record information about an eligible criminal conviction are repealed October 1, 2019.

LD 431: An Act To Strengthen the Laws Prohibiting Stalking

Sponsor: Senator David Burns

Public Law 357

Enacted Law Summary

Public Law 2015, chapter 357 changes the laws on repeat offenses of stalking and expands the crime of stalking to include conduct directed at or concerning a group of persons. The law does the following:

- Expands the crime of stalking to include conduct directed at or concerning a group of persons, designating this crime as a Class C crime. In sentencing, the court is required to use a two-step process in which a base term of imprisonment of one year is imposed in step one and adjustment to that term is imposed in step two;
- Designates as a Class B crime a repeat offense of stalking a group of persons and escalates that crime to a Class B crime, requiring the court to use a two-step process, first determining a base term of imprisonment of two years and then adjusting that term after considering the fact of the stalking and aggravating and mitigating factors, including the impact on the victim; and
- Changes the escalation of criminal penalties for subsequent convictions of stalking, with one prior conviction for stalking or violation of a protective order now being sufficient to enhance penalties. Subsequent convictions are still Class C crimes, but the law adds a mandatory minimum sentence of one year.

One prior conviction of stalking is now sufficient to enhance penalties for subsequent stalking convictions.

LD 512: An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code

Sponsor: Representative Lori A. Fowle

Public Law 358

Enacted Law Summary

Public Law 2015, chapter 358 implements the following Criminal Law Advisory Commission recommendations respecting the Maine Criminal Code, including:

- It elevates to Class A crimes in the Maine Revised Statutes, Title 17-A, section 208 those forms of bodily injury.
- It amends Title 17-A, section 1201 to specify that when a court sentences a person to a term of imprisonment for a sex offense followed by a period of supervised release, as authorized by Title 17-A, chapter 50, that person is not eligible for the imposition of a sentence alternative that includes a period of probation.
- It amends Title 17-A, section 1231, subsection 6 regarding supervised release for sex offenders to make clear that, in the event the court revokes a period of supervised release and instead requires the person to serve time in prison, any remaining portion of the period

- of supervised release that is not required to be served in prison may not run during the time the person is in prison, and must resume after the person is released from prison.
- It amends Title 17-A, section 1252, subsection 4-E regarding imprisonment for a conviction of gross sexual assault against a person under 12 years of age to stipulate that supervised release is required following the term of imprisonment.

**LD 651: An Act To Amend Maine’s Sex
Trafficking and Prostitution Law**

Public Law 360

Sponsor: Senator Amy Volk

Enacted Law Summary

Public Law 2015, chapter 360 adds the crime of aggravated sex trafficking to the list of prior offenses that are used to enhance a charge of sex trafficking from a Class D to a Class C crime if a defendant has been convicted of two or more of the offenses. The law amends the Child and Family Services and Child Protection Act by adding to the definition of “abuse and neglect” various criminal offenses relating to sexual exploitation, prostitution and sex trafficking of minors and by creating a rebuttable presumption of a parent’s unwillingness or inability to protect a child from jeopardy in considering the termination of parental rights if a child for whom the parent was responsible is the victim of sexual exploitation, sex trafficking or aggravated sex trafficking.



Appendix: Selected Public Laws



mecasa.org • 207-626-0034

APPROVED

MAY 26, 2015

BY GOVERNOR

CHAPTER

109

PUBLIC LAW

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 527 - L.D. 774

An Act To Assist Victims of Crime To Obtain Restitution

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

Sec. 1. 17-A MRSA §1330-C is enacted to read:

§1330-C. Civil remedy upon default

Upon the request of the attorney for the State or a person entitled to restitution under an order of restitution, the clerk shall enter the order of restitution in the same manner as a judgment in a civil action. When entered under this section, the order of restitution is deemed to be a money judgment. Upon default, the order to make restitution is enforceable in accordance with Title 14, chapter 502 by any person entitled to restitution under the order.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND FIFTEEN

S.P. 74 - L.D. 199

An Act To Improve the Reporting of Child Abuse**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 22 MRSA §4011-A, sub-§1, as amended by PL 2009, c. 211, Pt. B, §18 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A youth camp administrator or counselor;

- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters;
- (29) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
- (30) A sexual assault counselor;
- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

If a person required to report notifies either the person in charge of the institution, agency or facility or the designated agent, the notifying person shall acknowledge in writing that the institution, agency or facility has provided confirmation to the notifying person that another individual from the institution, agency or facility has made a report to the

department. The confirmation must include, at a minimum, the name of the individual making the report to the department, the date and time of the report and a summary of the information conveyed. If the notifying person does not receive the confirmation from the institution, agency or facility within 24 hours of the notification, the notifying person immediately shall make a report directly to the department.

An employer may not take any action to prevent or discourage an employee from making a report.

Sec. 2. 22 MRSA §4011-A, sub-§2, as amended by PL 2007, c. 586, §11, is further amended to read:

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child or that a suspicious child death has been caused by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the appropriate district attorney's office.

If a person required to report notifies either the person in charge of the institution, agency or facility or the designated agent, the notifying person shall acknowledge in writing that the institution, agency or facility has provided confirmation to the notifying person that another individual from the institution, agency or facility has made a report to the appropriate district attorney's office. The confirmation must include, at a minimum, the name of the individual making the report to the appropriate district attorney's office, the date and time of the report and a summary of the information conveyed. If the notifying person does not receive the confirmation from the institution, agency or facility within 24 hours of the notification, the notifying person immediately shall make a report directly to the appropriate district attorney's office.

An employer may not take any action to prevent or discourage an employee from making a report.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 960 - L.D. 1413

**An Act To Allow an Attorney To Speak or Provide a Written Statement for a
Victim at Sentencing**

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

Sec. 1. 17-A MRSA §1174, sub-§1, as enacted by PL 1995, c. 680, §5, is amended to read:

1. The victim must be provided the opportunity to participate at sentencing by:
 - A. Making an oral statement in open court; or
 - B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record.

An attorney for the victim may submit a written statement or make an oral statement on the victim's behalf.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND FIFTEEN

H.P. 813 - L.D. 1180

An Act To Require Education in Public Preschool Programs and Elementary Schools Regarding Child Sexual Abuse

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §254, sub-§18 is enacted to read:

18. Model policy; child sexual abuse prevention. The commissioner shall develop a model policy for child sexual abuse prevention education and response that may be used for public preschool programs operated in compliance with chapter 203, subchapter 3 and for all students enrolled in kindergarten to grade 5.

A. No later than July 1, 2016, the commissioner, in consultation with the Department of Health and Human Services, organizations that have expertise in child sexual abuse prevention education and organizations representing school boards, administrators, teachers and parents, shall develop a model policy based on nationally recognized best practices that includes:

- (1) Child sexual abuse response and reporting procedures;**
- (2) Child sexual abuse awareness training and prevention education for school personnel;**
- (3) Age-appropriate child sexual abuse prevention education for students, aligned to the system of learning results established pursuant to section 6209 and delivered by qualified instructors;**
- (4) School response and reporting procedures; and**
- (5) Resources a victim of child sexual abuse or nonoffending caregivers of a victim of child sexual abuse may access for services and support.**

B. The department shall offer technical assistance to school administrative units that operate a public preschool program or an elementary school to aid in the establishment of a local child sexual abuse prevention education and response policy that is consistent with the model policy developed under paragraph A.

C. The department shall send a copy of the model policy developed under paragraph A to each school administrative unit in the State and post the model policy on the publicly accessible portion of the department's website along with any related resources that the commissioner determines necessary.

Sec. 2. 20-A MRSA §4502, sub-§5-C is enacted to read:

5-C. Child sexual abuse prevention education and response. Beginning in the 2017-2018 school year, a school administrative unit that operates a public preschool program or an elementary school shall adopt a written local policy for child sexual abuse prevention education and response that is consistent with the model policy developed by the commissioner pursuant to section 254, subsection 18.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 305 - L.D. 861

An Act To Protect Victims of Domestic Violence, Sexual Assault or Stalking

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

Sec. 1. 14 MRSA §6000 is enacted to read:

§6000. Definitions

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

1. Domestic violence. "Domestic violence" means conduct described in Title 17-A, chapters 9, 11, 12 and 13; Title 17-A, sections 432, 433, 506, 506-A, 506-B, 758, 805, 806, 852 and 853; and Title 19-A, section 4002, subsection 1, when the victim of that conduct or threat is a family or household member, as defined in Title 19-A, section 4002, subsection 4 or dating partner, as defined in Title 19-A, section 4002, subsection 3-A.

2. Sexual assault. "Sexual assault" means any conduct described under Title 17-A, chapters 11, 12 and 35 and Title 17-A, sections 852 and 853.

3. Stalking. "Stalking" means any conduct described in Title 17-A, section 210-A.

4. Victim. "Victim" means an individual who has been subject to domestic violence, sexual assault or stalking.

Sec. 2. 14 MRSA §6001, sub-§3, ¶C, as amended by PL 1989, c. 484, §1, is further amended to read:

C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; or

Sec. 3. 14 MRSA §6001, sub-§3, ¶E, as amended by PL 2011, c. 405, §1, is further amended to read:

E. Prior to being served with an eviction notice, filed, in good faith, a fair housing complaint for which there is a reasonable basis with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint for which there is a reasonable basis with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy; or

Sec. 4. 14 MRSA §6001, sub-§3, ¶F is enacted to read:

F. Prior to being served with an eviction notice, provided the landlord or the landlord's agent with notice that the tenant or tenant's minor child is a victim.

Sec. 5. 14 MRSA §6001, sub-§6 is enacted to read:

6. Domestic violence, sexual assault and stalking. This subsection applies to incidents involving domestic violence, sexual assault or stalking.

A. A victim may not be evicted based on an incident or incidents of actual or threatened domestic violence, sexual assault or stalking occurring at the premises or reporting to any agency such incidents that otherwise may be construed as:

(1) A nuisance under section 6002;

(2) Damage to property under section 6002; or

(3) A lease violation arising from a nuisance, a disturbance or damage to premises.

B. A victim may not be held liable for damage to the property related to an incident or incidents of actual or threatened domestic violence, sexual assault or stalking beyond the value of the victim's security deposit, as long as the alleged perpetrator is a tenant and the victim provides written notice of the damage and documentation required pursuant to paragraph H within 30 days of the occurrence of the damage.

C. A landlord may bifurcate a lease or tenancy without regard to whether a household member who is a victim is a signatory to the lease in order to evict or terminate the tenancy of a perpetrator of domestic violence, sexual assault or stalking. In bifurcating a tenancy, a landlord may not interfere with a victim's property rights as allocated in a valid court order. Nothing in this section may be construed to create a tenancy that previously did not exist.

D. A victim may terminate a lease early due to an incident or threat of domestic violence, sexual assault or stalking by providing:

(1) Seven days' written notice and documentation required pursuant to paragraph H, in the case of a lease of less than one year; or

(2) Thirty days' written notice and documentation required pursuant to paragraph H, in the case of a lease with a term of one year or more.

A victim is not liable for any unpaid rent under the victim's lease.

E. Nothing in this section prohibits a landlord from evicting a tenant for reasons unrelated to domestic violence, sexual assault or stalking.

F. Nothing in this section prohibits a landlord from instituting a forcible entry and detainer action against the tenant of the premises who perpetuated the domestic violence, sexual assault or stalking or obtaining a criminal no trespass order against a nontenant who perpetuates such violence or abuse at the premises.

G. Nothing in this section limits the rights of a landlord to hold a perpetrator of the domestic violence, sexual assault or stalking liable for damage to the property.

H. When a victim asserts any of the provisions contained within this chapter specifically available to a victim, except for changing locks according to section 6025, subsection 1, a victim shall provide to the landlord documentation of the alleged conduct by the perpetrator, including the perpetrator's name. Acceptable documentation includes, but is not limited to:

(1) A statement signed by a Maine-based sexual assault counselor as defined in Title 16, section 53-A, subsection 1, paragraph B, an advocate as defined in Title 16, section 53-B, subsection 1, paragraph A or a victim witness advocate as defined in Title 16, section 53-C, subsection 1, paragraph C;

(2) A statement signed by a health care provider, mental health care provider or law enforcement officer, including the license number of the health care provider, mental health care provider or law enforcement officer if licensed;

(3) A copy of a protection from abuse complaint or a temporary order or final order of protection;

(4) A copy of a protection from harassment complaint or a temporary order or final order of protection from harassment;

(5) A copy of a police report prepared in response to an investigation of an incident of domestic violence; and

(6) A copy of a criminal complaint, indictment or conviction for a domestic violence charge.

Sec. 6. 14 MRSA §6002, first ¶, as amended by PL 2009, c. 171, §1, is further amended to read:

Tenancies at will must be terminated by either party by a minimum of 30 days' notice, except as provided in ~~subsection~~ subsections 2 and 4, in writing for that purpose given to the other party, but if the landlord or the landlord's agent has made at least 3 good faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. In cases when the tenant has paid rent through the date when a 30-day notice would expire, the notice must expire on or after the date through which the rent has been paid. Either party may waive in writing the 30 days' notice at the time the notice is given, and at no other time prior to the giving of the notice. A termination based on a 30-day notice is not affected by the receipt of money, whether previously owed or for current use and occupation, until the date a writ of possession is issued against the tenant during the period of actual occupancy after receipt of the notice. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of

landlord and tenant unless the tenant has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party. Termination of the tenancy is deemed to occur at the expiration of the time fixed in the notice. A 30-day notice under this paragraph and a 7-day notice under subsection 2 may be combined in one notice to the tenant.

Sec. 7. 14 MRSA §6002, sub-§1, ¶¶B and C, as enacted by PL 2009, c. 171, §2, are further amended to read:

B. The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy; ~~or~~

C. The tenant is 7 days or more in arrears in the payment of rent; and

Sec. 8. 14 MRSA §6002, sub-§1, ¶D is enacted to read:

D. The tenant is a perpetrator of domestic violence, sexual assault or stalking and the victim is also a tenant.

Sec. 9. 14 MRSA §6002, sub-§4 is enacted to read:

4. Victims of domestic violence, sexual assault or stalking. A victim may terminate the victim's tenancy in a tenancy-at-will or a lease with a term of less than one year with 7 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H due to an incident or threat of domestic violence, sexual assault or stalking. A victim of domestic violence, sexual assault or stalking may terminate the victim's tenancy in a lease with a term of one year or more with 30 days' written notice and documentation required pursuant to section 6001, subsection 6, paragraph H. When written notice is provided to the landlord, the victim is not liable for any rent due beyond the date the notice expires or the date the victim vacates the unit, whichever is later, unless the victim has prepaid rent for the month, in which case the landlord is not required to refund the rent for that month.

Sec. 10. 14 MRSA §6010 as corrected by RR 2013, c. 2, §26, is amended by adding at the end 2 new paragraphs to read:

A perpetrator of domestic violence, sexual assault or stalking that occurs in a residential rental property against a tenant of the property, household member or a tenant's guest is liable to the tenant for the tenant's damages as a result of the domestic violence, sexual assault or stalking regardless of whether or not the perpetrator is also a tenant. Such damages include, but are not limited to, moving costs, back rent, current rent, damage to the unit, court costs and attorney's fees.

Nothing in this section relating to damages as a result of domestic violence, sexual assault or stalking creates liability on behalf of a landlord.

Sec. 11. 14 MRSA §6025, sub-§1, as amended by PL 1999, c. 204, §1, is further amended to read:

1. Tenant obligations. A tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

A tenant may not change the lock to the dwelling unit without giving notice to the landlord and giving the landlord a duplicate key within 48 hours of the change. A victim may change the locks to the unit at the victim's expense. If the victim changes the locks to the unit, the victim shall provide the landlord with a duplicate key within 72 hours of changing the locks. For the purposes of this subsection, "victim" has the same meaning as in section 6000, subsection 4.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 460 - L.D. 679

**An Act To Prohibit the Unauthorized Dissemination of Certain Private
Images**

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

Sec. 1. 17-A MRSA §511-A is enacted to read:

§511-A. Unauthorized dissemination of certain private images

1. A person is guilty of unauthorized dissemination of certain private images if the person, with the intent to harass, torment or threaten the depicted person or another person, knowingly disseminates, displays or publishes a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in a sexual act or engaged in sexual contact in a manner in which there is no public or newsworthy purpose when the person knows or should have known that the depicted person:

A. Is 18 years of age or older;

B. Is identifiable from the image itself or information displayed in connection with the image; and

C. Has not consented to the dissemination, display or publication of the private image.

2. This section does not apply to the following:

A. Lawful and common practices of medical treatment;

B. Images involving voluntary exposure in a public or commercial setting; or

C. An interactive computer service, as defined in 47 United States Code, Section 230(f)(2), or an information service, as defined in 47 United States Code, Section 153, with regard to content provided by another person.

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

A. "Sexual act" has the same meaning as in section 251, subsection 1, paragraph C and also includes:

- (1) The transfer or transmission of semen upon any part of the clothed or unclothed body of the depicted person;
- (2) Urination within a sexual context;
- (3) Bondage or sadomasochism in any sexual context;
- (4) Simulated sexual acts; and
- (5) Masturbation.

B. "Sexual contact" has the same meaning as in section 251, subsection 1, paragraph D and includes simulated sexual contact.

C. "State of nudity" means the condition of displaying fully unclothed, partially unclothed or transparently clothed genitals, pubic area or anus or, if the person is female, a partially or fully exposed breast below a point immediately above the top of the areola.

4. Unauthorized dissemination of certain private images is a Class D crime.

Sec. 2. 19-A MRSA §4005, sub-§1, as amended by PL 2011, c. 201, §1, is further amended to read:

1. Filing. An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11 or described as unauthorized dissemination of certain private images in Title 17-A, section 511-A, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

When an adult who is 60 years of age or older or a dependent adult, as defined in Title 22, section 3472, subsection 6, or an incapacitated adult, as defined in Title 22, section 3472, subsection 10, has been the victim of abuse as defined in section 4002, subsection 1 or Title 22, section 3472, subsection 1 by an extended family member or an unpaid care provider, the adult victim, the adult victim's legal guardian or a representative of the department may seek relief by filing a complaint alleging the abusive conduct. For the purposes of this subsection, "extended family member" includes, but is not limited to: a person who is related to the victim by blood, marriage or adoption, whether or not the person resides or has ever resided with the victim. "Unpaid care provider" includes, but

is not limited to, a caretaker who voluntarily provides full, intermittent or occasional personal care to the adult victim in the victim's home similar to the way a family member would provide personal care.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Provides funds for an anticipated increase in indigent legal services.

GENERAL FUND	2015-16	2016-17
All Other	\$7,900	\$7,900
GENERAL FUND TOTAL	\$7,900	\$7,900

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 244 - L.D. 651

An Act To Amend Maine's Sex Trafficking and Child Welfare Laws

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

Sec. 1. 17-A MRSA §853, sub-§1, ¶B, as enacted by PL 2013, c. 407, §3, is 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. 2. 22 MRSA §4002, sub-§1, as amended by PL 2007, c. 304, §10, is further amended to read:

1. Abuse or neglect. "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation including under Title 17-A, sections 282, 852, 853 and 855, deprivation of essential needs or lack of protection from these or failure to ensure compliance with school attendance requirements under Title 20-A, section 3272, subsection 2, paragraph B or section 5051-A, subsection 1, paragraph C, by a person responsible for the child.

Sec. 3. 22 MRSA §4002, sub-§1-B, ¶A, as amended by PL 2001, c. 696, §10, is further amended to read:

A. The parent has subjected any child for whom the parent was responsible to aggravated circumstances, including, but not limited to, the following:

(1) Rape, gross sexual misconduct, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, sexual exploitation of a minor, sex trafficking or aggravated sex trafficking, abandonment, torture, chronic abuse or any other treatment that is heinous or abhorrent to society.

Sec. 4. 22 MRSA §4055, sub-§1-A, ¶B, as amended by PL 1995, c. 481, §3, is further amended to read:

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

- (1) Murder;
- (2) Felony murder;
- (3) Manslaughter;
- (4) Aiding or soliciting suicide;
- (5) Aggravated assault;
- (6) Rape;
- (7) Gross sexual misconduct or gross sexual assault;
- (8) Sexual abuse of minors;
- (9) Incest;
- (10) Kidnapping;
- (11) Promotion of prostitution, sexual exploitation of a minor, sex trafficking or aggravated sex trafficking; or
- (12) A comparable crime in another jurisdiction;