

During the First Regular Session of the 129<sup>th</sup> Legislature, the Maine Legislature considered many bills which may have implications for your work.

Below you will find a selection of laws enacted during this session, all of which became effective **September 19, 2019**. This is the effective date for non-emergency legislation enacted during the First Regular Session.

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

## **An Act To Ensure Access to Justice for Victims of Sexual Assault - 17-A M.R.S. §8(2-A)**

[Public Law 2019, Chapter 483](#)

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

This law extends the statute of limitations for victims over 16 from 8 to 20 years for Class A, B, and C sexual assault crimes, including gross sexual assaults and unlawful sexual contacts. The statute of limitations is a legal term that means the amount of time a victim of a crime has to start a legal action against the perpetrator. In this case, the survivor would have 20 years from the date of the incident to bring an action against the perpetrator. The new law does not act retroactively, meaning it does not extend the limitations period if it had already expired by September 19, 2019.

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

As with all possible crimes and questions about whether someone should make a police report, it is not your responsibility to determine whether or when a crime was committed or if it can be investigated by law enforcement and ultimately prosecuted. However, it is important to know that the window of time for many survivors to report has more than doubled, opening up new options for some. As a reminder, there is currently no statute of limitations for many sex crimes committed against children under the age of 16.

## **An Act To Support Justice for Victims of Sexual Assault by Increasing the Time Sexual Assault Forensic Examination Kits Must Be Stored - 25 M.R.S. §3821**

[Public Law 2019, Chapter 94](#)

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

Extends the time that law enforcement agencies must store anonymous examination kits from 90 days to 8 years.

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

This is important information to include when talking with survivors about their options for health care or reporting to law enforcement, which may possibly result in criminal investigation. The kit will be stored anonymously prior to any such report, and a report can be made at any time, even after the expiration of the retention period, though delays in reporting may make it more difficult for law enforcement to investigate. This new law works in tandem with the previous law expanding the statute of limitations by giving survivors more time to decide to prosecute and saving the relevant evidence for a longer period of time too.

## **An Act Concerning Caller Access to E-9-1-1 Call Recordings**

### **– 25 M.R.S. §2929(4)(B-1)**

[Public Law 2019, Chapter 84](#)

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

Allows 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.

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

If you are working with a survivor and there is a 911 call associated with what happened to them, it may be possible to obtain a recording of the call that might be considered as part of evidence in a Protection Order hearing. If an audio recording is being played for the court, there may be additional court preparation and debrief needed with the survivor regarding the possible occurrence of cross examination of the evidence. The request of the recording can be done in collaboration with Pine Tree Legal Assistance or the survivor can make the request themselves.

Our partners at MCEDV have created a template for requesting a recording. [You can find that here](#) and contact list of where to send the request [here](#).

## **An Act Regarding Charging a Person under 18 Years of Age with the Crime of Engaging in Prostitution – 17-A M.R.S. §853-A**

[Public Law 2019, Chapter 131](#)

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

Decriminalizes prostitution for individuals under 18.

## What does it mean for your work?

This law has both individual and systemic impacts. If you are working with a young person trading sex for things of value, the person cannot be criminally charged with prostitution. It may create more safety and opportunity to engage in supports and services by removing the risk of being charged with a crime.

While the practice of charging minors with prostitution in Maine has decreased over the years and may only directly impact a few people accessing sexual assault advocacy services, the statutory change reflects a shift in how policymakers view minors caught up in sex trafficking in Maine. All people under the age of 18 who are engaged in commercial sex are now considered victims of human trafficking under both state and federal laws.

## An Act To Prevent Discrimination in Public and Private Insurance Coverage for Pregnant Women\* in Maine - 24-A MRSA §4320-M

[Public Law 2019, Chapter 274](#)

### What does it do?

Allows for MaineCare funding for abortions without having to disclose sexual assault.

### What does it mean for your work?

Prior to this law, a survivor who was pregnant because of sexual violence and wanted an abortion could use MaineCare coverage, but only after getting an exemption. That process was not well known or accessible and placed the responsibility on the survivor to disclose sexual violence to access that benefit.

This law creates equitable access for all MaineCare-covered pregnant people who need abortions, including some survivors you work with as they explore their healthcare options.

Our friends at Maine Family Planning (MFP) offer this guidance if you are working with someone who has experienced sexual violence, needs an abortion, and may be eligible for MaineCare:

- If a patient does not currently have MaineCare but may be eligible (even if they have private insurance that does not cover abortion) they can go to an MFP clinic for a pregnancy test and if they qualify they can be signed up for Presumptive Eligibility (PE). PE will cover that pregnancy test visit and care during pregnancy or an abortion. If patient has 3<sup>rd</sup> party insurance, that insurance will be billed 1<sup>st</sup> and then the claim crosses over to PE MaineCare. PE does **NOT** cover contraception or other non-pregnancy related care.
- Here are the [MaineCare Eligibility Guidelines](#) (the category called Pregnant Women is the guidelines for PE).
- A patient **CANNOT** get PE and an abortion on the same day.
- If a patient has 3<sup>rd</sup> party insurance and wants confidentiality, then there is no reason to get Presumptive Eligibility or MaineCare since using state funds for an abortion is currently always considered a payer of last resort, so insurance will **ALWAYS** be billed first. If a patient requires confidentiality about their visit, have them call us to discuss financial assistance.

*\* Despite the use of “women” in the title, the chaptered law itself refers strictly to “MaineCare members” and patients, so it is gender inclusive and there should not be issues for access for transgender and gender non-conforming pregnant people.*

## **An Act To Clarify Maine's Protection from Abuse Statutes**

### **– 19-A M.R.S. §4007(1)(D)**

[Public Law 2019, Chapter 176](#)

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

Specifies that when a district 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. The court previously had the authority to offer this relief and often included social media under “contact,” but we are hopeful that this will provide clarity and consistency to all parties, including law enforcement who look to orders when considering violations.

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

When working with a survivor who has a temporary or final protection from abuse order, include social media when safety planning and discussing how to document and report a violation of the protection order.

Pine Tree Legal Assistance states that reporting a social media PFA violation looks like documenting any contact via social media through the use of screenshots. However, make sure the survivor coordinates with the PTLA attorney if there is one assisting them with their case. Screenshots should include any portion of the post that could help identify the poster, including time and date. It may also be helpful for the survivor to record details about what the post means, when they saw it, the way it was communicated to them, and whether the contents include details known only to a particular person.

It can be hard to enforce these types of violations. Survivors always have the option of making a written statement to law enforcement even if law enforcement says they are not going to pursue a violation. Such a record can help build the record needed to investigate or prosecute should the conduct recur.

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

### **- 25 MRSA § 3871**

[Public Law 2019, Chapter 80](#)

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

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.

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

This law ensures that an individual law enforcement officer will not be the only decisionmaker in determining if a sexual assault investigation will proceed as well as that prosecutors are involved at early stages of an investigation. All reports of sexual assault must be shared with the District Attorney’s office.

## **An Act To Protect Tenants from Sexual Harassment**

### **– Title 14 M.R.S. §6001(3)(G) and (6)(D-1)**

[Public Law 2019, Chapter 351](#)

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

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 (which means someone working for the landlord) 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.

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

There are a number of housing protections related to domestic violence, sexual assault, stalking, and trafficking and this expands protections to sexual harassment. A full list of housing protections can be found on [Pine Tree Legal Assistance's website](#). Reach out to them with any intersecting housing and sexual assault issues.

## **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**

*(Leg. summary title: An Act to Prevent Law Enforcement Officers from Using Their Authority to Extract Sexual Favors)* 17-A M.R.S. §253(N) and 25 M.R.S. §2806-A(5)(K) and (L)

[Public Law Chapter 438](#)

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

The chapter adds a section to the crime of gross sexual assault that prohibits law enforcement from engaging in a sexual act with another person who 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. The new law also establishes additional grounds for the Maine Criminal Justice Academy (MCJA) to take action against an officer which may include decertification. This addition means that if a police officer, who is acting in performance of their official duties, engages in sexual contact with another person who is subject to that police officer's official power as a law enforcement official, MCJA may take action against that officer.

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

The law recognizes that there is a power imbalance between a law enforcement officer and a person under arrest, in custody, being interrogated, or temporarily detained. Such conduct may result in the MCJA taking disciplinary action against the officer in addition to the officer being subject to criminal action. While your role is not to determine if a crime took place, it is important information in discussing options and information about next steps with those you are assisting.

Of note, [administrative action is not just linked to sexual contact while in custody](#). An officer cannot engage in a sexual act or sexual contact with a victim of such a crime within 60 days of the officer being involved in the investigation.

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

### **– 5 M.R.S. §4553(5-C)**

[Public Law 2019, Chapter 464](#)

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

The new law separately defines “gender identity” to clarify the intent of the Act that discrimination against individuals based on gender identity is prohibited.

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

When supporting someone who has experienced sexual harassment in any place covered by the Maine Human Rights Act (workplace, schools, housing), harassment based on gender identity is clearly protected in statute (it was not always). Gender identity is now clearly defined in the Maine Human Rights Act as, “the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.”

## **An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence – 19-A M.R.S. §4011(5)**

[Public Law 2019, Chapter 412](#)

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

Part of this new law allows for the elevation of the third violation of a protection order from a Class D to a Class C crime based upon 2 prior convictions within the previous 10 years. While the name of the bill references domestic violence, the change applies to the third violation of any PFA order, including those brought on the basis of a sexual assault.

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

Treatment of a third violation as a Class C crime means that it is punishable by up to 5 years of incarceration and/or a \$5,000 fine. Additionally, people convicted of felony-level crimes are not allowed to possess firearms or ammunition under state and federal law.

As you work with survivors navigating the protection order application and implementation process, this could be part of your safety planning conversation. Review with a survivor how to report a protection order violation and their rights following a violation. It is also important to go over prior protection order violation charges that resulted in convictions; if 2 or more occurred within the prior 10 years, it changes the consequences of the current violation. This conversation can be had in collaboration with a Pine Tree Legal Assistance attorney following an order of protection.

A violation of a temporary or final order would trigger this law, and there is no requirement for a finding of abuse or the conduct alleged (sexual assault, for example) in order for Defendant to be found to have violated the order. Additionally, this law would apply to orders that the plaintiff has. For example, if the Defendant in the PFA had violated a previous PFA for a separate Plaintiff twice, then one more violation would trigger this elevated crime. Of note - just the elevation of the crime from a D to a C, doesn't guarantee those maximum punishments (5 years/\$5000 fine). It is important that survivors don't expect the maximum because the sentence is very rarely the maximum.