



# 2023 New Maine Laws Implications for Advocates

**mecasa**  
MAINE COALITION AGAINST  
SEXUAL ASSAULT

During the First and Regular and Special Sessions of the 131<sup>st</sup> Legislature, the Maine Legislature passed many bills which may have implications for your work.

For a more complete list and the statutory language for each selection, please refer to our [2023 MECASA Legislative Report](#).

*If you have any questions about public policy and legislation, please feel free to reach out to Public Policy and Legal Director, Melissa Martin ([martin@mecasa.org](mailto:martin@mecasa.org), work cell 207-228-4019); Special Projects Coordinator Marion Hylan Barr ([marion@mecasa.org](mailto:marion@mecasa.org)); or Executive Director, Elizabeth Ward Saxl ([director@mecasa.org](mailto:director@mecasa.org)).*

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## **Public Law Chapter 115**

**LD 351, An Act to Increase Access to Birth Control by Making Certain Contraception Accessible from a Pharmacist')**

### **What does it do?**

Public Law 2023, chapter 115 authorizes pharmacists to prescribe, dispense, and administer contraceptives, including oral hormonal contraceptive pills, vaginal rings, hormonal contraceptive patches, and injectable hormonal contraceptives. A pharmacist must also refer a patient to the patient's practitioner upon prescribing or, if the patient does not have a practitioner, advise the patient to consult a practitioner. The pharmacist must also provide a patient with a written record of a prescribed contraceptive.

### **What does this mean for your work?**

This allows survivors easier access to contraception and increases the options advocates are able to provide.

## **Public Law Chapter 413**

### **LD 535, An Act to Increase Access to Necessary Medical Care for Certain Minors**

#### **What does it do?**

Public Law 2023, chapter 413 allows health care providers to treat minors who are 16 or 17 for gender dysphoria using gender affirming hormone therapy regardless of parental consent so long as they have the informed consent of the minor.

#### **What does this mean for your work?**

Teen survivors who are seeking medical treatment for gender dysphoria will be able to obtain it without parental consent. This change along with others related to trans rights is important in part because people who are trans experience sexual violence at very high rate, but the good news is that appears that gender affirming supports may be a protective factor.

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## **Public Law Chapter 193**

### **LD 765, An Act to Permit Recordings of a Protected Person to be Admissible in Evidence (title amended to 'An Act to Establish an Exception to the Hearsay Rule for Forensic Interviews of a Protected Person')**

#### **What does it do?**

Public Law 2023, chapter 193 creates a process to admit forensic interviews into evidence in court proceedings. This will be available in criminal and civil cases, but in criminal cases the child will still need to be available for cross-examination.

Chapter 193 clarifies who has access to forensic interviews and establishes a process for civil cases that mirrors how Department of Health and Human Services records are accessed in other cases. The bill codifies the current practice used in criminal cases and follows the criminal rules of procedure.

#### **What does it mean for your work?**

CAC interviews will now be admissible in civil cases such as Protection from Abuse and family matter cases. In these cases, they can be used to completely replace a child's testimony or may be viewed by a Guardian ad litem to use in making recommendations.

CAC interviews will also be admissible in criminal matters, but the child will still need to be available for cross-examination.

This law is important because recounting sexual abuse is often traumatizing for children. By allowing CAC interviews to be admissible, we can reduce the number of times that a child needs to verbalize what happened. Further, this option prevents a child from needing to testify against their abuser in civil court, which could be scary, intimidating, or stressful.

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## **Public Law Chapter 151**

### **LD 773, An Act to Ensure Access by Parties and Attorneys to Records in Child and Adult Protective Proceedings**

#### **What does it do?**

Public Law 2023, chapter 151 requires the Department of Health and Human Services to disclose information in the records in adult protection proceedings and child protection proceedings to parties in those proceedings and the parties' attorneys.

To facilitate the initial communication between attorneys assigned to represent parents and custodians in child protection proceedings and their clients, chapter 151 also requires the department to include in a child protection petition the phone number and e-mail address, if known, of each parent and custodian. Inclusion of a parent's and custodian's phone number and e-mail address in the petition is not required if the parent and custodian has taken steps to keep that parent's and custodian's phone number or e-mail address private from another parent and custodian in the proceeding or if disclosure of this information to another parent and custodian in the proceeding would create a safety risk.

#### **What does this mean for your work?**

Survivors involved in child protective proceedings will have a right to see any DHHS records as part of the proceedings.

Parents' phone numbers and emails will be included on initial child protective petitions unless there is a safety concern. If a survivor has a confidential phone number or email address, advocates may want to advise the survivor to remind the DHHS caseworker when they first make contact. Because this will make it more difficult for the appointed attorney to reach the survivor, advocates may want to help support a survivor in ensuring they are connected to their appointed attorney by having the survivor reach out to the attorney. All attorneys in Maine should have a publicly available phone number and email through the Maine Board of Overseers of the Bar.

## **Public Law Chapter 348**

**LD 995, An Act to Provide Insurance coverage for a Second Opinion if a health Care Provider Recommends Abortion for Health or Safety Reasons (title amended to 'An Act to Enhance Access to a Second Opinion for Health Care Services or Treatment')**

### **What does it do?**

Public Law 2023, chapter 348 provides that an enrollee in a health plan may not be required to obtain a second opinion from a provider that practices in the same office location as the enrollee's provider. If the second opinion is obtained from an out-of-network provider, a carrier may not apply a deductible, coinsurance, or copayment for the 2nd opinion in an amount greater than the deductible, coinsurance, or copayment that would apply to the same health care service if the service were obtained from a network provider, and the amount of any coinsurance or copayment must be applied to the enrollee's in-network deductible. The requirements apply to health plans issued or renewed on or after January 1, 2024.

### **What does it mean for your work?**

Survivors wishing to get a second opinion before having an abortion do not have to get it from an in-network provider and should be able to access this care without additional out-of-network costs.

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## **Public Law Chapter 75**

**LD 1034, An Act to Require That Service of a Temporary Protection Order Be Attempted Within 48 Hours from the Issuance of the Order**

### **What does it do?**

Public Law 2023, chapter 75 requires every law enforcement agency to adopt a written policy requiring that service of every temporary, emergency or interim protection from abuse order be attempted within 48 hours after the agency receives notice of that order from the court. It also clarifies that failure of the law enforcement agency to attempt service within 48 hours does not affect the validity of the service or the order.

## What does it mean for your work?

This is an additional tool to help you advocate with law enforcement that they must attempt service of a protection order within 48 hours of receiving it and that failure to serve the order doesn't mean it is not in effect.

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## Public Law Chapter 288

### **LD 1040, An Act to Require Reimbursement for Gender-affirming Care for MaineCare Members**

## What does this do?

Public Law 2023, chapter 288 prohibits the MaineCare program from discriminating in its reimbursement for medically necessary treatment on the basis of a MaineCare member's gender identity, gender expression or on the basis that the MaineCare member is a transgender individual and requires that the program cover medically necessary treatment for or related to gender dysphoria.

## What does this mean for your work?

Currently, Mainecare regulations ensure that recipients have access to treatment for gender dysphoria, but this statute codifies that protection long-term.

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## Resolve Chapter 112

### **LD 1092, An Act to Expand Services for Women Who Experience Gender-based Trauma and Violence (Amended to "An Act to Prevent Commercial Sexual Exploitation of Children in the State")**

## What does this do?

Resolve 2023, chapter 112 requires the Department to convene a working group including those who work at Children's Advocacy Centers and those who work with children who experience commercial sexual exploitation. The group must report back to the Legislature by January 1, 2025, with any recommendations.

## What does this mean for your work?

If you have any experiences with CSEC survivors, please share de-identified stories with Melissa ([martin@mecasa.org](mailto:martin@mecasa.org)) as we will be gathering these examples to support further legislation and funding of services for CSEC survivors.

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## Public Law Chapter 351

### **LD 1312, An Act to Limit the Immunity of Charitable Organizations**

## What does this do?

Public Law 2023, chapter 351 eliminates the charitable immunity defense for child sexual assault cases. Charitable immunity was a statutory defense that allowed some charitable organization to avoid civil liability for certain actions, including claims related to child sexual abuse.

## What does this mean for your work?

This law eliminates the final barrier in child sexual assault survivors being able to have full access to civil damages through the court system.

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## Public Law Chapter 199

### **LD 1362, An Act to Ensure the Basic Rights of Survivors of Sexual Assault**

## What does this do?

Public Law 2023, chapter 199 provides that a survivor of sexual assault has the right to consult with a sexual assault counselor during a sexual assault forensic examination and has the right to have a sexual assault counselor present during any interview by a law enforcement officer, prosecutor, defense attorney or professional investigator about the reported sexual assault. A survivor retains this right even if the survivor waived the right in a previous examination or interview.

Chapter 199 also provides that evidence gathered during a sexual assault forensic examination may not be used to prosecute the survivor of sexual assault for a Class D or Class E drug offense, any crime of operating under the influence, any crime of violating a condition of release, any crime of engaging in prostitution, any violation of the State's liquor laws or any

juvenile crime based on a violation of these same laws. The evidence gathered during a sexual assault forensic examination also may not be used as the basis of a motion to revoke any conditional release of the survivor or as a basis to search for further evidence that a survivor committed any of these crimes or offenses.

### **What does this mean for your work?**

This is another tool you or a survivor can use to advocate for your presence during a sexual assault forensic examination, interview with law enforcement, or meeting with a prosecutor.

In addition, if you are talking to a survivor on the helpline or at a sexual assault forensic examination who is nervous to report their sexual assault based on drug or alcohol use (even if they are under 21), you can advise them that they are protected from most prosecution based on this law.

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## **Public Law Chapter 316**

### **LD 1435, An Act to Reduce Commercial Sexual Exploitation**

### **What does this do?**

Public Law 2023, chapter 316 (1) eliminates the crime of engaging in prostitution, (2) renames the crime of patronizing prostitution of a minor or a person with a mental disability to commercial sexual exploitation of a minor or a person with a mental disability, and (3) renames the crime of solicitation of a child to engage in prostitution to solicitation of a child for commercial sexual exploitation.

Chapter 316 also (1) changes from a Class D crime to a Class C crime the crime of solicitation of a child for commercial sexual exploitation, (2) establishes a defense to prosecution for conspiracy to commit the crime of engaging a person for prostitution if the defendant's participation was engaging or agreeing to personally engage in a sexual act with a patron, and (3) establishes a defense to prosecution for sex trafficking if the defendant's actions consisted of publicly soliciting a patron to engage in prostitution only with the defendant. Chapter 316 also adds commercial sexual exploitation to the list of circumstances in a child's family background that would qualify the child as a special needs child under the adoption assistance program.

### **What does this mean for your work?**

This law de-criminalizes seller side sex work in Maine—that is, the act of prostitution is no longer illegal, but buying sex is still a crime. Because we are the first state to take this approach,

we would love to hear from you what, if any, impacts this is having on survivors you are working with. Please reach out to Melissa ([martin@mecasa.org](mailto:martin@mecasa.org)).

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## **Public Law Chapter 409**

### **LD 1436, An Act to Provide Remedies for Survivors of Commercial Sexual Exploitation**

#### **What does this do?**

Public Law 2023, chapter 409 allows for the sealing of a criminal conviction of engaging in prostitution so long as one year had passed since the person has fully satisfied the terms of any conviction.

#### **What does this mean for your work?**

This allows survivors who have been convicted of engaging in prostitution to have their criminal records related to prostitution sealed, which can remove some barriers to employment and housing caused by a public criminal record. It also means most people will not have access to the conviction.

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## **Public Law Chapter 235**

### **LD 1438, An Act to Require Standard Procedures to Protect Stalking Victims and Access to Certain Criminal Complaints**

#### **What does this do?**

Public Law 2023, chapter 235 requires all law enforcement agencies to adopt written policies regarding standard procedures to ensure protection from stalkers. Chapter 235 also requires law enforcement agencies to adopt a written policy establishing a process to ensure that, when a person files multiple, separate complaints regarding the behavior of another person that may indicate a course of conduct constituting stalking, those complaints are reviewed together to determine if the other person has engaged in stalking.

Chapter 235 creates a right that entitles a person who files a complaint with a criminal justice agency to receive one copy of that report at no charge, and when a Maine criminal justice agency provides a copy of intelligence and investigative record information to a crime victim or that victim's agent or attorney, the agency may not charge a fee for providing that information.



## What does this mean for your work?

Survivors may get a free copy of their police report.

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## Resolve Chapter 70

**LD 1484, An Act to Improve Sexual Assault Kit Tracking (title amended to “Resolve, Regarding the Status of Federal Grant Applications or Money Secured for the Funding of a Sexual Assault Kit Tracking Pilot Program")**

## What does this do?

Resolve 2023, chapter 70 directs the Department of Public Safety to report to the Joint Standing Committee on Criminal Justice and Public Safety by February 1, 2024, on the status of any federal grant applications or money secured by the department for the purpose of funding a sexual assault kit tracking pilot program. The resolve authorizes the committee to report out a bill relating to a sexual assault kit tracking pilot program to the Second Regular Session of the 131st Legislature.

## What does this mean for your work?

Within the next few years, we are hoping to secure funding for Maine to create a sexual assault kit tracking system to allow survivors 24-7 access to information about their sexual assault kits.

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## Public Law Chapter 294

**LD 1507, An Act to Ensure the Accuracy of Vital records with Respect to Gender**

## What does this do?

Public Law 2023, chapter 294 provides that a person married in this State may apply to the State Registrar of Vital Statistics for a new marriage certificate reflecting the person's change of gender and the person's new first and middle names, if any. If a new marriage certificate is issued, it may not be marked "amended" and all copies of the original marriage certificate must be sealed from inspection.

Chapter 294 also provides that a death certificate for an individual must reflect the desired gender identity of the individual who has died if the person signing the certificate is aware of that desire either through a valid living will, advance health care directive or other record, including a record prepared by someone other than the individual. It also provides that a health care provider may amend a certificate of death with respect to the gender of the individual who has died.

### **What does this mean for your work?**

This law allows those who have changed their gender to have marriage certificates and death certificates that match their gender identity. Old records are sealed to protect confidentiality.

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## **Public Law Chapter 202**

### **LD 1523, An Act to Establish a Qualifying Condition Review Board to Provide Benefits to Certain Service Members**

### **What does it do?**

Public Law 2023, chapter 202 repeals a provision requiring the Director of the Maine Bureau of Veterans' Services to establish a process for a veteran who separated from service without an honorable discharge due solely to the veteran's sexual orientation or gender identity to have that discharge treated as an honorable discharge for purposes of determining the veteran's eligibility for rights, privileges and benefits granted to veterans under state law and replaces it with a provision that establishes the Qualifying Review Board to review applications submitted by veterans who receive an other than honorable discharge for eligibility for rights, privileges and benefits granted to veterans under state law if the veteran believes the discharge characterization was based on the veteran's sexual orientation, gender identity or gender expression; conduct associated with a diagnosis of post-traumatic stress disorder or acquired brain injury; or conduct or circumstances relating to being a victim of military sexual assault. Members of the Qualifying Condition Review Board must have relevant clinical experience working with veterans. On approval of an application, a veteran is eligible for rights, privileges and benefits granted to veterans under state law. Chapter 202 also permits a veteran whose discharge characterization is upgraded by the Qualifying Review Board to be buried in a veterans' cemetery.

### **What does this mean for your work?**

If you are working with a veteran survivor who was dishonorably discharged due to PTSD or conduct or circumstances related to being a victim of military sexual assault, they can apply to

have that decision reviewed and changed. This could give a survivor access to additional veterans' benefits.

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## **Public Law Chapter 322**

### **LD 1592, An Act to Amend Special Motion to Dismiss Protections to Include Workplace and Title IX Claims**

#### **What does this do?**

Public Law 2023, chapter 322 amends the definition of "a party's exercise of its right of petition" in the law governing special motions to dismiss by including statements made in connection with complaints under the Maine Human Rights Act, the laws governing sexual violence, intimate partner violence and stalking policies at institutions of higher education and the so-called Title IX provisions of the federal Education Amendments of 1972.

#### **What does this mean for your work?**

If a survivor reports a sexual assault or sexual harassment to their school or employer and is sued for defamation, they will have access to an expedited process to get that case dismissed.

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## **Public Law Chapter 416**

### **LD 1619, An Act to Improve Maine's Reproductive Privacy Law**

#### **What does it do?**

Chapter 416 changes the standard for when an abortion may be performed after viability to only when the abortion is necessary in the professional judgment of a licensed physician, instead of when it is necessary to preserve the life or health of the mother. In making the professional judgement, the physician must apply the applicable standard of care.

#### **What does this mean for your work?**

This law allows survivors greater access to abortion care. This can be particularly important for survivors of sexual assault who are unfamiliar with signs of early pregnancy.

## **Public Law Chapter 236**

### **LD 1632, An Act to Require Proper Storage of Forensic Exam Evidence**

#### **What does it do?**

Public Law 2023, chapter 236 directs a law enforcement agency to collect and transport anonymously collected forensic evidence from strangulation exams. The bill changes the required time that a law enforcement agency must store a forensic examination kit for sexual assault from 8 years to 20 years and requires that a law enforcement agency store a forensic examination kit involving only strangulation for 6 years.

#### **What does it mean for your work?**

You can now inform survivors and families that a law enforcement agency must store a forensic examination kit for sexual assault for 20 years. Because sexual assault kits must now be stored for 20 years, survivors have greater opportunity to choose to report after having a kit completed. Additionally, if a survivor has a forensic examination kit involving only strangulation, that kit must be kept for 6 years.

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## **Public Law Chapter 280**

### **LD 1657, An Act to Amend the Law Governing Certain Sexual Offenses (title amended to 'An Act to Define "Consent" and Amend the Law Governing Certain Sexual 13 Offenses')**

#### **What does this do?**

Public Law 2021, chapter 280 defines the term "consent" in the Maine Criminal Code's provisions concerning sexual assault crimes to mean "a word or action by a person that indicates a freely given agreement." It also changes the terms "expressly or impliedly acquiesced" and "acquiesced" to "consented" in the elements of the crimes of gross sexual assault, unlawful sexual contact, and unlawful sexual touching.

#### **What does this mean for your work?**

By making the criminal statutes for sexual assault more clear and consistent, prosecutors may be able to successfully prosecute more sexual assault cases.

## **Public Law Chapter 298**

### **LD 1683, An Act to Provide for Civil Recovery Based on Nonconsensual Removal of or Tampering with a Condom and Considering Sexual Assault in Evaluating Parental Rights**

#### **What does this do?**

Public Law 2023, chapter 298 provides that a plaintiff who prevails in a civil action based on nonconsensual removal of or tampering with a condom may be awarded actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief and is entitled to attorney's fees and court costs. Evidence of consent to engage in a previous sexual act without a condom is not by itself sufficient to demonstrate consent to engage in a subsequent sexual act without a condom. The 6-year statute of limitations applies to these actions.

Chapter 298 allow allows those who have experienced nonconsensual removal of or tampering with a condom to seek a Protection from Abuse order based on this conduct.

Finally, Chapter 298 also provides guidelines for the family court to consider in awarding parental rights and responsibilities when a child was conceived as a result of sexual assault or nonconsensual removal of or tampering with a condom.

#### **What does this mean for your work?**

If you are working with a survivor who has experienced stealthing (removing or tampering with a condom without their consent), they now have access to a protection order and/or civil damages. All sexual assault survivors, including survivors of stealthing, will also be able to have a judge consider certain specific factors about their safety and the parenting capacity of the parent who caused harm.

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## **Public Law Chapter 474**

### **LD 1783, An Act to Implement the Recommendations of the Governor's Advisory Council on Military Sexual Trauma**

#### **What does it do?**

Public Law 2023, chapter 474 provides a single December report back date for all data from the Maine National Guard to the Joint Standing Committee with jurisdiction over Veterans and Legal Affairs. Chapter \*\* also adds that the Maine National Guard will provide data regarding recruitment and retention based on gender.

Chapter 474 also provides for paid leave for those involved in an unrestricted report of sexual assault while the investigation is pending.

Finally, Chapter 474 also provides that an unrestricted report of sexual assault to the Maine National Guard is sufficient for meeting the reporting requirement for eligibility for Maine Victims Compensation.

### **What does it mean for your work?**

This bill is part of a continued effort to partner with the Maine National Guard to prevent sexual violence in the Guard and improve the response to sexual harassment and sexual assault. This bill specifically makes Victims Compensation and paid leave for accessible to survivors of sexual assault in the Maine National Guard.

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## **Public Law Chapter 475**

**LD 1790, An Act Removing the Statute of Limitations on Criminal and Civil Actions Involving Sexual Abuse of Minors (title amended to 'An Act Removing the Statute of Limitations on Civil Actions and Criminal Prosecutions for Certain Sexual Offenses Against Minors')**

### **What does it do?**

Public Law 2023, chapter 475 removes the limitations period for a civil action or criminal prosecution based on conduct against a minor victim that qualifies as the crime of incest, unlawful sexual contact, sexual abuse of a minor, rape or gross sexual assault, formerly denominated as gross sexual misconduct, unlawful sexual touching, or sexual exploitation of a minor. Pursuant to the Maine Revised Statutes, Title 14, section 752-C, subsection 3, this applies to all civil actions based upon such conduct with a minor victim regardless of whether the civil statute of limitations on such action expired prior to the effective date of the legislation. Chapter 475 applies to a criminal prosecution based on such conduct with a minor victim either if the criminal conduct is committed on or after the effective date of this chapter or if the prosecution has not yet been barred by the criminal statute of limitations in force immediately prior to the effective date of this chapter.

### **What does this mean for your work?**

There is no longer a statute of limitations for child sexual abuse cases in Maine. For civil CSA cases, this law applies retroactively (meaning to incidents that happened in the past). For criminal CSA cases, this law only applies from now on, meaning it does NOT apply retroactively.

## **LD 1964, An Act to Implement the Recommendations of the Commission to Develop a Paid Family and Medical Leave Benefits Program (signed into law as part of budget package LD 258)**

### **What does it do?**

**LD 1964** creates a comprehensive Paid Family and Medical Leave Benefits program. This paid leave includes specific provisions allowing sexual assault survivors to take paid leave based on similar language to the current unpaid leave provisions. Specifically, survivors can take paid leave to participate in court proceedings, medical care, and appointments with lawyers and law enforcement.

### **What does it mean for your work?**

Survivors will have access to paid leave, which they can take in small chunks, to attend court proceedings, access medical care, and have appointments with lawyers and law enforcement. Also, everyone in the state, survivors and otherwise, will have access to paid leave when they have a child or medical need.