

mecasa
MAINE COALITION AGAINST
SEXUAL ASSAULT



MECASA Legislative Report

129th Legislature
First Regular Session

2019 Legislative Session

The first session of the two year 129th Legislature wrapped up on June 20th. It was a very productive year with many successes to celebrate (once we take a little time off). It's always hard to pick favorites, but some highlights include:

- Filling the halls of the State House (not once but twice!) with sexual assault and domestic violence advocates in support of the funding bill - it was beautiful;
- The decriminalization of engaging in prostitution for individuals under 18; and
- The expansion of the statute of limitations from 8 to 20 years for some of Maine's most serious sex crimes.

We are always struck by the way each session finds us building new relationships and deepening our partnerships with old friends. This year, stand out new friends include: the Maine Employment Lawyers Association and their lead Jeff Young, who worked with us from before the session began until the final days, and did some very heavy lifting along the way (particularly with regard to the non-disclosure agreement bill, aka the Harvey Weinstein Act). We also had the chance to work with Amy Sneirson, the Maine Human Rights Commission's Executive Director, and Commission Counsel extraordinaire, Barbara Archer Hirsch. We also enjoyed working with our new friend Whitney Parrish, during her first session of work on behalf of the Maine Women's Lobby. Thanks Whitney, for all your support!

But our shiny new friends did not distract us from our tireless and steadfast allies, including Pine Tree Legal's Lucia Chomeau Hunt and Maine Equal Justice's Frank D'Alessandro, whose vision and hard work resulted in significant new tools for tenants who are being sexually harassed by their landlords. We are also grateful for our friends at the Maine State Police (and in particular Maj. Grotton, the Crime Lab's Lt. Scott Gosselin, and Lt. Col. Bill Harwood) for their work on the forensic kit initiative and the passage of two of its recommendations - expanding the time anonymous kits are stored from 90 days to 8 years, and ensuring that all sexual assault reports are shared by law enforcement with Maine's prosecutors.

Also, thanks to the Maine Women's Fund for funding a significant portion of our time at the State House and to our contract lobbyists of two decades, Moose Ridge Associates (the extraordinary Betsy Sweet and Laura Harper). Special credit to Betsy for being the MVP on our funding bill team.

Take note of the sponsors of this session's most notable bills and take a moment to thank them for their work. And, be on the lookout for our end of session report and Implications for Advocates guide (if you are a direct service provider).

See you next session!
--- Destie and Elizabeth

LD 1171 - Funding the Work

This session MECASA and the Maine Coalition to End Domestic Violence, with leadership from Senator Erin Herbig (and well over 100 co-sponsors!), initiated a bill to provide the first state investment in services for survivors of sexual and domestic violence in almost two decades. After the best public hearing many of us have seen in many years, with inspiring testimony from survivors, providers and community partners, the Health and Human Services Committee voted unanimously to send the bill on to the Appropriations Committee. Subsequently, with the support of Commissioners Lambrew and Figueroa, Governor Mills included our proposed \$5 million (over two years) in her budget package which was passed in the last days of the legislative session. As a result, over the next two years, Maine's sexual assault support centers and domestic violence resource centers will be increasing their critical intervention and prevention work across the state. Unfortunately, the Legislature only committed to two years of funding, so we will be back next session hoping to make this investment ongoing. Special thanks to Senator Herbig, the Governor, and members of the Health and Human Services and Appropriations Committees.

2019 New Laws

Public Law 412

LD 18 "An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence"

Sponsored by Rep. Lois Reckitt of South Portland

Enacted Law Summary

Part of this new law allows for the elevation of the third violation of a protection order to a class C.

Public Law 483

LD 67 "An Act to Ensure Access to Justice for Victims of Sexual Assault"

Sponsored by Sen. Erin Herbig of Waldo

Enacted Law Summary

Extends the statute of limitations for victims over 16 for A, B, and C Gross Sexual Assaults and Unlawful Sexual Contacts from 8 to 20 years. Next stop, total elimination?

Public Law 97

LD 324 "An Act Regarding Forfeiture of Assets of Persons Convicted of Aggravated Sex Trafficking Offenses, Sex Trafficking Offenses, Aggravated Criminal Forced Labor Offenses, and Criminal Forced Labor Offenses"

Sponsored by Rep. Lois Reckitt of South Portland

Enacted Law Summary

Provides for criminal forfeiture of property of a person convicted of certain criminal code offenses related to and including sex trafficking.

Public Law 156

LD 369 "An Act to Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees"

Sponsored by Sen. Rebecca Millett of Cumberland

Enacted Law Summary

Requires employers with more than 10 employees to provide one hour of paid leave for every 40 hours worked. (Effective January 1, 2021) We were less than a bit player on this one, but it is such a major win which will impact so many low income (mostly female) workers across the state it seemed important to include.

Public Law 94

LD 396 "An Act To Support Justice for Victims of Sexual Assault by Increasing the Time Sexual Assault Forensic Examination Kits Must Be Stored"

Sponsored by Rep. Chloe Maxmin of Nobleboro

Enacted Law Summary

Extends the required anonymous kit storage from 90 days to 8 years.

Public Law 84

LD 475 "An Act To Ensure Caller Access to E-9-1-1 Call Recordings"

Sponsored by Sen. Nathan Libby of Androscoggin

Enacted Law Summary

Allows for a party in a PFA/PFH proceeding to request an audio recording of a call to 911 if the party made a call that might be relevant to the proceeding. Access to the recording is at the discretion of the court.

Public Law 359

LD 496 "An Act To Extend the Availability of Protection from Abuse and Protection from Harassment Orders"

Sponsored by Sen. Stacey Guerin of Penobscot

Enacted Law Summary

Allows for anyone related by blood or marriage to access the PFA process. It also requires the clerk to provide plaintiffs with written contact information for resources including sexual assault support centers and domestic violence resource centers, and adds language to the form denying a PFA or PFH about the potential availability of the other form of relief.

Public Law 131

LD 548 "An Act Regarding Charging a Person under 18 Years of Age with the Crime of Engaging in Prostitution"

Sponsored by Sen. Bill Diamond of Cumberland

Enacted Law Summary

Decriminalizes prostitution for individuals under 18.

Public Law 91

LD 779 "An Act To Improve the Definition of "Strangulation" in the Aggravated Assault Laws"

Sponsored by Sen. Ned Claxton of Androscoggin

Enacted Law Summary

Intended to make the prosecution of strangulation easier. This will require proof that the defendant intentionally, knowingly, or recklessly applied pressure to the neck of the victim that resulted in the impeding of the victim's breathing, as opposed to current standard of intentionally causing the end result (impeding breathing).

Public Law 274

LD 820 "An Act To Prevent Discrimination in Public and Private Insurance Coverage for Pregnant Women in Maine"

Sponsored by Rep. Joyce McCreight of Harpswell

Enacted Law Summary

Allows for MaineCare funding for abortions without having to disclose a sexual assault. Again, MECASA was a bit player, but a big deal.

Public Law 188

LD 870 "An Act To Change the Membership of the Maine Commission on Domestic and Sexual Abuse To Include More Tribal Members"

Sponsored by Rep. Holly Stover of Boothbay

Enacted Law Summary

Modifies the membership of the Abuse Commission to include the director of the Wabanaki Women's Coalition, a tribal police chief, a representative of a tribal court, and a representative of tribal government.

Public Law 176

LD 978 "An Act To Clarify Maine's Protection from Abuse Statutes"

Sponsored by Rep. Donna Bailey of Saco

Enacted Law Summary

Specifies that when the court directs a defendant, in a protection from abuse case, to refrain from having any direct or indirect contact with the plaintiff, this includes direct or indirect contact via social media.

Public Law 80

LD 1140 "An Act to Improve the Investigation and Prosecution of Sexual Assault Cases"

Sponsored by Rep. Colleen Madigan of Waterville

Enacted Law Summary

Requires that when law enforcement receives a complaint of a sexual assault, they inform the appropriate prosecutor of any evidence and submit the complaint for review.

Public Law 165

LD 1025 "An Act to Prohibit the Provision of Conversion Therapy to Minors by Certain Licensed Professionals"

Sponsored by Rep. Ryan Fecteau of Biddeford

Enacted Law Summary

Defines conversion therapy in statute. Prohibits a range of professions such as certified school psychologists and guidance counselors, nurses, doctors, physician assistants, psychologists, and social workers from advertising, offering, or administering conversion therapy to individuals under 18 years of age. It also prohibits MaineCare reimbursement for conversion therapy for minors. Last session, when this bill was proposed, opponents provided testimony suggesting that conversion therapy was an important tool for those working with survivors of child sexual assault. This session we got in front of the issue.

Public Law 351

LD 1097 "An Act To Protect Tenants from Sexual Harassment"

Sponsored by Sen. Louis Luchini of Hancock

Enacted Law Summary

Defines sexual harassment in statute and creates additional remedies for tenants experiencing sexual harassment (or retaliation for reporting sexual harassment) by a landlord or a landlord's agent, including protections from being evicted and the opportunity to terminate the lease early if the tenant reports the sexual harassment to law enforcement, the courts, or the Maine Human Rights Commission before being served with a notice of eviction.

Public Law 438

LD 1375 "An Act to Prevent Law Enforcement Officers from Using Their Authority to Extract Sexual Favors"

Sponsored by Rep. David McCrea of Fort Fairfield

Enacted Law Summary

Similar to the current provisions related to corrections officers, it adds a section to gross sexual assault that prohibits law enforcement from engaging in a sexual act with a person who is under arrest, in custody, or being interrogated or temporarily detained. The new law makes sexual contact by law enforcement officers under the same circumstances a de-certifiable offense.

Public Law 464

LD 1701 "An Act To Clarify Various Provisions of the Maine Human Rights Act"

Sponsored by Rep. Donna Bailey of Saco

Enacted Law Summary

Makes a range of changes to the Maine Human Rights Act, including one change of particular interest to us. The new law separately defines "gender identity" to clarify the intent of the Act that discrimination against individuals based on gender identity is prohibited.

Public Law 464 continued:

The original version contained a clarification of the Maine Human Rights Commission's interpretation that in addition to the liability of the employers, an individual, like a supervisor, can be held liable for committing their own act of discrimination or retaliation outside the scope of their job responsibilities. This provision was removed through a last-minute amendment after the Governor's office expressed concerns about it. The Commission will continue to interpret the existing statutory language in this manner, adding its interpretation to its rules in order to ensure employers and employees are aware of it.

Public Law 465

LD 1702 "An Act To Enhance the Administration of the Maine Human Rights Act"

Sponsored by Rep. Donna Bailey of Saco

Enacted Law Summary

Part of this new law protects parties by making clear that certain information will remain confidential, including medical records, social security numbers, personnel files, and the names of minor children. All documents that are not public records within the meaning of the Freedom of Access Act, would also not be made public. The proposal also would make investigators' working notes confidential, which would protect attorney work products.

2019 Bills In Limbo

The end of Article IV, Part 3 (Legislative Power), section 2 of Maine's Constitution states that:

If the bill or resolution shall not be returned by the Governor within 10 days (Sundays excepted) after it shall have been presented to the Governor, it shall have the same force and effect as if the Governor had signed it unless the Legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within 3 days after the next meeting of the same Legislature which enacted the bill or resolution; if there is no such next meeting of the Legislature which enacted the bill or resolution, the bill or resolution shall not be a law.

In short, the Governor may allow a bill to become law without her signature, by not signing it within 10 days (not including Sundays) of its final enactment by the Legislature. However, if the 10 days end after the Legislature adjourns the final disposition is stalled. If the Legislature meets later in the year, the bill can be sent back to them within three days of the beginning of their session for the chance to override the veto or will become law. If they don't meet, the bill will not become law.

Unusually, this session there are three bills of interest to us which are in that situation.

LD 1550 "An Act To Create a Victims' Compensation Fund for Victims of Property Crimes"
Sponsored by Sen. Nathan Libby of Androscoggin

Enacted Law Summary

Would create the Victims' Property Compensation Fund to compensate victims of crimes in which the victims suffered property losses, modeled after the existing Victims' Compensation Fund.

LD 1703 "An Act To Improve Consistency within the Maine Human Rights Act"

Sponsored by Rep. Donna Bailey of Saco

Enacted Law Summary

A section of interest contained in this bill is one which says that public entities cannot discriminate on the basis of protected class. The Act currently bars discrimination in both private- and government-owned services and facilities that are open to the public (public accommodations). However, prisons and jails are not covered as they are not considered open to the public and are not generally considered places of "public accommodation." Currently public entities that are not also public accommodations are only prohibited from discriminating based on disability - leaving discrimination based on race, age, religion, national origin, sex, color, gender identity, and sexual orientation not covered. This bill would make the Act's public entity discrimination prohibitions consistent with those that apply to public accommodations.

LD 1756 "An Act To Improve Public Safety through Coordinated Reentry of Prisoners into the Community"

Sponsored by Rep. Rachel Talbot Ross of Portland

Enacted Law Summary

The current amendment makes significant changes to supervised community confinement and would require that the Department of Corrections establish a steering committee focused on assessing and examining the supervised community confinement program and reentry policies, practices, and procedures.

2019 Bills "Carried Over"

A number of other bills were not completed in this first year of the two-year legislative session, but have been approved to be considered during the next year of the two year legislative session which begins in January. Additional "carryovers" follow in the criminal justice systems section.

LD 44 "An Act Regarding the Maine Criminal Code"

Sponsored by Rep. Charlotte Warren of Hallowell for the Criminal Law Advisory Commission

LD 44 Continued:

Enacted Law Summary

Includes a provision which amends the crime of gross sexual assault against a person under 12 years of age or under 14 years of age, both of which are Class A crimes, by requiring that the actor be at least 3 years older than the other person.

LD 636 "An Act to Require Law Enforcement Officers to Wear Body Cameras"

Sponsored by Sen. Susan Deschambault of York

Enacted Law Summary

The current amendment under consideration would charge the Attorney General to convene a group to examine the range of implications of the use of body worn cameras including, importantly, victim privacy and safety.

LD 1250 "An Act To Prohibit Sexual Harassment as a Subject Matter of Mandatory Arbitration in Employment Contracts"

Sponsored by Rep. Ryan Tipping of Orono

Enacted Law Summary

Would prohibit an employment contract from including a clause that requires arbitration of a sexual harassment allegation or claim and makes any such clause void.

LD 1410 "An Act To Create Paid Family and Medical Leave Benefits"

Sponsored by Speaker Sara Gideon of Freeport

Enacted Law Summary

A bill which would create a comprehensive, universal paid family and medical leave program.

LD 1529 "An Act Concerning Nondisclosure Agreements in Employment"

Sponsored by Rep. Thom Harnett of Gardiner

Enacted Law Summary

Prohibits an employer from requiring an employee, intern, applicant for employment, or applicant for internship to enter into a contract with the employer that contains a nondisclosure agreement, non-disparagement agreement, waiver, or other provision that prevents them from disclosing or discussing discrimination, including harassment, occurring in the workplace or at work-related events coordinated by or through the employer. It also prevents an employer from requiring an employee, intern, applicant for employment, or applicant for internship to enter into a settlement, separation, or severance agreement that includes a provision that prevents the disclosure of factual information relating to a claim of discrimination, including harassment, unless the employee, intern, or applicant requests such a provision. Agreements may not explicitly or implicitly limit an individual's ability to provide testimony or evidence or make reports to any federal or state agency that enforces employment or discrimination laws, including, but not limited to, the Maine Human Rights Commission and the Department of Labor, and any agreement must make it clear that an individual retains the right to provide testimony or evidence or make reports to any federal or state

LD 1529 Continued:

agency that enforces employment or discrimination laws, including, but not limited to, the Maine Human Rights Commission and the Department of Labor. It specifies that an individual must be given 21 days to consider any agreement containing nondisclosure provisions and be provided at least 7 days following the execution of the agreement to revoke the agreement. The bill states that an agreement is not effective or enforceable until the revocation period has expired. It requires that an employer retain a copy of any settlement, separation, or severance agreement that prevents the disclosure of factual information relating to a claim of discrimination, including harassment, in the individual's personnel file for 6 years. It prohibits an employer from retaliating against an individual who opposes any act or practice that is unlawful under these provisions or interfering with an individual in the exercise or enjoyment of the rights granted or protected by these provisions. It provides the Department of Labor with the duty to enforce these provisions.

LD 1759 "An Act Regarding the Electronic Data and Court Records Filed in the Electronic Case Management System of the Supreme Judicial Court"

Sponsored by Sen. Michael Carpenter of Aroostook

Enacted Law Summary

Would require the Supreme Judicial Court to develop and adopt rules regarding court records and documents retained by the courts in an electronic case management system. The rules must reflect the presumption that court records are open to the public except in certain circumstances when necessary to protect private, personal, or confidential information, data and documents or when designated confidential by state or federal statute or by court rule or order. The presumption that court records are public does not preclude the imposition of reasonable fees for access to those records.

Criminal Justice Systems Issues

This session there were a range of bills to make changes to Maine's criminal justice system. They included proposals to limit the dissemination of criminal history record information, to seal criminal records, to prevent children under 14 from being incarcerated, to prevent children under 12 from being prosecuted, to expand the amount of goodtime available, to reinvest corrections dollars into community programming, and more. Most are still pending, but two, LDs 764 and 829 resulted in Resolves creating the Criminal Records Review Committee and the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners. These two Commissions as well as one meeting to examine juvenile issues will inform the Legislature's work next session.

Resolve Chapter 90

LD 764 "An Act To Limit the Dissemination of Certain Criminal Records"

Sponsored by Rep. Rachel Talbot Ross of Portland

Resolve Chapter 90 continued:

Creates the Criminal Records Review Committee to

- Review activities in other states that address the expungement of, sealing of and otherwise limiting public access to criminal records;
- Consider whether the following convictions should be subject to different treatment: A. Convictions for conduct that has been decriminalized in this State over the last 10 years and conduct that is currently under consideration for decriminalization; and B. Convictions for conduct that was committed by victims and survivors of sexual exploitation and sex trafficking;
- Consider whether there is a time limit after which some or all criminal records should not be publicly available;
- Invite comments and suggestions from interested parties, including but not limited to victim advocates and prison and correctional reform organizations;
- Review existing information about the harms and benefits of making criminal records confidential;
- Invite comments and suggestions concerning the procedures and processes to limit public accessibility of criminal records;
- Consider who, if anyone, should continue to have access to criminal records that are not publicly available; and
- Develop options to manage criminal records.

Resolve Chapter 104

LD 829 "Resolve, To Reestablish the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners"

Sponsored by Rep. Rachel Talbot Ross of Portland

Creates the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners to conduct research and prepare recommendations addressing the following goals:

- Reducing the overall juvenile and adult prison population in both state and county facilities, with a focus on lowering the population of nonviolent prisoners;
- Reducing the overall cost of the corrections system;
- Accomplishing policy, program and structural improvements that reduce recidivism and improve the transition of prisoners back into the community;
- Preserving community safety;
- Respecting the needs of victims and communities in the process of holding prisoners accountable for their actions; and
- Developing recommendations that address the factors leading to increasing juvenile and adult prisoner populations at both the county or regional jail and state prison levels, the impact of current sentencing laws, the use of alternate sentences and means to reduce recidivism, in particular recidivism caused by mental illness and substance use disorder.

LD 776 (Carryover) "An Act Regarding Post-Judgment Motion by a Person Seeking To Satisfy the Prerequisites for Obtaining Special Restrictions on the Dissemination and Use of Criminal History Record Information for Certain Criminal Convictions"

Sponsored by Rep. Rachel Talbot Ross of Portland

Current law makes convictions of certain Class E crimes eligible for special restrictions on dissemination and use of criminal history record information. This bill would expand eligibility to include convictions of both certain Class E crimes and certain Class D crimes and expand eligibility to a person who at the time of the commission of the crime was 18 to 25 years of age.

LD 1108 (Carryover) "Resolve, Establishing the Task Force on Alternatives to Incarceration for Maine Youth"

Sponsored by Rep. Michael Brennan of Portland

Would establish the Task Force on Alternatives to Incarceration for Maine Youth to:

- Review and evaluate current state and national reports regarding the efficacy of the use of incarceration of youth in the State and nationally;
- Seek input from juvenile justice system stakeholders;
- Develop a plan to close the Long Creek Youth Development Center by 2022 and make recommendations on subsequent use of the land or facility and a transition plan for the center's staff; and
- Develop recommendations for reinvestment of corrections funds currently designated for youth incarceration into a continuum of community-based alternatives.

LD 1210 (Carryover) "Resolve, To Direct the Commissioner of Corrections To Study Changes in Corrections Practices and Reinvestment in Corrections Resources To Reduce Recidivism and Control Correctional Facility Costs"

Sponsored by Rep. Rachel Talbot Ross of Portland

Would direct the Commissioner of Corrections to establish a working group to study changes in corrections practices and reinvestment of corrections resources to reduce recidivism and control correctional facility costs, including upstream interventions, diversion and alternative sentencing, prevention and harm reduction and mental health and substance use disorder treatment.

LD 1221 (Carryover) "An Act To Allow Deductions from Prison Sentences for Rehabilitative Activities"

Sponsored by Rep. Rachel Talbot Ross of Portland

Would allow, in addition to existing deductions in time from a prison or jail sentence, a deduction in time of up to 7.5 days per calendar month for a person's satisfactory performance, while in custody or on probation, in the completion of an educational program leading to a high school equivalency diploma, completion of another educational or vocational training program or a work release program or work for a county or state facility industry that leads directly to the rehabilitation of that person.

LD 1684 (Carryover) "An Act To Clarify the Right to Counsel for Juveniles and Improve Due Process for Juveniles"

Sponsored by Rep. Victoria Morales of South Portland

Would implement a wide range of juvenile justice reforms with the goal of preventing children under 12 years of age from being prosecuted for crimes, preventing children under 14 years of age from being incarcerated, eliminating the current requirement that, if committed, a juvenile must be committed for at least a year and preventing courts from imposing dispositions against juveniles that involve commitment without exhausting all other less restrictive alternatives.

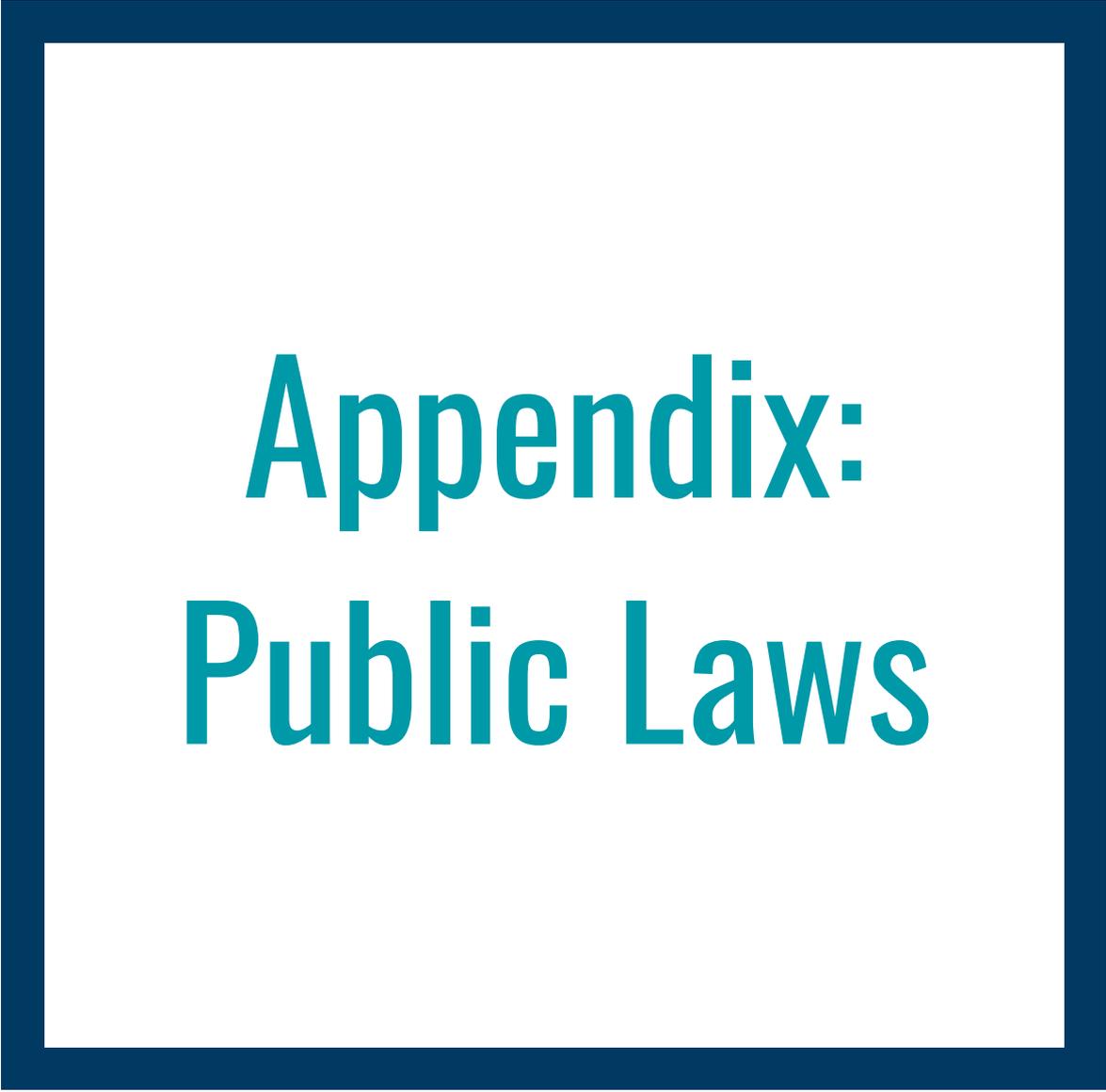
LD 1756 (In Limbo) "An Act To Improve Public Safety through Coordinated Reentry of Prisoners into the Community"

Sponsored by Rep. Rachel Talbot Ross of Portland

The current amendment makes significant changes to the supervised community confinement and would require that the Department of Corrections establish a steering committee focused on assessing and examining the supervised community confinement program and reentry policies, practices and procedures.



Special thanks to the Maine Women's Fund for helping to support our legislative work.



Appendix: Public Laws

APPROVED
MAY 8, 2019
BY GOVERNOR

CHAPTER
80
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 829 - L.D. 1140

An Act To Improve the Investigation and Prosecution of Sexual Assault
Cases

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

Sec. 1. 25 MRSA c. 411 is enacted to read:

CHAPTER 411

SUBMISSION OF SEXUAL ASSAULT CASES FOR REVIEW FOR
PROSECUTION

§3851. Submission of sexual assault cases for review for prosecution

A law enforcement agency in possession of a complaint for an alleged sexual assault under Title 17-A, chapter 11 shall within 60 days of receiving the complaint inform the appropriate prosecutor of any evidence and submit the complaint for review and a decision by the prosecutor regarding further investigation and commencement of prosecution. Failure of a law enforcement agency to inform the appropriate prosecutor of any evidence and submit a complaint to the appropriate prosecutor within 60 days as required by this section does not affect the validity of a later submission and prosecution.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 139 - L.D. 475

An Act Concerning Caller Access to E-9-1-1 Call Recordings**Be it enacted by the People of the State of Maine as follows:****Sec. 1. 25 MRSA §2929, sub-§4, ¶B-1** is enacted to read:

B-1. Directly to the clerk's office of a court presiding over a protection from abuse or protection from harassment action if a party in the action made one or more E-9-1-1 calls relevant to the action and that party, or that party's attorney, contacts the custodian of the audio recordings of the call or calls and requests that the recordings be forwarded to that clerk's office for use in a hearing on the complaint for protection from abuse or complaint for protection from harassment. At its discretion, the court presiding over the action may permit the parties to the action, and their attorneys if the parties are represented, to access the recordings and, on a finding of good cause, may permit copies of the recordings to be provided to the parties and their attorneys if the parties are represented. In making a request for recordings pursuant to this paragraph, the party making the request, or that party's attorney, shall provide to the custodian of the audio recordings the names of the parties to the protection from abuse or protection from harassment action, the name of the court presiding over the action and the docket number of the action. The request must be made in writing, including, but not limited to, by electronic mail, and must be made so as to provide a reasonable amount of time for the custodian to search for, retrieve and send the recordings to the clerk's office of the presiding court. The recordings must be sent in a format used by the custodian of the recordings and the courts;

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 569 - L.D. 764

Resolve, To Create the Criminal Records Review Committee

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the definition of appropriate access to criminal records is evolving as society changes its thinking with regard to sentencing, punishment, rehabilitation and fresh starts; and

Whereas, the treatment of convictions for conduct that is no longer criminal is subject to reevaluation; and

Whereas, the separation of powers concept enshrined in the Constitution of Maine limits the options available for reducing access to criminal records; and

Whereas, the Criminal Records Review Committee is established in this resolve to develop a proposed policy on the appropriate access to criminal records; and

Whereas, the work of the committee must be initiated before the 90-day period expires in order that the work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Review committee established. Resolved: That the Criminal Records Review Committee, referred to in this resolve as "the review committee," is established.

Sec. 2. Review committee membership. Resolved: That, notwithstanding Joint Rule 353, the review committee consists of 15 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House of Representatives, including at least one member from each of the 2 parties holding the largest number of seats in the Legislature;

3. The Attorney General or the Attorney General's designee;

4. The Commissioner of Public Safety or the commissioner's designee;

5. The President of the Maine Prosecutors Association or the president's designee;

6. The President of the Maine Association of Criminal Defense Lawyers or the president's designee;

7. The President of the Maine Sheriffs' Association or the president's designee;

8. A representative of a civil rights organization whose primary mission includes the advancement of racial justice, appointed by the President of the Senate;

9. A representative of a nonprofit organization whose mission includes advocating for victims and survivors of domestic violence or sexual assault, appointed by the President of the Senate;

10. A representative of a civil liberties organization whose primary mission is the protection of civil liberties, appointed by the Speaker of the House of Representatives; and

11. A representative of a nonprofit organization whose primary mission is to advocate for victims and survivors of sexual exploitation and sex trafficking, appointed by the Speaker of the House of Representatives.

The review committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the review committee.

Sec. 4. Appointments; convening of review committee. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the review committee. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the review committee to meet and conduct its business.

Sec. 5. Duties. Resolved: That the review committee shall:

1. Review activities in other states that address the expungement of, sealing of and otherwise limiting public access to criminal records;
2. Consider whether the following convictions should be subject to different treatment:
 - A. Convictions for conduct that has been decriminalized in this State over the last 10 years and conduct that is currently under consideration for decriminalization; and
 - B. Convictions for conduct that was committed by victims and survivors of sexual exploitation and sex trafficking;
3. Consider whether there is a time limit after which some or all criminal records should not be publicly available;
4. Invite comments and suggestions from interested parties, including but not limited to victim advocates and prison and correctional reform organizations;
5. Review existing information about the harms and benefits of making criminal records confidential;
6. Invite comments and suggestions concerning the procedures and processes to limit public accessibility of criminal records;
7. Consider who, if anyone, should continue to have access to criminal records that are not publicly available; and
8. Develop options to manage criminal records.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the review committee, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than December 4, 2019, the review committee shall submit to the Joint Standing Committee on Judiciary a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 129th Legislature.

Sec. 8. Outside funding. Resolved: That the review committee shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed.

Sec. 9. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds for the one-time costs to the Legislature of the Criminal Records Review Committee.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
Personal Services	\$1,100	\$0
All Other	\$1,650	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,750	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

STATE OF MAINE

—
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TWO THOUSAND NINETEEN

—
S.P. 223 - L.D. 779

**An Act To Improve the Definition of "Strangulation" in the Aggravated
Assault Laws**

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

Sec. 1. 17-A MRSA §208, sub-§1, ¶C, as amended by PL 2015, c. 358, §1, is further amended to read:

C. Bodily injury to another under circumstances manifesting extreme indifference to the value of human life. Such circumstances include, but are not limited to, the number, location or nature of the injuries, the manner or method inflicted, the observable physical condition of the victim or the use of strangulation. For the purpose of this paragraph, "strangulation" means ~~the intentional~~ impeding of the breathing or circulation of the blood of another person by intentionally, knowingly or recklessly applying pressure on the person's throat or neck. Violation of this paragraph is a Class B crime.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 249 - L.D. 324

An Act Regarding Forfeiture of Assets of Persons Convicted of Aggravated Sex Trafficking Offenses, Sex Trafficking Offenses, Aggravated Criminal Forced Labor Offenses and Criminal Forced Labor Offenses

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

Sec. 1. 15 MRSA §5821, sub-§7-A, ¶A, as enacted by PL 1999, c. 349, §2, is amended to read:

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; ~~and~~

Sec. 2. 15 MRSA §5821, sub-§9, as enacted by PL 2007, c. 684, Pt. C, §2 and affected by Pt. H, §1, is amended to read:

9. Assets in human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C;

Sec. 3. 15 MRSA §5821, sub-§§10 and 11 are enacted to read:

10. Assets in sex trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to an aggravated sex trafficking offense as defined in Title 17-A, section 852 or a sex trafficking offense as defined in Title 17-A, section 853; and

11. Assets in criminal forced labor offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a criminal forced labor offense as defined in Title 17-A, section 304 or an aggravated criminal forced labor offense as defined in Title 17-A, section 305.

Sec. 4. 15 MRSA §5826, sub-§1, as enacted by PL 1995, c. 421, §1, is amended to read:

1. Property subject to criminal forfeiture. Notwithstanding any other provision of law, a person convicted of a ~~violation of Title 17-A, chapter 45~~ crime that subjects the person to forfeiture of property under section 5821 forfeits to the State all rights, privileges, interests and claims to that property that is subject to forfeiture pursuant to section 5821. All rights, privileges, interest and title in property subject to forfeiture under this section vests in the State upon the commission of the act giving rise to forfeiture pursuant to section 5821.

Sec. 5. 15 MRSA §5826, sub-§2, as amended by PL 2015, c. 431, §33, is further amended to read:

2. Commencement of criminal forfeiture action. Property subject to forfeiture may be proceeded against by indictment of the grand jury or by complaint in the District Court in any related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a ~~violation of Title 17-A, chapter 45~~ crime that subjects the person to forfeiture of property under section 5821. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that property is subject to criminal forfeiture. Discovery in the criminal action must be as provided for by the Maine Rules of Unified Criminal Procedure.

Sec. 6. 15 MRSA §5826, sub-§6, as amended by PL 2017, c. 460, Pt. F, §1, is further amended to read:

6. Final order of disposition of property; public education campaign. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment, information or complaint. The final order must provide for the deposit of the property or the proceeds from the disposition of the property, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, in the General Fund, except that, to the extent that the court finds it reasonable, the court may order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case or, upon request of the investigating agency or the prosecuting agency, to a law enforcement agency in this State that provides case management and other social services to persons ~~with substance use disorders~~ affected by crimes that are subject to forfeiture of property under this chapter.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 603 - L.D. 829

**Resolve, To Reestablish the Commission To Improve the Sentencing,
Supervision, Management and Incarceration of Prisoners**

Sec. 1. Commission established. Resolved: That, notwithstanding Joint Rule 353, the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners, referred to in this section as "the commission," is established.

- 1. Commission membership.** The commission consists of 20 members as follows:
 - A. Two members of the Senate appointed by the President of the Senate;
 - B. Two members of the House of Representatives, at least one of whom is a sponsor or cosponsor of this legislation, appointed by the Speaker of the House of Representatives;
 - C. The Attorney General or the Attorney General's designee;
 - D. The Commissioner of Corrections or the commissioner's designee;
 - E. The Commissioner of Health and Human Services or the commissioner's designee;
 - F. The Director of Adult Community Corrections within the Department of Corrections or the director's designee;
 - G. Nine individuals appointed by the Governor:
 - (1) A representative of a statewide association of prosecutors nominated by the association;
 - (2) A representative of a statewide association of county commissioners nominated by the association;
 - (3) A representative of a statewide association of county sheriffs nominated by the association;
 - (4) A representative of a statewide association of criminal defense lawyers nominated by the association;

- (5) A representative of a statewide organization representing people with mental illness and their families;
- (6) A member of the public;
- (7) A representative of a statewide organization working to end domestic violence;
- (8) A representative of a statewide organization working to end sexual assault; and
- (9) A member of a federally recognized tribe in the State; and

H. The commission shall invite the Chief Justice of the Supreme Judicial Court to serve or name a designee to serve as a voting member of the commission and to appoint 2 trial judges or their designees to serve as voting members of the commission.

2. Appointments; chair; meetings. All appointments must be made no later than 30 days following the effective date of this resolve. The first-named Senate member is the Senate chair and the first-named House member is the House chair of the commission, who shall call and convene the first meeting of the commission no later than 30 days after appointments of all members. The commission may hold up to 6 meetings, which, at the discretion of the chairs, may include public hearings.

3. Duties. The duties of the commission are as follows.

A. The commission shall conduct research and prepare recommendations addressing the following goals:

- (1) Reducing the overall juvenile and adult prison population in both state and county facilities, with a focus on lowering the population of nonviolent prisoners;
- (2) Reducing the overall cost of the corrections system;
- (3) Accomplishing policy, program and structural improvements that reduce recidivism and improve the transition of prisoners back into the community;
- (4) Preserving community safety;
- (5) Respecting the needs of victims and communities in the process of holding prisoners accountable for their actions; and
- (6) Developing recommendations that address the factors leading to increasing juvenile and adult prisoner populations at both the county or regional jail and state prison levels, the impact of current sentencing laws, the use of alternate sentences and means to reduce recidivism, in particular recidivism caused by mental illness and substance use disorder.

B. To accomplish its purpose, the commission shall examine multiple strategies for addressing issues related to the continually and rapidly increasing prisoner populations at both the county or regional jail and state prison levels, including diversion from juvenile corrections, diversion from jail or prison, programming to improve reentry from jail or prison back to the community, community alternatives to

incarceration and changes in sentencing laws, policies and practices. In conducting its examination, the commission shall:

- (1) Study factors leading to increasing juvenile and adult prisoner populations in state and county correctional facilities; examine and analyze the prisoner population and projected growth at both the county or regional jail and state prison levels to include offenses, length of sentence and other issues, such as mental illness and substance use disorder, that lead to incarceration or reincarceration; and identify trends in the prisoner population and determine what impact these changes will have on future growth;
- (2) Examine factors linking juvenile and adult prisoner populations;
- (3) Review existing program and treatment levels for the prisoner population and recommend improvements based on projected need and effective programs supported by research; and
- (4) Consult with and seek input from former prisoners as well as from organizations advocating for persons with mental illness.

4. Staff assistance. The Department of Corrections shall provide necessary staffing services to the commission.

5. Compensation. The members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission. Members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings.

6. Report. No later than December 4, 2019, the commission shall submit a report detailing its findings and recommendations, including any proposed legislation, to the Joint Standing Committee on Criminal Justice and Public Safety and to the Joint Standing Committee on Judiciary, each of which may report out legislation related to the report to the Second Regular Session of the 129th Legislature.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 170 - L.D. 548

**An Act Regarding Charging a Person under 18 Years of Age with the Crime
of Engaging in Prostitution**

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

Sec. 1. 17-A MRSA §853-A, sub-§1, as amended by PL 2007, c. 476, §29, is further amended to read:

1. A person who has in fact attained 18 years of age is guilty of engaging in prostitution if:

A. The person engages in prostitution as defined in section 851. Violation of this paragraph is a Class E crime, except that the sentencing alternative may include only the penalties provided in section 1301; 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.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

S.P. 110 - L.D. 369

An Act Authorizing Earned Employee Leave

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

Sec. 1. 26 MRSA §42-B, sub-§1, ¶¶E and F, as enacted by PL 2017, c. 219, §2, are amended to read:

- E. Video display terminal safety as described in section 252, subsection 1; and
- F. Minimum wage and overtime provisions as described in section 664; and

Sec. 2. 26 MRSA §42-B, sub-§1, ¶G is enacted to read:

G. Earned paid leave.

Sec. 3. 26 MRSA §637 is enacted to read:

§637. Earned paid leave

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

- A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251.
- B. "Employer" has the same meaning as in section 1043, subsection 9.
- C. "Employee" means a person engaged in employment.

2. Earned paid leave. An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay as provided in this section.

3. Accrual. An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use

of the leave before the employee has been employed by that employer for 120 days during a one-year period.

4. Rate. An employee while taking earned leave must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.

5. Notice. Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.

6. Benefits. The taking of earned leave under this section may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. Nothing in this section prevents an employer from providing a benefit greater than that provided by this section.

7. Enforcement. The bureau has the exclusive authority pursuant to section 42 to enforce this section.

8. Penalties. Penalties for violations of this section are the same as those provided in section 53.

9. Preemption. A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave.

10. Rules. The Department of Labor shall adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt, investigation and prosecution of complaints brought under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Exception. This section does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

12. Reporting. Beginning January 1, 2022, and annually thereafter, the Department of Labor shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section.

Sec. 4. Effective date. This Act takes effect January 1, 2021.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 755 - L.D. 1025

**An Act To Prohibit the Provision of Conversion Therapy to Minors by
Certain Licensed Professionals**

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

Sec. 1. 20-A MRSA §13020, sub-§2-A is enacted to read:

2-A. Grounds for discipline of a school psychologist or guidance counselor.
Evidence that a person who is certified under this Title as a school psychologist or guidance counselor has advertised, offered or administered conversion therapy as defined in Title 32, section 59-C, subsection 1 to a child is grounds for discipline of that person.

Sec. 2. 20-A MRSA §13020, sub-§3, as enacted by PL 1983, c. 845, §4, is amended to read:

3. Denial of certificate for prior immoral or prohibited conduct. Evidence that an applicant for initial certification or renewal has injured the health or welfare of a child through physical or sexual abuse or exploitation is grounds for a denial of a certificate. Evidence that an applicant for initial certification or renewal as a school psychologist or guidance counselor has advertised, offered or administered conversion therapy as defined in Title 32, section 59-C, subsection 1 to a child is grounds for a denial of a certificate. Notwithstanding Title 5, chapter 341, every person; who, within 5 years of the application for initial certification or renewal, has been convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child; may be presumed by the commissioner to lack good moral character for the purposes of this chapter. This presumption ~~shall be~~ is a rebuttable presumption. Notwithstanding Title 5, chapter 341, the commissioner ~~shall be~~ is entitled to consider all records of prior criminal convictions involving child abuse or exploitation in determining an applicant's eligibility for a certificate.

Sec. 3. 22 MRSA §3174-BBB is enacted to read:

§3174-BBB. Coverage for conversion therapy

The department may not provide MaineCare reimbursement for conversion therapy as defined in Title 32, section 59-C, subsection 1 administered to a minor.

Sec. 4. 32 MRSA §59-C is enacted to read:

§59-C. Definitions

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

1. Conversion therapy. "Conversion therapy" means any practice or treatment that seeks or claims to change an individual's sexual orientation or gender identity, including, but not limited to, any effort to change gender expression or to eliminate or reduce sexual or romantic attractions, feelings or behavior toward others based on the individual's gender. "Conversion therapy" does not include the following:

A. Any practice or treatment that assists an individual undergoing a gender transition;

B. Any practice or treatment that provides acceptance, support and understanding to an individual as long as the practice or treatment does not seek or claim to change the individual's sexual orientation or gender identity; and

C. Any practice or treatment that facilitates an individual's coping, social support or identity exploration and development, including any therapeutic treatment such as talk therapy that is neutral with regard to sexual orientation and gender identity that does not seek or claim to change an individual's sexual orientation or gender identity and that seeks to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek or claim to change the individual's sexual orientation or gender identity.

2. Sexual orientation or gender identity. "Sexual orientation or gender identity" has the same meaning as "sexual orientation" in Title 5, section 4553, subsection 9-C.

Sec. 5. 32 MRSA §2105-A, sub-§2, ¶I, as amended by PL 2015, c. 488, §11, is further amended to read:

I. Engaging in false, misleading or deceptive advertising; or

Sec. 6. 32 MRSA §2105-A, sub-§2, ¶J, as enacted by PL 2015, c. 488, §12, is amended to read:

J. Failure to comply with the requirements of Title 22, section 7253; or

Sec. 7. 32 MRSA §2105-A, sub-§2, ¶K is enacted to read:

K. A violation of section 2112.

Sec. 8. 32 MRSA §2112 is enacted to read:

§2112. Prohibition on providing conversion therapy to minors

An individual licensed or certified under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 9. 32 MRSA §2591-A, sub-§2, ¶N, as amended by PL 2015, c. 488, §15, is further amended to read:

N. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State; ~~or~~

Sec. 10. 32 MRSA §2591-A, sub-§2, ¶O, as enacted by PL 2015, c. 488, §16, is amended to read:

O. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 11. 32 MRSA §2591-A, sub-§2, ¶P is enacted to read:

P. A violation of section 2600-D.

Sec. 12. 32 MRSA §2600-D is enacted to read:

§2600-D. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 13. 32 MRSA §3282-A, sub-§2, ¶R, as amended by PL 2015, c. 488, §18, is further amended to read:

R. Failure to timely respond to a complaint notification sent by the board; ~~or~~

Sec. 14. 32 MRSA §3282-A, sub-§2, ¶S, as enacted by PL 2015, c. 488, §19, is amended to read:

S. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 15. 32 MRSA §3282-A, sub-§2, ¶T is enacted to read:

T. A violation of section 3300-G.

Sec. 16. 32 MRSA §3300-G is enacted to read:

§3300-G. Prohibition on providing conversion therapy to minors

An individual licensed, registered or certified under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 17. 32 MRSA §3837-A, sub-§1, ¶¶E and F, as enacted by PL 2007, c. 402, Pt. Q, §14, are amended to read:

E. Practice by a licensed psychological examiner at a level requiring a psychologist's license or any representation by a psychological examiner that that psychological examiner is a psychologist; ~~or~~

F. Negligence in the performance of the licensee's duties; ~~or~~

Sec. 18. 32 MRSA §3837-A, sub-§1, ¶G is enacted to read:

G. A violation of section 3837-B.

Sec. 19. 32 MRSA §3837-B is enacted to read:

§3837-B. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 20. 32 MRSA §6217-B, sub-§1, as amended by PL 2017, c. 407, Pt. A, §138, is further amended to read:

1. Active use. Active use of alcohol or any other drug that in the judgment of the board is detrimental to the performance or competency of a licensee of the board; ~~or~~

Sec. 21. 32 MRSA §6217-B, sub-§2, as enacted by PL 2007, c. 402, Pt. U, §12, is amended to read:

2. Mental incompetency. A legal finding of mental incompetency; ~~or~~

Sec. 22. 32 MRSA §6217-B, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 6223.

Sec. 23. 32 MRSA §6223 is enacted to read:

§6223. Prohibition on providing conversion therapy to minors

An individual licensed, certified or registered under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 24. 32 MRSA §7006 is enacted to read:

§7006. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 25. 32 MRSA §7059-A, sub-§§1 and 2, as enacted by PL 2007, c. 402, Pt. V, §14, are amended to read:

1. Addiction to the use of alcohol or other drugs. Addiction, as confirmed by medical findings, to the use of alcohol or other drugs, that has resulted in the licensed clinical, licensed master or licensed social worker or certified social worker - independent practice being unable to perform duties or perform those duties in a manner that would not endanger the health or safety of the clients to be served; ~~or~~

2. Mental incompetency. A medical finding of mental incompetency; ~~or~~

Sec. 26. 32 MRSA §7059-A, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 7006.

Sec. 27. 32 MRSA §13742-A, sub-§1, ¶D, as amended by PL 2017, c. 434, §2, is further amended to read:

D. Engaging in false, misleading or deceptive advertising; ~~or~~

Sec. 28. 32 MRSA §13742-A, sub-§1, ¶E, as enacted by PL 2017, c. 434, §3, is amended to read:

E. Failing to comply with section 13800; ~~or~~

Sec. 29. 32 MRSA §13742-A, sub-§1, ¶F is enacted to read:

F. A violation of section 13800-B.

Sec. 30. 32 MRSA §13800-B is enacted to read:

§13800-B. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 31. 32 MRSA §13861-A, sub-§1, ¶¶B and C, as enacted by PL 2007, c. 402, Pt. EE, §9, are amended to read:

B. A medical finding of mental incompetency; ~~and~~

C. Having had any professional or occupational license revoked for disciplinary reasons or any application rejected for reasons relating to untrustworthiness, within 3 years of the date of application; ~~and~~

Sec. 32. 32 MRSA §13861-A, sub-§1, ¶D is enacted to read:

D. A violation of section 13866.

Sec. 33. 32 MRSA §13866 is enacted to read:

§13866. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 34. 32 MRSA §17307, sub-§§1 and 2, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, are amended to read:

1. Unfair and deceptive practices. Engaging in unfair or deceptive practices as defined by the rules established by the board or violating the code of ethics adopted and published by the board, including selling or causing to be sold a hearing aid to a person who has not been given tests such as pure tone, air and bone audiometry or other hearing assessments as determined by the board. The results of these tests must be permanently filed; ~~or~~

2. Negligence. Incompetence, negligence or neglect in the conduct of the practice of dealing in and fitting of hearing aids, including, but not limited to, the improper fitting of a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear mold impression or fitting an ear mold without prior inspection of the external ear canal, making an ear mold impression or fitting an ear mold after prior inspection revealed the presence of, or impacted, cerumen in the ear canal, the failure to indicate the need for medical or audiological evaluation when the prospective purchaser's history reveals a probable risk of disease or progressive hearing impairment, the failure to make the required medical referrals, the incorrect reporting of hearing test results to a person, the failure to be present to fit the final hearing aid in the ear of the purchaser and the tampering with a satisfactorily performing hearing aid owned by a purchaser or potential purchaser to cause that hearing aid to no longer perform correctly; ~~or~~

Sec. 35. 32 MRSA §17307, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 17311.

Sec. 36. 32 MRSA §17311 is enacted to read:

§17311. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 37. Legislative findings; legislative intent.

1. Legislative findings. The Legislature finds that:

A. Conversion therapy is a practice or treatment, including but not limited to talk therapy, that seeks or claims to change a person's sexual orientation or gender identity. It is also referred to by other names, such as sexual orientation change efforts, gender identity change efforts, reparative therapy and reintegrative therapy;

B. A wide range of the major health and mental health associations in the United States recognize being lesbian, gay, bisexual or transgender and having same-sex sexual attractions as normal variants of human sexuality and gender identity, rather than an illness or developmental disorder;

C. The medical and social science consensus is that conversion therapy is a harmful and ineffective practice or treatment. Conversion therapy is based on the false

premise that being lesbian, gay, bisexual or transgender is a mental illness or disorder and is caused by a developmental deficiency, trauma, abuse or unmet emotional needs and that conversion therapy can alter a person's sexual orientation or gender identity;

D. There is no competent and reliable scientific evidence supporting claims that conversion therapy can change an individual's sexual orientation; rather, there is substantial competent and reliable scientific evidence, including recently published research on young adults who experienced conversion therapy as children, that conversion therapy is ineffective and can and often does result in significant health and safety risks to consumers of those services, including suicidality, depression, guilt, helplessness, hopelessness, shame, social withdrawal and difficulties, substance use disorder and loss of religious faith as well as reduced educational and vocational development and economic losses;

E. In 2015, the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration developed an expert consensus about how to address distress and conflicts about sexual orientation and gender identity in minors and concluded that conversion therapy for minors is not an appropriate treatment because it can be harmful and creates poor psychosocial outcomes, such as heightened psychological distress, compromised overall well-being and increased health disparities. Additionally, the Substance Abuse and Mental Health Services Administration concluded that conversion therapy is coercive in directing the child to conform to any gender expression or sexual orientation, or directing the parents to place pressure for specific gender expressions, gender identities and sexual orientations, and that doing so is inappropriate and reinforces harmful gender and sexual orientation stereotypes;

F. The nation's leading medical and mental health professional organizations, including the American School Counselor Association, the American Psychiatric Association, the American Psychological Association, the American Association of Child and Adolescent Psychiatry, the American Psychoanalytic Association, the American Counseling Association Governing Council, the American Medical Association, the American Academy of Pediatrics, the American Academy of Family Physicians, the National Association of Social Workers, the Pan American Health Organization and the World Professional Association for Transgender Health, have concluded that conversion therapy is ineffective in changing sexual orientation or gender identity and poses safety and health risks; and

G. The State has a compelling interest in protecting the physical and psychological well-being of minors, including the State's lesbian, gay, bisexual and transgender youth and those youth seeking to examine or understand their sexual orientation or gender identity, from the advertising, offering and administering of conversion therapy and in protecting its minors from the serious health and safety harms that conversion therapy can cause.

2. Legislative intent. It is the intent of the Legislature to protect the public health and the safety of all youth of the State, including lesbian, gay, bisexual and transgender youth and those youth seeking to examine or understand their sexual orientation or gender identity, by prohibiting the advertising, offering and administering of therapy

designed to change a person's sexual orientation or gender identity, also known as conversion therapy, to individuals under 18 years of age in the State.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 733 - L.D. 978

An Act To Clarify Maine's Protection from Abuse Statutes

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

Sec. 1. 19-A MRSA §4002, sub-§7 is enacted to read:

7. Social media. "Social media" means an electronic medium or service through which users create, share and view user-generated content, including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and text messages, e-mail, online service accounts and Internet website profiles and locations.

Sec. 2. 19-A MRSA §4007, sub-§1, ¶D, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff, including via social media;

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 644 - L.D. 870

**An Act To Change the Membership of the Maine Commission on Domestic
and Sexual Abuse To Include More Tribal Members**

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

Sec. 1. 19-A MRSA §4013, sub-§1, ¶A, as amended by PL 2009, c. 257, §1, is further amended to read:

A. The Governor shall name the chair from among the following members:

(1) ~~Two members~~ One member, appointed by the Governor, who ~~are representatives~~ is a representative of the statewide coalition of domestic violence projects;

(1-A) ~~Two members~~ One member, appointed by the Governor, who ~~are representatives~~ is a representative of the statewide coalition of sexual assault centers;

(2) One member, appointed by the Governor, who is a representative of the mental health profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

(5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;

(5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;

(6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;

- (7) One member, appointed by the Governor, who is chief of a municipal police department or the chief's designee;
- (8) One member, appointed by the Governor, who is a county sheriff or the sheriff's designee;
- (8-A) One member, appointed by the Governor, who is the ~~statewide coordinator~~ executive director of a statewide coalition to end domestic violence;
- (8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;
- (8-C) The Attorney General or the Attorney General's designee;
- (8-D) The Chief of the Maine State Police or the chief's designee;
- (9) The Commissioner of Public Safety or the commissioner's designee;
- (9-A) The Commissioner of Health and Human Services or the commissioner's designee;
- (9-C) The Commissioner of Education or the commissioner's designee;
- (9-D) The Commissioner of Labor or the commissioner's designee;
- (9-E) The Commissioner of Corrections or the commissioner's designee;
- (9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs;
- (10) Up to ~~6~~ 4 members-at-large, appointed by the Governor;
- (11) Up to 4 members, appointed by the Governor, representing underserved populations; ~~and~~
- (12) One member, appointed by the Governor, who is a tribal member and provides services through a tribal program to tribal members who are victims of domestic or sexual violence;
- (13) One member, appointed by the Governor, who is an executive director of a tribal coalition against sexual assault and domestic violence;
- (14) One member, appointed by the Governor, who is chief of a tribal police department or the chief's designee;
- (15) One member, appointed by the Governor, who is a representative of a tribal court; and
- (16) One member, appointed by the Governor, who is a representative of tribal government.

Sec. 2. Transition. Notwithstanding the Maine Revised Statutes, Title 19-A, section 4013, subsection 1, paragraph A, the members of the Maine Commission on Domestic and Sexual Abuse serving immediately prior to the effective date of this Act continue to serve as members of the commission for the terms for which they were appointed until the Governor appoints their successors.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 594 - L.D. 820

**An Act To Prevent Discrimination in Public and Private Insurance Coverage
for Pregnant Women in Maine**

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

Sec. 1. 22 MRSA §3196 is enacted to read:

§3196. Coverage for non-Medicaid services to MaineCare members

1. Coverage. The department shall provide coverage for abortion services to a MaineCare member.

2. Funding. Abortion services that are not federally approved Medicaid services must be funded by state funds within existing resources.

3. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24 MRSA §2317-B, sub-§20, as amended by PL 2013, c. 575, §3, is further amended to read:

20. Title 24-A, chapters 68 and 68-A. Long-term care insurance, nursing home care insurance and home health care insurance, Title 24-A, chapters 68 and 68-A; ~~and~~

Sec. 3. 24 MRSA §2317-B, sub-§21, as enacted by PL 2013, c. 575, §4 and affected by §10, is amended to read:

21. Title 24-A, sections 2765-A and 2847-U. The practice of dental hygiene by a dental hygiene therapist, Title 24-A, sections 2765-A and 2847-U; and

Sec. 4. 24 MRSA §2317-B, sub-§22 is enacted to read:

22. Title 24-A, section 4320-M. Coverage for abortion services, Title 24-A, section 4320-M.

Sec. 5. 24-A MRSA §4320-M is enacted to read:

§4320-M. Coverage for abortion services

1. Required coverage. A carrier offering a health plan in this State that provides coverage for maternity services shall provide coverage for abortion services for an enrollee in accordance with this section.

2. Limits; deductible; copayment; coinsurance. A health plan that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Application. Except for a religious employer granted an exclusion as provided in subsection 4, the requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

4. Exclusion for religious employer. A religious employer may request and a carrier shall grant an exclusion under the policy or contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains an exclusion under this subsection shall provide prospective enrollees and those individuals insured under its policy written notice of the exclusion. This section may not be construed as authorizing a carrier to exclude coverage for abortion services that are necessary to preserve the life or health of a covered enrollee. For the purposes of this section, "religious employer" means an employer that is a church, a convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 United States Code, Section 3121(w)(3)(A) and that qualifies as a tax-exempt organization under 26 United States Code, Section 501(c)(3).

5. Protection of federal funds. If the superintendent determines enforcement of this section may adversely affect the allocation of federal funds to the State, the superintendent may grant an exemption from the requirements of this section, but only to the minimum extent necessary to ensure the continued receipt of federal funds.

Sec. 6. Rules. The Department of Health and Human Services shall adopt the rules required by the Maine Revised Statutes, Title 22, section 3196 by March 1, 2020.

Sec. 7. Emergency rules. The Department of Health and Human Services may adopt emergency rules under the Maine Revised Statutes, Title 5, section 8054 as necessary to implement Title 22, section 3196 without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

Sec. 8. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, that section of this Act that enacts Title 24-A, section 4320-M is

enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

Sec. 9. Application. That section of this Act that enacts the Maine Revised Statutes, Title 24-A, section 4320-M applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2020. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Appropriates funds to provide coverage to MaineCare members for legal abortion services.

GENERAL FUND	2019-20	2020-21
All Other	\$125,281	\$375,843
GENERAL FUND TOTAL	<u>\$125,281</u>	<u>\$375,843</u>

Office of MaineCare Services 0129

Initiative: Appropriates one-time funds for oversight, development and testing of technology changes.

GENERAL FUND	2019-20	2020-21
All Other	\$102,265	\$0
GENERAL FUND TOTAL	<u>\$102,265</u>	<u>\$0</u>

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF
DEPARTMENT TOTALS**

	2019-20	2020-21
GENERAL FUND	\$227,546	\$375,843
DEPARTMENT TOTAL - ALL FUNDS	<u>\$227,546</u>	<u>\$375,843</u>

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 329 - L.D. 1097

An Act To Protect Tenants from Sexual Harassment

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

Sec. 1. 14 MRSA §6000, sub-§2-A is enacted to read:

2-A. Sexual harassment. "Sexual harassment" means verbal or physical conduct of a sexual nature directed at a specific person, including, but not limited to, unwelcome sexual advances; sexually suggestive remarks or actions; unwanted hugs, touches or kisses; and requests for sexual favors. Sexual harassment" includes retaliation for communicating about or filing a complaint of sexual harassment.

Sec. 2. 14 MRSA §6001, sub-§3, as amended by PL 2015, c. 293, §§2 to 4, is further amended to read:

3. Presumption of retaliation. In any action of forcible entry and detainer there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

- A. Asserted the tenant's rights pursuant to section 6021 or section 6030-D;
- B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;
- 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;
- 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

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; or

G. Prior to being served with an eviction notice, communicated to the landlord or the landlord's agent about an act of sexual harassment or filed a complaint with a law enforcement agency, the Maine Human Rights Commission or a court of an act of sexual harassment by the landlord or the landlord's agent against the tenant or a family or household member of the tenant.

If an action of forcible entry and detainer is brought for ~~failure to pay rent or for causing substantial damage to the premises~~ any reason set forth in section 6002, subsection 1 or for violation of a lease provision, the presumption of retaliation does not apply, unless the tenant has asserted a right pursuant to section 6026.

No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.

Sec. 3. 14 MRSA §6001, sub-§6, ¶D-1 is enacted to read:

D-1. A tenant who is the victim of sexual harassment by a landlord or the landlord's agent may terminate a lease as set forth in paragraph D if the tenant provides documentation set forth in paragraph H.

Sec. 4. 14 MRSA §6016-A is enacted to read:

§6016-A. Sexual harassment prohibited; Maine Human Rights Act

A landlord or a landlord's agent may not subject a tenant to sexual harassment.

Nothing in this subchapter limits the application of the Maine Human Rights Act.

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 S.P. 161 - L.D. 496

An Act To Extend the Availability of Protection from Abuse and Protection from Harassment Orders
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §4653, sub-§1, ¶B, as amended by PL 2017, c. 455, §2, is further amended to read:

B. If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault, stalking or harassment as described in Title 17-A, section 506, subsection 1, paragraph A-1 or A-2, a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or a statement of good cause why such a notice was not sought or obtained. The court has discretion, based on the nature of the allegations as well as any further inquiry that the court may make of the plaintiff, to issue an order even if notice to stop harassing the plaintiff has not been issued to the defendant as described in Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a).

Sec. 2. 19-A MRSA §4005, sub-§1, as amended by PL 2017, c. 455, §4, is further amended to read:

1. Filing. An adult who has been abused, as defined in section 4002, subsection 1, by a family or household member or, a dating partner or an individual related by consanguinity or affinity 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 or an individual related by consanguinity or affinity, 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 or described as aggravated sex trafficking or sex trafficking in Title 17-A, section 852 or 853, respectively, 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 or conduct described in Title 17-A, section 282 or 283 or harassment as described in Title 17-A, section 506, subsection 1, paragraph A-1 or A-2, 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. 19-A MRSA §4005, sub-§2, ¶C, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

C. The clerk shall provide to a plaintiff written contact information for resources from which the plaintiff may receive legal or social service assistance provided to the Administrative Office of the Courts by the various providers, including the Maine State Bar Association or successor organization, any local or statewide organizations providing domestic violence services and sexual assault services and any other agency providing reliable and relevant resource contact information.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 19 - L.D. 18

An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, to ensure the necessary and proper prosecution of crimes in the State involving domestic violence and to enhance the protection of victims of domestic violence from their abusers, this legislation must take effect immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 17-A MRSA §207-A, sub-§1, ¶B, as amended by PL 2017, c. 432, Pt. D, §1, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

- (1) Has one or more prior convictions for violating paragraph A or for violating section ~~208-D, 208-E, 208-F,~~ 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section ~~208-D, 208-E, 208-F,~~ 209-A, 210-B, 210-C or 211-A in another jurisdiction;
- (2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;
- (3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when

the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

Sec. 2. 17-A MRSA §§208-D, 208-E and 208-F are enacted to read:

§208-D. Domestic violence aggravated assault

1. A person is guilty of domestic violence aggravated assault if that person:

A. Violates section 208, subsection 1, paragraph A and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime;

B. Violates section 208, subsection 1, paragraph A-1 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class A crime;

C. Violates section 208, subsection 1, paragraph B and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime; or

D. Violates section 208, subsection 1, paragraph C and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime.

§208-E. Domestic violence elevated aggravated assault

1. A person is guilty of domestic violence elevated aggravated assault if:

A. The person violates section 208-B; and

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

2. Violation of this section is a Class A crime.

§208-F. Domestic violence elevated aggravated assault on pregnant person

1. A person is guilty of domestic violence elevated aggravated assault on a pregnant person if:

A. The person violates section 208-C; and

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

2. Violation of this section is a Class A crime.

Sec. 3. 17-A MRSA §209-A, sub-§1, ¶B, as amended by PL 2017, c. 432, Pt. D, §2, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

Sec. 4. 17-A MRSA §210-B, sub-§1, ¶B, as amended by PL 2017, c. 432, Pt. D, §3, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

Sec. 5. 17-A MRSA §210-C, sub-§1, ¶B, as amended by PL 2017, c. 432, Pt. D, §4, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

Sec. 6. 17-A MRSA §211-A, sub-§1, ¶B, as amended by PL 2017, c. 432, Pt. D, §5, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

Sec. 7. 19-A MRSA §4002, sub-§4, as amended by PL 2015, c. 296, Pt. C, §24 and affected by Pt. D, §1, is further amended to read:

4. Family or household members. "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of Title 15, section 1023, subsection 4, paragraph B-1 and Title 15, section 1094-B, this chapter and Title 17-A, sections 15, 207-A, 208-D, 208-E, 208-F, 209-A, 210-B, 210-C, 211-A, 1201, 1202 and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 8. 19-A MRSA §4011, sub-§5 is enacted to read:

5. Repeat violations. A person who commits a violation under subsection 1 and has 2 or more prior convictions under subsection 1 or 2 or more convictions for engaging in substantially similar conduct in another jurisdiction commits a Class C crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

Sec. 9. 19-A MRSA §4012, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

5. Arrest in certain situations. When a law enforcement officer has probable cause to believe that there has been a criminal violation under section 4011 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, section ~~208~~ 208-D, 208-E, 208-F ~~has occurred between members of the same family or household~~ has occurred, that enforcement officer shall arrest and take into custody the alleged offender.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 996 - L.D. 1375

**An Act To Prohibit Certain Sexual Acts and Sexual Contact by Law
Enforcement Officers in Performance of Official Duties and To Amend the
Law on Obstructing Criminal Prosecution**

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

Sec. 1. 17-A MRSA §253, sub-§2, ¶L, as amended by PL 2017, c. 300, §1, is further amended to read:

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime; ~~or~~

Sec. 2. 17-A MRSA §253, sub-§2, ¶M, as enacted by PL 2017, c. 300, §2, is further amended to read:

M. The other person has not expressly or impliedly acquiesced to the sexual act. Violation of this paragraph is a Class C crime; or

Sec. 3. 17-A MRSA §253, sub-§2, ¶N is enacted to read:

N. The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. For the purposes of this paragraph, "law enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection 5. Violation of this paragraph is a Class B crime.

Sec. 4. 17-A MRSA §754, sub-§1, as amended by PL 2001, c. 383, §89 and affected by §156, is further amended to read:

1. A person is guilty of obstructing criminal prosecution if:

A. The person uses force, violence or intimidation, or the person promises, offers or gives any pecuniary benefit or anything of benefit to another, with the intent to induce the other:

- (1) To refrain from initiating a criminal prosecution or juvenile proceeding; or
- (2) To refrain from continuing with a criminal prosecution or juvenile proceeding that the other person has initiated; or

B. The person solicits, accepts or agrees to accept any pecuniary benefit or anything of benefit to another in consideration of doing any of the things specified in this subsection.

Sec. 5. 25 MRSA §2806-A, sub-§5, ¶¶J and K, as enacted by PL 2013, c. 147, §39, are amended to read:

J. Engaging in conduct that violates the standards established by the board and that when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent certificate holder would observe in the same or similar situation; ~~and~~

K. Engaging in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual act or sexual contact:

- (1) The officer was engaged in an investigation or purported investigation involving an allegation of abuse, as defined in former Title 19, section 762, subsection 1 and in Title 19-A, section 4002, subsection 1;
- (2) The other person was the alleged victim of that abuse;
- (3) The parties did not have a preexisting and ongoing sexual relationship that included engaging in any sexual act or sexual contact; and
- (4) Less than 60 days had elapsed since the officer initially became involved in the investigation or purported investigation; ~~and~~

Sec. 6. 25 MRSA §2806-A, sub-§5, ¶L is enacted to read:

L. Engaging in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual contact the applicant or certificate holder is acting in performance of official duties and the other person is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime, except that it is not grounds for discipline that a certificate holder properly performs a search of a person for legitimate law enforcement purposes consistent with training standards approved by the board.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1216 - L.D. 1701

An Act To Clarify Various Provisions of the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4553, as amended by PL 2015, c. 457, §§1 and 2, is further amended to read:

§4553. Definitions

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings.

1. Commission. "Commission" means the Maine Human Rights Commission established by this Act.

1-A. Commercial facilities. "Commercial facilities" means facilities that are intended for nonresidential use.

1-B. Covered entity. For purposes of subchapter ~~HH~~ 3, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter ~~V~~ 5, "covered entity" means any applicable private entity or public entity.

1-C. Direct threat. For purposes of subchapter ~~HH~~ 3, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation.

1-D. Aggrieved person. "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination on the basis of protected class status, including discrimination based on the person's known relationship or association with a member of a protected class and discrimination on the basis of perceived protected class status. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.

1-E. Complainant. "Complainant" means a person who files a complaint under section 4611 ~~or a civil action under section 4621.~~

1-F. Conciliation. "Conciliation" means the attempted resolution after a finding by the commission that unlawful discrimination has occurred of issues raised by a complaint filed under section 4611 or by an investigation of such a complaint through informal negotiations involving the complainant, the respondent and the commission.

1-G. Conciliation agreement. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

1-H. Assistance animal. "Assistance animal" means, for the purposes of subchapter 4:

A. An animal that has been determined necessary for an individual with a physical or mental disability to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner ~~or~~, licensed social worker, licensed professional counselor or other licensed health professional with knowledge of the disability-related need for an assistance animal; or

B. An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items.

2. Discriminate. "Discriminate" includes, without limitation, segregate ~~or~~, separate or subject to harassment.

For purposes of subchapter ~~HH 3,~~ "discriminate" also includes, ~~as it relates to individuals with physical or mental disability:~~

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the ~~disability~~ protected class of the applicant or employee;

B. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee ~~with a disability~~ to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs;

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of ~~disability~~ protected class status; or

(2) That perpetuate ~~the~~ discrimination ~~of~~ on the basis of protected class status by others who are subject to common administrative control;

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known ~~disability~~ protected class status of an individual with whom the qualified individual is known to have a relationship or association;

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity;

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual ~~with a disability~~ or a class of individuals ~~with disabilities~~ based on their protected class status unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except when the skills are the factors that the test purports to measure.

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes.

3. Employee. "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee.

4. Employer. "Employer" includes any person in this State employing any number of employees, whatever the place of employment of the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly, such that the person's actions are considered the actions of the employer for purposes of liability; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of

the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer.

5. Employment agency. "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person acting in the interest of the person such that the agent's actions are considered the actions of the employment agency for purposes of liability.

5-A. Familial status. "Familial status" means that a family unit may contain one or more individuals who have not attained ~~the age of~~ 18 years of age and are living with:

- A. A parent or another person having legal custody of the individual or individuals; or
- B. The designee of the parent or other person having custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status ~~shall~~ apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained ~~the age of~~ 18 years of age.

5-B. Family. "Family" includes, but is not limited to, a single individual.

5-C. Gender identity. "Gender identity" means the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.

6. Housing accommodation. "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, that is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes.

6-A. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection may not be construed to require the mandatory retirement of a member or to deny employment to any person based solely on that person's normal retirement age.

7. Person. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

7-A. Physical or mental disability. "Physical or mental disability" has the meaning set forth in section 4553-A.

8. Place of public accommodation. "Place of public accommodation" means a facility, operated by a public entity or private entity, whose operations fall within at least one of the following categories:

- A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest;
- B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink;
- C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment;
- D. An auditorium, convention center, lecture hall or other place of public gathering;
- E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment;
- F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment;
- G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation;
- H. A museum, library, gallery or other place of public display or collection;
- I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health;
- J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;
- K. A ~~day-care~~ day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment;
- L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants;
- M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and
- N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public.

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior

portions of the residence available to or used by customers or clients, including rest rooms.

8-A. Private entity. "Private entity" means any entity other than a public entity.

8-B. Public accommodation. "Public accommodation" means a public entity or private entity that owns, leases, leases to or operates a place of public accommodation.

8-C. Public entity. "Public entity" means:

- A. The State or any local government;
- B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and
- C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act, ~~Section 103 (8)~~.

8-D. Qualified individual with a disability. "Qualified individual with a disability" applies to only:

- A. Subchapter ~~III~~ 3 (employment); and
- B. Subchapter ~~V~~ 5 (public accommodations) with regard to public entities only.

For purposes of subchapter ~~III~~ 3, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

For purposes of subchapter ~~V~~ 5, "qualified individual with a disability" means an individual with a disability who, with or without reasonable modification to rules, policies or practices, the removal of architectural, communication or transportation barriers or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

8-E. Protected class. "Protected class" means a class of individuals protected from unlawful discrimination under this Act.

9. Real estate broker and sales agent. "Real estate broker" and "real estate ~~salesman~~ sales agent" have the same definitions meanings as ~~are given respectively~~ in Title 32, ~~section 4001, subsections 2 and 3~~ sections 13198 and 13200 respectively; but include all persons meeting those definitions, whether ~~or not~~ they are licensed or required to be licensed.

9-A. Reasonable accommodation. For purposes of subchapter ~~III~~ 3, "reasonable accommodation" may include, but is not limited to:

- A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, leaves of absence, acquisition or modification of equipment or devices,

appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities.

9-B. Undue hardship; undue burden. "Undue hardship" or "undue burden" ~~mean~~ means an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

- A. The nature and cost of the accommodation needed under this Act;
- B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility;
- C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities;
- D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity;
- E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for making public accommodations and places of employment accessible;
- F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities;
- G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities;
- H. Documented good faith efforts to explore less restrictive or less expensive alternatives;
- I. The availability of equipment and technology for the accommodation;
- J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation;
- K. Efforts to minimize costs by spreading costs over time; and
- L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public.

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation.

9-C. Sexual orientation. "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.

9-E. Service animal. "Service animal" means:

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

9-F. Rent. "Rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

9-G. Respondent. "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611 ~~or a civil action filed under section 4621.~~

10. Unlawful discrimination. "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter ~~III~~ 3;

B. Unlawful housing discrimination as defined and limited by subchapter ~~IV~~ 4;

C. Unlawful public accommodations discrimination as defined by subchapter ~~V~~ 5;

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types of unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued in this subsection; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought in this subsection;

E. In determining whether a person is acting as an agent or employee of another person so as to make such other person responsible for that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling;

F. Unlawful educational discrimination as defined and limited by subchapter 5-B; and

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation or gender identity, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

- (1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;
- (2) Housing; and
- (3) Educational opportunity, as is more fully set forth in section 4602, subsection 4.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph.

Sec. 2. 5 MRSA §4555, as enacted by PL 1995, c. 393, §10, is repealed.

Sec. 3. 5 MRSA §4573-A, sub-§1, as enacted by PL 1995, c. 393, §21, is amended to read:

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability based on protected class status has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

Sec. 4. 5 MRSA §4573-A, sub-§1-B, as enacted by PL 1995, c. 511, §1 and affected by §3, is repealed.

Sec. 5. 5 MRSA §4592, sub-§7, ¶B, as amended by PL 2007, c. 664, §6, is further amended to read:

B. That perpetuate the discrimination of others who are subject to common administrative control; ~~and~~

Sec. 6. 5 MRSA §4592, sub-§8, as amended by PL 2015, c. 457, §4, is further amended to read:

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or

security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This subsection does not apply to an assistance animal as defined in section 4553, subsection 1-H unless the assistance animal also qualifies as a service animal-; and

Sec. 7. 5 MRSA §4592, sub-§9 is enacted to read:

9. Unlawful public accommodations. For any public accommodation to designate a single-occupancy toilet facility as for use only by members of one sex. A single-occupancy toilet facility may be identified by a sign, as long as the sign does not indicate that the facility is for use by members of one specific sex. For the purposes of this subsection, a "single-occupancy toilet facility" is a restroom for use by one user at a time or for family or assisted use and that has an outer door that can be locked by the occupant.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1217 - L.D. 1702

An Act To Enhance the Administration of the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4566, sub-§3, as amended by PL 1985, c. 785, Pt. B, §36, is further amended to read:

3. Personnel. To appoint a full-time executive ~~secretary~~ director and counsel to the commission, not subject to the Civil Service Law, and determine their remuneration; and to appoint, subject to the Civil Service Law, other personnel including, but not limited to, investigators, attorneys, compliance personnel and secretaries, as it shall deem necessary to effectuate the purposes of this Act;

Sec. 2. 5 MRSA §4566, sub-§4, as enacted by PL 1971, c. 501, §1, is amended to read:

4. Hearings. To hold hearings, to administer oaths and to take the testimony of any person under oath. There ~~shall be~~ is no executive privilege in such investigations and hearings, but law enforcement officers, prosecution officers and judges of this State and of the United States ~~shall be~~ are privileged from compulsory testimony or production of documents before the commission. Such hearings and testimony may relate to general investigations concerning the effectiveness of this Act and the existence of practices of discrimination not prohibited by it, as well as to investigations of other alleged infringements upon human rights and personal dignity. The commission may make rules as to the administration of oaths; and the holding of preliminary and general investigations by panels of commissioners and by the executive ~~secretary~~ director;

Sec. 3. 5 MRSA §4566, sub-§6, as amended by PL 2005, c. 10, §7, is further amended to read:

6. Advisory groups. To create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this Act. The commission may study or may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on ~~race or color, sex, sexual~~

~~orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status, and foster good will among the groups and elements of the population of the State. Agencies and councils may make recommendations to the commission for the development of policies and procedures. Advisory agencies and conciliation councils created by the commission must be composed of representative citizens serving without pay, but with reimbursement for actual and necessary traveling expenses;

Sec. 4. 5 MRSA §4566, sub-§10, as amended by PL 2005, c. 10, §8, is further amended to read:

10. Publications. To publish results of investigations and research to promote good will and minimize or eliminate discrimination based on ~~race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status;

Sec. 5. 5 MRSA §4566, sub-§11, as amended by PL 2005, c. 10, §9, is further amended to read:

11. Reports. To report to the Legislature and the Governor at least once a year describing the investigations, proceedings and hearings the commission has conducted and the outcome and other work performed by the commission, and to make recommendations for further legislation or executive action concerning abuses and discrimination based on ~~race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin~~ protected class characteristics, membership or status, or other infringements on human rights or personal dignity; and

Sec. 6. 5 MRSA §4612, as amended by PL 2011, c. 613, §§19 and 20 and affected by §29, is further amended to read:

§4612. Procedure on complaints

1. Predetermination resolution; investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall take the following actions.

A. The commission or its delegated single commissioner or investigator shall provide an opportunity for the complainant and respondent to resolve the matter by settlement agreement prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and any final agreement are confidential and may not be disclosed without the written consent of the parties to the proceeding nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Notwithstanding this paragraph, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate settlement. The commission may adopt rules providing for a 3rd-party neutral mediation program. The rules may permit one or more parties to a proceeding to agree to pay the costs of mediation. The commission may receive

funds from any source for the purposes of implementing a 3rd-party neutral mediation program, and such funds are not subject to any statewide cost allocation plan.

B. The commission or its delegated commissioner or investigator shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. In conducting an investigation, the commission, or its designated representative, must have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy those materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The commission may issue subpoenas to compel access to or production of those materials or the appearance of those persons, subject to section 4566, subsections 4-A and 4-B, and may serve interrogatories on a respondent to the same extent as interrogatories served in aid of a civil action in the Superior Court. The commission may administer oaths. The complaint and evidence collected during the investigation of the complaint, other than data identifying persons not parties to the complaint and other information designated as confidential in subsection 1-A, is a matter of public record at the conclusion of the investigation of the complaint prior to a determination by the commission. An investigation is concluded upon issuance of a letter of dismissal or upon listing of the complaint on a published commission meeting agenda, whichever first occurs. Prior to the conclusion of an investigation, all information possessed by the commission relating to the investigation is confidential and may not be disclosed, except that the commission and its employees have discretion to disclose such information as is reasonably necessary to further the investigation. Notwithstanding any other provision of this section, the complaint and evidence collected during the investigation of the complaint may be used as evidence in any subsequent proceeding, civil or criminal. The commission must conclude an investigation under this paragraph within 2 years after the complaint is filed with the commission.

1-A. Confidential documents. The following information collected during the investigation of a complaint pursuant to this section is confidential and may not be disclosed except to the parties to a complaint, the commission and its federal partner agencies or in a subsequent civil or criminal legal action:

A. Medical, counseling, psychiatric and other confidential health records;

B. Social security numbers;

C. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and final agreements made prior to the conclusion of the investigative process;

D. Names of minor children;

E. Any information the commission is required to keep confidential pursuant to work-sharing agreements with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development or any other federal partner agencies;

- F. Criminal history record information that is not otherwise made public by law;
- G. Personnel records and personal information that has been made confidential by law;
- H. Notes made by the investigator for the investigator's private use in assessing evidence gathered during an investigation; and
- I. Any other records that are not public records in accordance with Title 1, section 402.

Documents containing information set forth in this subsection are not "public records," as defined in Title 1, section 402, subsection 3, and do not become a matter of public record under this section.

2. Order of dismissal. If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding.

2-A. Administrative dismissal. The executive director of the commission may administratively dismiss a complaint for reasons including, but not limited to:

- A. Lack of jurisdiction;
- B. Failure to substantiate the complaint of discrimination;
- C. Failure to file a complaint of discrimination within 300 days of the date of alleged discrimination;
- D. Failure by complainant to proceed or cooperate with the investigation, including but not limited to a complainant's repeated or egregious failure to abide by the commission's confidentiality requirements;
- E. Bankruptcy filing by respondent; or
- F. Death of a complainant, if no person with legal authority to continue the case appears on that person's own behalf or on behalf of the complainant's estate within a reasonable time.

An administrative dismissal operates as an order of dismissal and has the same effect as a finding by the commission that no reasonable grounds exist to believe that unlawful discrimination has occurred.

3. Informal methods, conciliation. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. Everything said or done as part of such endeavors is confidential and may not be disclosed without the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Any post-finding conciliation agreement that includes the commission as a signatory is a public record. Notwithstanding this subsection, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate conciliation. If

the case is disposed of by such informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding.

4. Civil action by commission. The commission may file a civil action in accordance with this subsection.

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a ~~racial, color, sex, sexual orientation, physical or mental disability, religious or nationality group or age~~ protected class group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful.

B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

- (1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;
- (2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;
- (3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;
- (4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to circumstances, severe hardship or personal danger as a result of such discrimination.

5. Confidentiality of 3rd-party records. The Legislature finds that persons who are not parties to a complaint under this chapter as a complainant or a respondent have a right to privacy. Any records of the commission that are open to the public under Title 1, chapter 13, must be kept in such a manner as to ensure that data identifying these 3rd parties is not reflected in the record. ~~Only data reflecting the identity of these persons may be kept confidential.~~

6. Right to sue. If, within 180 days of a complaint being filed with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter, and, if a letter is given, the commission shall end its investigation.

Sec. 7. 5 MRSA §4614, as enacted by PL 1981, c. 255, §3, is amended to read:

§4614. Attorney's fees and costs

In any civil action under this Act, the court, in its discretion, may allow the prevailing party, ~~other than the commission,~~ reasonable ~~attorneys'~~ attorney's fees and costs, ~~and except that the commission shall be liable for attorneys' fees and costs the same as a private person~~ may not be awarded attorney's fees and costs and is not liable to pay any party's attorney's fees and costs.

Sec. 8. 5 MRSA §4622, sub-§1, ¶A, as amended by PL 1993, c. 327, §3, is further amended to read:

- A. Dismissed the case under section 4612, subsection 2 or 2-A;

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 S.P. 20 - L.D. 67
An Act To Ensure Access to Justice for Victims of Sexual Assault**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 17-A MRSA §8, sub-§1, as amended by PL 1999, c. 438, §1, is repealed and the following enacted in its place:

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section, except that the following prosecutions may be commenced at any time:

A. A prosecution for murder or criminal homicide in the first or 2nd degree; or

B. If the victim had not attained the age of 16 years at the time of the crime, a prosecution for incest; unlawful sexual contact; sexual abuse of a minor; or rape or gross sexual assault, formerly denominated as gross sexual misconduct.

Sec. 2. 17-A MRSA §8, sub-§2, as amended by PL 2013, c. 392, §1, is repealed and the following enacted in its place:

2. Except as provided in subsection 1 or 2-A, a prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed and a prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

Sec. 3. 17-A MRSA §8, sub-§2-A, as enacted by PL 2013, c. 392, §2, is amended to read:

2-A. A prosecution for a Class A, Class B or Class C crime involving unlawful sexual contact or gross sexual assault must be commenced within & 20 years after it is committed.

This subsection does not apply to a Class D crime enhanced to a Class C crime pursuant to section 1252, subsection 4-A.

Sec. 4. Application. This Act applies to the following Class A, Class B or Class C crimes committed on or after the effective date of this Act or for which the prosecution

has not yet been barred by the statute of limitations in force immediately prior to the effective date of this Act: gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253; and unlawful sexual contact under Title 17-A, section 255-A.