

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE  
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED AT THE  
**SECOND REGULAR SESSION**  
of the  
ONE HUNDRED AND EIGHTH LEGISLATURE  
January 4, 1978 to April 6, 1978

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

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

26 MRSA § 979-A, sub-§ 6, ¶ H is enacted to read:

**H. Who is a staff attorney, assistant attorney general or deputy attorney general in the Department of Attorney General.**

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 14, 1978

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## CHAPTER 643

**AN ACT Amending the Maine Medical and Hospital Malpractice Joint Underwriting Association Act.**

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

Sec. 1. 24 MRSA § 2405, sub-§ 1, 1st sentence, as repealed and replaced by PL 1977, c. 7, § 6, is repealed and the following enacted in its place:

**The association shall not issue any policies with an inception date after July 1, 1979 and in no event shall issue a policy providing coverage after July 1, 1980.**

Sec. 2. 24 MRSA § 2407, sub-§ 3 is enacted to read:

**3. Cancellation by insured. An insured may cancel its policy by mailing or delivering a notice to the association at the address shown on the policy stating when, not less than 15 days thereafter, cancellation shall be effective. An insured, so canceling, shall be entitled to a pro rata return of any unearned, prepaid premium and shall be entitled to a pro rata return of any unearned, prepaid stabilization reserve fund charge.**

Effective July 6, 1978

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## CHAPTER 644

**AN ACT to Amend the Child Welfare Laws.**

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

Whereas, a law authorizing short-term emergency services for children became effective October 24, 1977; and

Whereas, this law requires promulgation of rules to implement the law by January 24, 1978; and

Whereas, this law needs certain revisions to clarify certain provisions before it can be effectively implemented; and

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

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

**Sec. 1.** 22 MRSA § 3803, sub-§ 2, ¶ C, last sentence, as enacted by PL 1977, c. 577, § 3, is amended to read:

This notice shall include the specific reasons for the department's decision, the specific efforts the department has made to maintain contact with the parents and to return the child to his home, and the parents' right to petition to have custody restored under section ~~3798~~ 3793.

**Sec. 1-A.** 22 MRSA § 3860, sub-§ 3, last sentence, as repealed and replaced by PL 1977, c. 511, § 10, is repealed and the following enacted in its place:

Information or records obtained by subpoena under paragraph A shall be treated in accordance with section 3859. Criminal history record information obtained under paragraph B shall be used only for the purposes for which it was given and shall not be further disseminated except in accordance with Title 16.

**Sec. 2.** 22 MRSA §§ 3891 - 3898, as enacted by PL 1977, c. 577, § 4, are repealed.

**Sec. 3.** 22 MRSA §§ 3891-A - 3891-F are enacted to read:

#### § 3891-A. Definitions

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

1. **Agency.** "Agency" means any person or facility licensed or approved by the department for the purpose of providing short-term emergency care services.

2. **Child.** "Child" means any person under 18 years of age.

3. Department. "Department" means the Department of Human Services.

4. Parent. "Parent" means legal parent, guardian or legal custodian.

5. Short-term emergency services. "Short-term emergency services" means protective services, emergency shelter care and other services which are essential to the care, maintenance and protection of a child. These services include emergency caretaker or homemaker services in the child's home when no parent or other responsible adult is available and willing to care for the child in his home.

§ 3891-B. Authorization

1. Authorized to provide short-term emergency services. The Department of Human Services is authorized to provide short-term emergency services to any child who is, or appears to be:

A. Abused, neglected or otherwise seriously endangered; or

B. A runaway from the care and custody of his parents.

The services may be provided directly or through contracts or agreements with agencies.

2. Authorized to give legal consent to receive emergency medical treatment. The department is also authorized to give legal consent for the child to receive any emergency medical treatment the child needs while receiving short-term emergency services, if the parents are unavailable to give consent for that treatment. No recovery shall be allowed against any physician or any health care provider upon the grounds that the emergency medical treatment was rendered without the informed consent of the child or the child's parents when the department gave its consent for the child to receive that emergency medical treatment.

§ 3891-C. Contacting parents; consent of parent; child

1. Parent. Upon initiation of short-term emergency services for a child, the department shall take reasonable steps to notify a parent of the child that the child is receiving the services and to seek the parent's consent for the services.

Short-term emergency services may be provided to the child prior to the consent of the child's parent. If, after the parent has been contacted, he refuses to consent to the provision of short-term emergency services to his child, the services shall be terminated.

2. Child. Short-term emergency services shall not be provided to any child who expresses a clear desire not to receive the services.

§ 3891-D. Length of services

The provision of short-term emergency services shall be limited to no more than 72 hours per incident. This limitation does not affect the provision of services under other authorizations.

§ 3891-E. Liability of parents

The provision of short-term emergency services by the department or any agency to a child shall not affect a parent's obligation for the support of the child.

The department may, by agreement or court order, obtain payments from a parent to reimburse the department for the support of the child who received short-term emergency services.

§ 3891-F. Rules

The commissioner shall adopt rules for the effective implementation of this chapter. Any rules adopted and in effect pursuant to section 3898, enacted by PL 1977, chapter 577, section 4, shall satisfy this requirement and continue in effect until modified pursuant to this section.

The commissioner shall hold at least one public hearing prior to adopting or modifying rules under this chapter.

The adoption and modification of any of these rules after July 1, 1978, shall be in accordance with the Administrative Procedure Act, Title 5, and appropriate departmental procedures. Prior to that date, the adoption and modification of the rules shall be in accordance with the procedure for rulemaking for the Department of Human Services, effective November 1, 1975.

The rules shall address in further detail the circumstances under which services will be provided, types of services to be provided, means of providing services, notification of parents and other appropriate matters.

Sec. 4. PL 1977, c. 107, last ¶, is amended to read:

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved. ~~Title 22, section 3802, subsection 1, paragraph C, the last sentence, shall be effective until March 1, 1978.~~

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.