

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

S.P. 431 - L.D. 1237

**Resolve, Directing the Department of Corrections To Amend Its Rules
Pertaining to Certification of Batterer Intervention Programs**

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

Whereas, the Department of Corrections, acting pursuant to the Maine Revised Statutes, Title 19-A, section 4014, has adopted rules establishing standards and procedures for certification of batterer intervention programs; and

Whereas, in the process of sentencing persons convicted of crimes of domestic violence, courts may order those offenders to attend batterer intervention programs that the Department of Corrections has certified; and

Whereas, a recent decision of the Maine Supreme Judicial Court in the case of State v. Mosher, 2012 ME 133, has cast doubt on the validity of the Department of Correction's current rules for certification of batterer intervention programs because the current rules appear to limit certification to those programs serving male domestic violence offenders; and

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

Sec. 1. Adoption of emergency rules. Resolved: That, notwithstanding the Maine Revised Statutes, Title 19-A, section 4014, the Department of Corrections shall adopt emergency rules pursuant to Title 5, section 8054 to amend the current rules to make them gender neutral so that batterer intervention programs that serve female domestic violence offenders may be certified, and courts may be provided the opportunity to order female offenders convicted of crimes of domestic violence to participate in certified batterer intervention programs. Following adoption of the emergency rules, the Department of Corrections shall initiate nonemergency rulemaking on certified batterer intervention programs pursuant to Title 5, chapter 375. Notwithstanding Title 19-A, section 4014, all rules or amendments to rules on the subject of the certification of

batterer intervention programs, regardless of which gender a program serves, are considered routine technical rules as defined by Title 5, section 8071.

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