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MECASA Legislative Review - 128th Legislature - First Regular Session (2017)

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MECASA Legislative Review
128th Legislature
First Regular Session

mecasa
MAINE COALITION AGAINST
SEXUAL ASSAULT

mecasa.org • 207-626-0034

2017 Legislative Session

During the first session of the 128th, MECASA staff worked on a wide range of bills, many of which we supported and are now law. Summaries of the new laws which are most relevant to our work, as well as the complete public laws, can be found in the following pages. Highlights include the passage of:

- LD 654, “An Act to Amend the Laws Governing Certain Sex Offenses,” which creates significant new tools in Maine’s Criminal Code for the prosecution of sexual assault. (Sponsor: Sen. Carpenter)
- LD 1261, “An Act to Protect Minors from Sex Trafficking” which creates the Class D crime of “solicitation of a child to engage in prostitution.” (Sponsor: Sen. Diamond)

As always, we are grateful to the sponsors of these bills and to our statewide partners for their work to help pass them. In particular, we want to thank: the Criminal Law Advisory Commission, the Maine Coalition to End Domestic Violence, Pine Tree Legal Assistance, and the Maine Prosecutors’ Association for their work on some of this session’s more complex bills.

Special thanks to Aroostook County District Attorney Todd Collins for his work with Senator Carpenter to introduce LD 654 and to Cumberland County District Attorney Stephanie Anderson and Bill Brown from the Speaker’s Office for helping to remove barriers to its final passage. From our vantage point, it is one of the most significant improvements to the sexual assault statutes this decade.

In partnership with Maine’s landlords and Pine Tree Legal Assistance we amended a bill (LD 136, now P.L. Ch. 103) to avoid undermining the recently adopted housing protections for victims of sexual and domestic violence.

In addition, there were several bills which will be carried forward into the next session for further consideration. They include bills to:

- Make changes to the statutes related to human trafficking (LDs 250 and 951) and
- A resolution to create a victims’ bill of rights in the Maine constitution (LD 1168).

If you have questions about any of the bills featured in this report please feel free to contact us at info@mecasa.org or 207.626.0034.

**Special thanks to the
Criminal Law Advisory
Commission, the
Maine Coalition to End
Domestic Violence,
Pine Tree Legal
Assistance, and the
Maine Prosecutors’
Association.**



Many thanks to the Maine Women’s Fund for helping to support our legislative work.

Thanks to the Office of Policy and Legal Analysis for providing the bill summaries.

2017 Bills Passed

LD 138 An Act To Amend the Laws Governing the Sex Offender Registry **Sponsored by Senator Cyrway**

Public Law 65

Enacted Law Summary:

Public Law 2017, chapter 65 makes violations of the Maine Revised Statutes, Title 17-A, section 253, subsection 2, paragraph F and section 255-A, subsection 1, paragraphs K and L registrable offenses under sex offender registration laws when those violations are committed on or after October 1, 2017.

(These are the sections which removed the age limit for acts between students and school authorities.)

LD 136 An Act Regarding the Eviction Process **Sponsored by Senator Cyrway**

Public Law 103

Enacted Law Summary:

Public Law 2017, chapter 103 expands the causes for a seven-day notice of termination of tenancy. The law allows a landlord to terminate a tenancy upon seven days' written notice if the landlord can demonstrate that the tenant or the tenant's invitee or guest is the perpetrator of violence, a threat of violence or sexual assault against other tenants, their guests, the landlord or the landlord's employees or agents, except that a victim of domestic violence, sexual assault or stalking who has taken reasonable actions to comply with a landlord's request for the protection of tenants, guests or invitees or the landlord from violence or the threat of violence or sexual assault is not subject to eviction with a seven-day notice of termination. The law also allows a landlord to terminate a tenancy upon seven days' written notice for an unauthorized occupation of the premises.

LD 1530 An Act To Amend the Laws Governing Unemployment Compensation **Sponsored by Senator Langley**

Public Law 117

Enacted Law Summary:

Public Law 2017, chapter 117 makes the following changes to Maine's employment security law: It provides that nominal fees or stipends paid to a volunteer are excluded from the definition of wages and specifies that a volunteer does not meet the definition of "employee."

LD 1221 An Act To Clarify and Amend Certain Provisions of Law Regarding Victim Services **Sponsored by Senator Rosen**

Public Law 128

Enacted Law Summary:

Public Law 2017, chapter 128 adds to the protections of the victim notification laws by requiring victim notification of funeral and deathbed visits by prisoners, by adding to the definition of "victim" a person who has obtained from a court a protection from abuse order or received court approval for a protection from abuse consent agreement and by allowing victims to request notification directly from the Department of Corrections.

The law also allows a court to revoke the probation of an offender who has contact with a victim during incarceration if contact has been prohibited by a condition of probation, by the department or by a county or regional jail. It eliminates two redundant statutory provisions regarding the department's Victim Services Coordinator and allows the Commissioner of Corrections to delegate supervision of the coordinator.

LD 1261 An Act to Protect Minors from Sex Trafficking
Sponsored by Senator Diamond

Public Law 135

Enacted Law Summary:

Public Law 2017, chapter 135 creates a new Class D crime of soliciting a child to engage in prostitution if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in prostitution.

**It is now a Class D
crime to knowingly
solicit a child
to engage in
prostitution.**

**LD 1219 An Act To Amend the Laws Governing
Forensic Examination Kits**
Sponsored by Senator Rosen

Public Law 156

Enacted Law Summary:

Public Law 2017, chapter 156 amends the laws governing forensic examination kits to provide for the kits to be used for testing in relation to alleged sexual assault crimes other than gross sexual assault, making that change in the Maine Revised Statutes, Title 5, section 3360-M and Title 24, section 2986. The law changes the tracking number used on the completed kit from a number assigned by the hospital or health care practitioner to the number assigned by the kit manufacturer. The law requires the Victims' Compensation Board to amend its rules regarding forensic examination test kits.

LD 1477 An Act To Coordinate and Enforce Existing Workplace Training Requirements
Sponsored by Representative Austin

Public Law 162

Enacted Law Summary:

Public Law 2017, chapter 162 amends the law to specify the roles and responsibilities of the Department of Labor and the Maine Human Rights Commission in the development, execution and enforcement of the existing workplace training requirements for sexual harassment. It provides that the commission may provide its sexual harassment poster to employers at no charge. This law directs the Department of Labor to develop a compliance checklist for the required sexual harassment training and post it on the department's website. It requires employers to use the checklist to develop their required sexual harassment training program and to keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for three years and employers must make such records available to the department for inspection. This law also adds penalties for employers who have not met the posting, notification, education and training requirements.

**LD 1277 An Act to Combat Human Trafficking by Creating Prevention
Training Opportunities**
Sponsored by Speaker Gideon

Public Law 192

Enacted Law Summary:

Public Law 2017, chapter 192 requires that all new and renewed commercial driver's licenses be accompanied by information that outlines how to recognize human trafficking and how to report human trafficking and includes a telephone number for a national human trafficking hotline.

LD 1551 An Act To Amend the Maine Tax Laws

Public Law 211

Sponsored by Representative Bickford

Enacted Law Summary:

Public Law 2017, chapter 211 makes changes to numerous provisions of tax laws, including that court-ordered restitution obligations are afforded a priority for setoff from state income tax refunds pursuant to Title 36, section 5276-A that is just above the priority given to court fines and fees.

LD 983 An Act to Increase Efficiency in the Enforcement of Restitution and Bail Orders

Public Law 221

Sponsored by Senator Carpenter

Enacted Law Summary:

Public Law 2017, chapter 221 provides that if a court determines that an offender has violated unsecured preconviction bail and that the violation is not excused, the court must enter an order of forfeiture of bail, which

may not exceed the amount of the unsecured bail previously set. The law authorizes the State Tax Assessor to withhold funds owed to a taxpayer with regard to whom a forfeiture order has been entered.

LD 654 An Act to Amend the Laws Governing Sex Offenses

Public Law 300

Sponsored by Senator Carpenter

Enacted Law Summary:

Public Law 2017, chapter 300 creates a new violation under the law defining the crime of gross sexual assault in which an actor is guilty of gross sexual assault if the actor engages in a sexual act with another person who has not expressly or impliedly consented to the sexual act; this violation is a Class C crime. The law amends the crime of gross sexual assault by repealing the defense to prosecution that the other person voluntarily consumed or allowed the actor to administer to that person drugs or other intoxicants.

Both changes to will not only allow for more sex crimes to be prosecuted in Maine but will also align the Criminal Code with the public's perception of what constitutes a crime.

Appendix: Public Laws

MECASA Legislative Review
128th Legislature
First Regular Session

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 57 - L.D. 138

An Act To Amend the Laws Governing the Sex Offender Registry

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

Sec. 1. 34-A MRSA §11273, sub-§14, ¶A, as enacted by PL 2011, c. 663, §3, is amended to read:

A. Title 17-A, chapter 11 including the following:

- (1) Title 17-A, section 255-A, subsection 1, paragraph C, regardless of the age of the victim;
- (2) Title 17-A, section 255-A, subsection 1, paragraph F-2, regardless of the age of the victim;
- (3) Title 17-A, section 255-A, subsection 1, paragraph G, regardless of the age of the victim;
- (3-A) Title 17-A, section 255-A, subsection 1, paragraph K, regardless of the age of the victim if the crime is committed on or after October 1, 2017;
- (4) Title 17-A, section 255-A, subsection 1, paragraph Q, regardless of the age of the victim;
- (5) Title 17-A, section 255-A, subsection 1, paragraph W, regardless of the age of the victim; and
- (6) Title 17-A, section 255-A, subsection 1, paragraph X, regardless of the age of the victim;

Sec. 2. 34-A MRSA §11273, sub-§15, ¶A, as amended by PL 2015, c. 280, §10, is further amended to read:

A. Title 17-A, chapter 11 including the following:

- (1) Title 17-A, section 253, subsection 2, paragraph J, regardless of the age of the victim;

(1-A) Title 17-A, section 253, subsection 2, paragraph F, regardless of the age of the victim if the crime is committed on or after October 1, 2017;

(2) Title 17-A, section 253, subsection 2, paragraph K, regardless of the age of the victim;

(3) Title 17-A, section 253, subsection 2, paragraph L, regardless of the age of the victim;

(4) Title 17-A, section 255-A, subsection 1, paragraph J, regardless of the age of the victim;

(4-A) Title 17-A, section 255-A, subsection 1, paragraph L, regardless of the age of the victim if the crime is committed on or after October 1, 2017;

(5) Title 17-A, section 255-A, subsection 1, paragraph R-1, regardless of the age of the victim;

(6) Title 17-A, section 255-A, subsection 1, paragraph R-2, regardless of the age of the victim; and

(7) Title 17-A, section 258, subsection 1-A, if the victim had not attained 12 years of age;

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 55 - L.D. 136

An Act Regarding the Eviction Process

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

Sec. 1. 14 MRSA §6002, sub-§1, ¶C, as amended by PL 2015, c. 293, §7, is further amended to read:

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

Sec. 2. 14 MRSA §6002, sub-§1, ¶D, as enacted by PL 2015, c. 293, §8, is amended to read:

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

Sec. 3. 14 MRSA §6002, sub-§1, ¶¶E and F are enacted to read:

E. The tenant or the tenant's guest or invitee is the perpetrator of violence, a threat of violence or sexual assault against another tenant, a tenant's guest, the landlord or the landlord's employee or agent, except that this paragraph does not apply to a tenant who is a victim as defined in section 6000, subsection 4 and who has taken reasonable action under the circumstances to comply with the landlord's request for protection of the tenant, another tenant, a tenant's guest or invitee, the landlord or the landlord's employee or agent or of the landlord's property; or

F. The person occupying the premises is not an authorized occupant of the premises.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 536 - L.D. 1530

EXCERPT:

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as repealed and replaced by PL 2011, c. 691, Pt. A, §27, is amended to read:

(35) Service performed by an individual who volunteers for an employer or governmental entity if the volunteer:

(a) Performs hours of service for the employer or governmental entity for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered. Although a volunteer may receive no compensation, a volunteer may be paid expenses, reasonable benefits or a nominal fee to perform such services;

(b) Offers services freely and without pressure or coercion, direct or implied, from an employer; and

(c) Is not otherwise employed by the same employer or governmental entity to perform the same type of services as those for which the individual proposes to volunteer.

For purposes of this subparagraph, "governmental entity" has the same meaning as in section 1221, subsection 10.

Sec. 3. 26 MRSA §1043, sub-§19, as amended by PL 2011, c. 691, Pt. A, §28, is further amended to read:

19. Wages. "Wages" means ~~all~~ remuneration for personal services, including commissions, bonuses, severance or terminal pay, gratuities and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall must be estimated and determined in accordance with regulations prescribed by the commission, except that:

A. For purposes of section 1221, the term "wages" does not include remuneration that exceeds ~~the first \$7,000 through December 31, 1999, and on and after January 1, 2000,~~ the first \$12,000 that is paid in a calendar year to an individual by an employer or the employer's predecessor for employment during any calendar year, unless that remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The wages of an individual for employment with an employer are subject to this exception whether earned in this State or any other state when the employer-employee relationship is between the same legal entities;

B. For purposes of section 1191, subsection 2, section 1192, subsection 5 and section 1221, the term "~~wages~~" shall does not include:

(1) The amount of any payment, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, made to, or on behalf of, an employee or any of his the employee's dependents under a plan or system established by an employer which that makes provision for his the employer's employees generally, or for his the employer's employees generally and their dependents, or for a class or classes of his the employer's employees, or for a class or classes of his the employer's employees and their dependents, on account of:

(a) Sickness or accident disability, but, in the case of payments made to an employee or any of his the employee's dependents, this subparagraph shall exclude excludes from the term "wages" only payments which that are received under a workers' compensation law;

(b) Medical or hospitalization expenses in connection with sickness or accident disability; or

(c) Death;

(1-A) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer or a 3rd party to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for that employer;

(2) The payment by an employing unit, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Federal Insurance Contributions Act, as amended, with respect to service performed after July 26, 1940, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor; or

(3) The amount of any payment, other than vacation or sick pay, to an individual after the month in which he the individual attains the age of 62, if he the individual did not perform services for the employing unit in the period for which such payment is made and is not expected to perform service in the future for the payment; or

(4) The amount of any nominal fee or stipend to a volunteer whose service is excluded from the definition of employment pursuant to subsection 11, paragraph F, subparagraph (35);

C. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work includes wages paid for previously uncovered services. For the purposes of this paragraph, the term "previously uncovered services" means services:

(1) That were not employment as defined in subsection 11, and were not services covered pursuant to section 1222, at any time during the one-year period ending December 31, 1975; and

(2) That:

(a) Are agricultural labor, as defined in subsection 11, paragraph A-2 or domestic service as defined in subsection 11, paragraph A-3; or

(b) Are services performed by an employee of this State or a political subdivision thereof, or any of their instrumentalities as provided in subsection 11, paragraph A-1, subparagraph (1), or by an employee of a nonprofit educational institution that is not an institution of higher education, as provided in subsection 11, paragraph F, subparagraph (17), division (i);

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services;

D. Nothing in this subsection may be construed to include as wages any payment which that is not included as wages under the Federal Unemployment Tax Act, 26 United States Code, Section 3306(b)(5) and (r), as amended, as of January 1, 1985; and

E. Nothing in this subsection may be construed to exclude from wages any remuneration which that is:

(1) Taxable under any federal law that imposes a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(2) Required to be covered under this chapter as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 412 - L.D. 1221

An Act To Clarify and Amend Certain Provisions of Law Regarding Victim Services

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

Sec. 1. 17-A MRSA §1175, first ¶, as amended by PL 2013, c. 133, §10, is further amended to read:

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A. For purposes of this section, "victim" also includes a person who has obtained under Title 19-A, section 4007 an active protective order or approved consent agreement against the defendant.

Sec. 2. 17-A MRSA §1175, sub-§1, as enacted by PL 1995, c. 680, §5, is amended to read:

1. A victim who wishes to receive notification must file a request for notification of the defendant's release with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections, to the state mental health institute or to the county jail to which that defendant is committed. Notwithstanding this subsection, a victim who wishes to receive notification regarding a

defendant who is committed to the Department of Corrections may file a request for notification of the defendant's release directly with the Department of Corrections.

Sec. 3. 17-A MRSA §1175, sub-§3, ¶B, as amended by PL 2013, c. 133, §11, is further amended to read:

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or release under Title 15, section 104-A, or an unconditional release and discharge upon release from commitment under Title 15, section 101-D or upon the expiration of a sentence or upon discharge under Title 15, section 104-A;

Sec. 4. 17-A MRSA §1203, sub-§1-A, ¶B-1 is enacted to read:

B-1. The court may revoke probation if, during an unsuspended portion of the term of imprisonment:

(1) The person has contact with a victim with whom the person has been ordered not to have contact as a condition of probation;

(2) In the case of a person who has been committed to the Department of Corrections, the person has contact with any victim with whom the person has been prohibited to have contact by the Department of Corrections; or

(3) In the case of a person who has been committed to a county or regional jail, the person has contact with any victim with whom the person has been prohibited to have contact by the county or regional jail.

"Victim," as used in this paragraph, has the same meaning as in section 1171, subsection 2 and section 1175.

Sec. 5. 34-A MRSA §1214, sub-§1, ¶¶A and B, as enacted by PL 2001, c. 439, Pt. G, §1, are repealed.

Sec. 6. 34-A MRSA §1214, sub-§2, ¶¶A and B, as enacted by PL 2001, c. 439, Pt. G, §1, are amended to read:

A. The Victim Services Coordinator shall report only to the commissioner or ~~an associate commissioner~~ the commissioner's designee.

B. The Victim Services Coordinator shall, with the approval of the commissioner or ~~an associate commissioner~~ the commissioner's designee, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

—
S.P. 424 - L.D. 1261

An Act To Protect Children from Sex Trafficking

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

Sec. 1. 17-A MRSA §259-B is enacted to read:

§259-B. Solicitation of a child to engage in prostitution

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

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

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

—
S.P. 410 - L.D. 1219

An Act To Amend the Laws Governing Forensic Examination Kits

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

Sec. 1. 5 MRSA §3360-M, as amended by PL 2009, c. 79, §4, is further amended to read:

§3360-M. Payment for forensic examinations for alleged victims of sexual assault

1. Payment. The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of ~~gross~~ sexual assault from the Victims' Compensation Fund. The board shall track expenditures for forensic examinations separately from all other expenditures. Forensic examination payments are not subject to any other provision of this chapter. For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

2. Forensic examination; forensic examiner training and education. The board shall determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of \$750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed \$50,000 per year.

3. Process for payment. A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of ~~gross~~ sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number ~~that corresponds to assigned by the manufacturer of~~ the forensic examination kit. ~~The tracking number may~~

~~not be the alleged victim's social security number.~~ The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged victim is not required to report the alleged offense to a law enforcement agency.

4. Other reimbursement. The fact that forensic examinations are paid for separately through the Victims' Compensation Fund does not preclude alleged victims of ~~gross~~ sexual assault from seeking reimbursement for expenses other than those for the forensic examination. A victim seeking reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination is subject to all other provisions of this chapter.

5. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 2. 24 MRSA §2986, as amended by PL 2011, c. 59, §1 and c. 420, Pt. A, §21, is further amended to read:

§2986. Performing forensic examinations for alleged victims of sexual assault

1. Standard forensic examination kit. All licensed hospitals and licensed health care practitioners shall use a standard forensic examination kit developed and furnished by the Department of Public Safety pursuant to Title 25, section 2915 to perform forensic examinations for alleged victims of ~~gross~~ sexual assault. For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

2. Victims' Compensation Board billing. All licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of ~~gross~~ sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The Victims' Compensation Board shall determine what a forensic examination includes pursuant to Title 5, section 3360-M. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number ~~that corresponds to~~ assigned by the manufacturer of the forensic examination kit. ~~The tracking number may not be the alleged victim's social security number.~~ The Victims' Compensation Board shall pay the actual cost of the forensic examination up to a maximum of \$750. Licensed hospitals and licensed health care practitioners that perform forensic examinations for alleged victims of ~~gross~~ sexual assault may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment for the examination.

3. Completed kit. If the alleged victim has not reported the alleged offense to a law enforcement agency when the examination is complete, the hospital or health care practitioner shall then notify the nearest law enforcement agency, which shall transport and store the completed forensic examination kit for at least 90 days. The completed kit may be identified only by the tracking number. If during that 90-day period an alleged

victim decides to report the alleged offense to a law enforcement agency, the alleged victim may contact the hospital or health care practitioner to determine the tracking number. The hospital or health care practitioner shall provide the alleged victim with the tracking number on the forensic examination kit and shall inform the alleged victim which law enforcement agency is storing the kit.

If the alleged victim reports the alleged offense to a law enforcement agency by the time the examination is complete, the investigating agency shall retain custody of the forensic examination kit.

If an examination is performed under subsection 5 and the alleged victim does not, within 60 days, regain a state of consciousness adequate to decide whether or not to report the alleged offense, the State may file a motion in the District Court relating to storing or processing the forensic examination kit. Upon finding good cause and after considering factors, including, but not limited to, the possible benefits to public safety in processing the kit and the likelihood of the alleged victim's regaining a state of consciousness adequate to decide whether or not to report the alleged offense in a reasonable time, the District Court may order either that the kit be stored for additional time or that the kit be transported to the Maine State Police Crime Laboratory for processing, or such other disposition that the court determines just. In the interests of justice or upon motion by the State, the District Court may conduct hearings required under this paragraph confidentially and in camera and may impound pleadings and other records related to them.

4. Other payment. A licensed hospital or licensed health care practitioner is not precluded from seeking other payment for treatment or services provided to an alleged victim that are outside the scope of the forensic examination.

5. Implied consent. If an alleged victim of ~~gross~~ sexual assault is unconscious and a reasonable person would conclude that exigent circumstances justify conducting a forensic examination, a licensed hospital or licensed health care practitioner may perform an examination in accordance with the provisions of this section.

A forensic examination kit completed in accordance with this subsection must be treated in accordance with Title 25, section 3821 and must preserve the alleged victim's anonymity. In addition, the law enforcement agency shall immediately report to the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under this subsection.

6. Liability. A licensed hospital or licensed health care practitioner in the exercise of due care is not liable for an act done or omitted in performing a sexual assault forensic examination under this section.

Sec. 3. 25 MRSA §2915, as enacted by PL 1999, c. 719, §3 and affected by §11, is amended to read:

§2915. Uniform forensic examination kit for evidence collection in alleged cases of sexual assault

1. Development of uniform forensic examination kit. The Department of Public Safety shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of ~~gross~~ sexual assault. The rules must define the contents of the kit, instructions for administering the kit and a checklist that examiners must follow and enclose in the completed kit.

2. Use of uniform forensic examination kit. A licensed hospital or licensed health care practitioner that conducts physical examinations of alleged victims of ~~gross~~ sexual assault shall use the uniform standardized forensic examination kit developed by the Department of Public Safety pursuant to subsection 1. A health care practitioner who conducts physical examinations of alleged victims of ~~gross~~ sexual assault must be trained in the proper evidence collection procedures for conducting a forensic examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.

3. Furnishing of uniform forensic examination kit. The Department of Public Safety shall furnish the uniform forensic examination kits to licensed hospitals and licensed health care practitioners that perform forensic examinations of alleged victims of ~~gross~~ sexual assault.

3-A. "Sexual assault" defined. For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

4. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 4. 25 MRSA §3821, as amended by PL 2007, c. 209, §7, is further amended to read:

§3821. Transportation and storage of forensic examination kits

For the purposes of this section, "sexual assault" means any crime enumerated in Title 17-A, chapter 11.

If an alleged victim of ~~gross~~ sexual assault has a forensic examination and has not reported the alleged offense to a law enforcement agency when the examination is complete, the licensed hospital or licensed health care practitioner that completed the forensic examination shall notify the nearest law enforcement agency. That law enforcement agency shall transport the completed kit, identified only by a tracking number assigned by ~~the hospital or health care practitioner~~ the kit manufacturer, to its evidence storage facility. The law enforcement agency shall store the kit for at least 90 days from the time of receipt. If during that 90-day period the alleged victim reports the offense to a law enforcement agency, the investigating agency shall take possession of the kit.

In the case of a forensic examination performed under Title 24, section 2986, subsection 5, the law enforcement agency must immediately notify the district attorney for the district in which the hospital or health care practitioner is located that such a forensic examination has been performed and a forensic examination kit has been completed under Title 24, section 2986, subsection 5.

Sec. 5. Rulemaking; exemption from Maine Administrative Procedure Act. The Department of Public Safety shall amend its rules implementing the Maine Revised Statutes, Title 25, sections 2915 and 3821 to reflect the changes set forth in this Act; and, notwithstanding Title 5, Part 18, or any other provision of law to the contrary, rule amendments adopted in accordance with this section are not subject to the requirements of the Maine Administrative Procedure Act.

Sec. 6. Rulemaking. The Victims' Compensation Board shall amend the rules on reimbursement by the Victims' Compensation Fund for use of forensic examination test kits in certain instances of sexual assault as provided in this Act by January 1, 2018. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 7. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 25, chapter 407, in the chapter headnote, the words "transportation and storage of forensic examination kits for alleged victims of gross sexual assault" are amended to read "transportation and storage of forensic examination kits for alleged victims of sexual assault" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

H.P. 1016 - L.D. 1477

An Act To Coordinate and Enforce Existing Workplace Training
Requirements

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

Sec. 1. 26 MRSA §806, sub-§1-A is enacted to read:

1-A. Department. "Department" means the Department of Labor.

Sec. 2. 26 MRSA §807, as enacted by PL 1991, c. 474, §2, is amended to read:

§807. Requirements

In addition to employer responsibilities set forth in rules adopted under Title 5, section 4572, all employers shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements.

1. Workplace posting. An employer shall post in a prominent and accessible location in the workplace a poster providing, at a minimum, the following information: the illegality of sexual harassment; a description of sexual harassment, utilizing examples; the complaint process available through the commission; and directions on how to contact the commission. The text of this poster may meet but may not exceed 6th-grade literacy standards. ~~Upon request, the~~ The commission shall may provide this poster to employers ~~at a price that reflects the cost as determined by the commission~~ at no charge. This poster must also be available on the department's publicly accessible website and may be reproduced.

2. Employee notification. Employers shall provide annually all employees with individual written notice that includes at a minimum the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. This notice must be initially provided within 90 days after the effective date of this

subchapter. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee's pay.

3. Education and training. In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment ~~that includes, at a minimum, the following information:~~. Training provided under this subsection must include the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D. Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

Education and training programs conducted under this subsection by the State, a county or a municipality for its public safety personnel, including, but not limited to, law enforcement personnel, corrections personnel and firefighters, may be used to meet training and education requirements mandated by any other law, rule or other official requirement.

4. Compliance checklist. The department shall develop a compliance checklist for employers covering the requirements under subsection 3. The checklist must be made available on the department's publicly accessible website. The commission shall provide a link to the compliance checklist on the commission's publicly accessible website. Employers shall use the checklist to develop a sexual harassment training program and shall keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for at least 3 years and must be made available for department inspection upon request.

5. Enforcement. The department shall enforce the notification requirement under this section and, upon inspection or complaint, shall ensure that employers have provided the training as required by subsection 3. If the department has determined that an employer has complied with the provisions of this subchapter, that determination and all completed department enforcement actions are considered final. Department actions under this subchapter do not limit or affect the authority or jurisdiction of the commission.

The commission may request department enforcement records related to a complaint filed with the commission when the complaint is related to this subsection. Such records are subject to section 3.

6. Penalties for violations. An employer who violates this section may be assessed a fine by the department in accordance with this subsection.

A. An employer who violates the workplace posting requirement in subsection 1 may be assessed:

- (1) For the first violation, a fine of up to \$25 per day, not to exceed \$1,000;
- (2) For a 2nd violation occurring within 3 years of a prior violation, a fine of not less than \$25 per day up to \$50 per day, not to exceed \$2,500; and
- (3) For a 3rd or subsequent violation occurring within 3 years of 2 or more prior violations, a fine of not less than \$25 per day up to \$100 per day, not to exceed \$5,000.

B. An employer who violates the notification, education or training requirements set forth in subsection 2 or 3 may be assessed:

- (1) For the first violation, a fine of \$1,000;
- (2) For a 2nd violation, a fine of \$2,500; and
- (3) For a 3rd or subsequent violation, a fine of \$5,000.

STATE OF MAINE

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IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

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H.P. 890 - L.D. 1277

**An Act To Require the Secretary of State To Inform Commercial Drivers
about Human Trafficking Prevention**

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

Sec. 1. 29-A MRSA §1253, sub-§6 is enacted to read:

6. Human trafficking prevention; information. A commercial driver's license issued or renewed by the Secretary of State must be accompanied by information that outlines how to recognize human trafficking and how to report human trafficking and includes a telephone number for a national human trafficking hotline.

STATE OF MAINE

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IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

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H.P. 1069 - L.D. 1551

An Act To Amend the Maine Tax Laws

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

EXCERPT:

Sec. D-13. 36 MRSA §5276-A, sub-§7, as amended by PL 1991, c. 564 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

7. Priority. In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the State Tax Assessor shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

- A. Liquidated child support debts owed to the Department of Health and Human Services;
- A-1. Court-ordered restitution obligations;
- B. Fines and fees owed to any of the courts; and
- C. All other claims in the order of their receipt by the State Tax Assessor.

STATE OF MAINE

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IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

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S.P. 322 - L.D. 983

**An Act To Increase Efficiency in the Enforcement of Restitution and Bail
Orders**

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

Sec. 1. 15 MRSA §1094, sub-§2-A is enacted to read:

2-A. Violation of unsecured preconviction bail. If the court determines that an offender has violated unsecured preconviction bail and that the violation is not excused, the court shall enter an order of forfeiture of bail, which may not exceed the amount of the unsecured bail previously set. The attorney for the State may take action to collect the amount forfeited using measures authorized for the collection of unpaid restitution under Title 17-A, section 1326-A, including, but not limited to, entering into agreements with the offender for payment over a set period of time not to exceed one year. In order to satisfy an order of forfeiture entered under this subsection, pursuant to Title 36, section 5276-A, the State Tax Assessor may withhold tax refunds owed to an offender.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 216 - L.D. 654

An Act To Amend the Laws Governing Certain Sexual Offenses

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

Sec. 1. 17-A MRSA §253, sub-§2, ¶¶K and L as enacted by PL 2011, c. 423, §3, are amended to read:

K. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class C crime; ~~or~~

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 is enacted 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.

Sec. 3. 17-A MRSA §253, sub-§3, as repealed and replaced by PL 2007, c. 474, §2, is repealed.