

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

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

17 MRSA §2921, sub-§5, ¶E and F, as enacted by PL 1977, c. 628, §1, are amended to read:

E. Lewd exhibition of the genitals, anus or pubic area of a person; or

F. Conduct that creates the appearance of the acts in paragraphs A through D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area.

Effective September 29, 1987.

CHAPTER 166

S.P. 406 — L.D. 1257

AN ACT to Modify Certain Criminal Appeal Laws.

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

Sec. 1. 15 MRSA §2111, as amended by PL 1981, c. 647, §4, is repealed and the following enacted in its place:

§2111. Time to appeal

In any criminal proceeding in the District Court, any defendant aggrieved by a judgment of conviction or order may appeal to the Superior Court in the county where the offense, on which the judgment of conviction or order was rendered, is alleged to have been committed. Venue may be transferred by the Chief Justice of the Superior Court at his discretion. The time for taking the appeal and the manner and any conditions for the taking of the appeal shall be as the Supreme Judicial Court provides by rule.

Sec. 2. 15 MRSA §2112, as amended by PL 1965, c. 356, §60, is repealed.

Sec. 3. 15 MRSA §2115, first ¶, as repealed and replaced by PL 1965, c. 356, §63, is repealed and the following enacted in its place:

In any criminal proceeding in the Superior Court, any defendant aggrieved by a judgment of conviction, ruling or order may appeal to the Supreme Judicial Court, sitting as the Law Court. The time for taking the appeal and the manner and any conditions for the taking of the appeal shall be as the Supreme Judicial Court provides by rule.

Effective September 29, 1987.

CHAPTER 167

S.P. 410 — L.D. 1261

AN ACT Relating to a Court Granting Continuance under the Corrections Law.

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

Sec. 1. 34-A MRSA §3042, sub-§5, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

5. Continuance. For good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Sec. 2. 34-A MRSA §3042, sub-§6, ¶A, as enacted by PL 1983, c. 459, §6, is amended to read:

A. The untried indictment, information or complaint is no longer of any force of or effect;

Effective September 29, 1987.

CHAPTER 168

H.P. 1143 — L.D. 1553

AN ACT to Require Insurers to Report Utilization Review Data.

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

Sec. 1. 24 MRSA §2302-A is enacted to read:

§2302-A. Utilization review data

1. Report required. On or before April 1st of each year, every nonprofit hospital or medical service organization which issues or administers a program or contract in this State that contains a provision whereby in nonemergency cases the insured is required to be prospectively evaluated through a prehospital admission certification, preinpatient service eligibility program or any similar preutilization review or screening procedure prior to the delivery of contemplated hospitalization, inpatient or outpatient health care or medical services which are prescribed or ordered by a duly licensed physician shall file a report on the results of that evaluation for the preceding year with the superintendent which shall contain the following:

A. The number and type of evaluations performed.

(1) For the purposes of this section, the term "type of evaluations" means the following preutilization

review categories: Presurgical inpatient days; setting of medical service, such as inpatient or outpatient services; and the number of days of service;

B. The result of the evaluation, such as whether the medical necessity of the level of service contemplated by the patient's physician was agreed to or whether benefits paid for the service were reduced by the organization;

C. The number and result of any appeals by patients or their physicians as a result of initial review decisions to reduce benefits for services as determined through prospective evaluations; and

D. Any complaints filed in a court of competent jurisdiction and served upon an organization filing under this section stating a cause of action against the organization on the basis of damages to patients alleged to have been proximately caused by a delay, reduction or denial of medical benefits by the organization, as determined through prospective evaluations, and the determination of liability or other disposition of the complaint.

2. Maine residents. This section is applicable to evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Sec. 2. 24 MRSA §2341 is enacted to read:

§2341. Utilization review data

1. Report required. On or before April 1st of each year, a nonprofit service organization which issues or administers a program or contract in this State that contains a provision whereby in nonemergency cases the insured is required to be prospectively evaluated through a prehospital admission certification, preinpatient service eligibility program or any similar preutilization review or screening procedure prior to the delivery of contemplated hospitalization, inpatient or outpatient health care or medical services which are prescribed or ordered by a duly licensed physician shall file a report on the results of that evaluation for the preceding year with the superintendent which shall contain the following:

A. The number and type of evaluations performed.

(1) For the purposes of this section, the term "type of evaluations" means the following preutilization review categories: Presurgical inpatient days; setting of medical service, such as inpatient or outpatient services; and the number of days of service;

B. The result of the evaluation, such as whether the medical necessity of the level of service contemplated

by the patient's physician was agreed to or whether benefits paid for the service were reduced by the organization;

C. The number and result of any appeals by patients or their physicians as a result of initial review decisions to reduce benefits for services as determined through prospective evaluations; and

D. Any complaints filed in a court of competent jurisdiction and served upon an organization filing under this section stating a cause of action against that organization on the basis of damages to patients alleged to have been proximately caused by a delay, reduction or denial of medical benefits by the organization, as determined through prospective evaluations, and the determination of liability or other disposition of the complaint.

2. Maine residents. This section is applicable to evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Sec. 3. 24-A MRSA §2679 is enacted to read:

§2679. Utilization review data

1. Report required. On or before April 1st of each year, an administrator or insurer who issues or administers a program, policy or contract in this State that contains a provision whereby in nonemergency cases the insured is required to be prospectively evaluated through a prehospital admission certification, preinpatient service eligibility program or any similar preutilization review or screening procedure prior to the delivery of contemplated hospitalization, inpatient or outpatient health care or medical services which are prescribed or ordered by a duly licensed physician shall file a report on the results of that evaluation for the preceding year with the superintendent which shall contain the following:

A. The number and type of evaluations performed.

(1) For the purposes of this section, the term "type of evaluations" means the following preutilization review categories: presurgical inpatient days; setting of medical service, such as inpatient or outpatient services; and the number of days of service;

B. The result of the evaluation, such as whether the medical necessity of the level of service contemplated by the patient's physician was agreed to or benefits paid for the service were reduced by the administrator or insurer;

C. The number and result of any appeals by patients or their physicians as a result of initial review deci-

sions to reduce benefits for services as determined through prospective evaluations; and

D. Any complaints filed in a court of competent jurisdiction and served upon an administrator or insurer filing under this section stating a cause of action against the administrator or insurer on the basis of damages to patients alleged to have been proximately caused by a delay, reduction or denial of medical benefits by the administrator or insurer, as determined through prospective evaluations and the determination of liability or other disposition of the complaint.

2. Maine residents. This section is applicable to evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Sec. 4. 24-A MRSA §2749 is enacted to read:

§2749. Utilization review data

1. Report required. On or before April 1st of each year, any insurer which issues a program or contract in this State providing coverage for hospital care that contains a provision whereby in nonemergency cases the insured is required to be prospectively evaluated through a prehospital admission certification, preinpatient service eligibility program or any similar preutilization review or screening procedure prior to the delivery of contemplated hospitalization, inpatient or outpatient health care or medical services which are prescribed or ordered by a duly licensed physician shall file a report on the results of that evaluation for the preceding year with the superintendent which shall contain the following:

A. The number and type of evaluations performed.

(1) For the purposes of this section, the term "type of evaluations" means the following preutilization review categories: Presurgical inpatient days; setting of medical service, such as inpatient or outpatient services; and the number of days of service;

B. The result of the evaluation, such as whether the medical necessity of the level of service contemplated by the patient's physician was agreed to or whether benefits paid for the service were reduced by the insurer;

C. The number and result of any appeals by patients or their physicians as a result of initial review decisions to reduce benefits for services as determined through prospective evaluations; and

D. Any complaints filed in a court of competent jurisdiction and served upon an insurer filing under this section stating a cause of action against that insurer

on the basis of damages to patients alleged to have been proximately caused by a delay, reduction or denial of medical benefits by the insurer, as determined through prospective evaluations, and the determination of liability or other disposition of the complaint.

2. Maine residents. This section is applicable to evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Sec. 5. 24-A MRSA §4228 is enacted to read:

§4228. Utilization review data

1. Report required. On or before April 1st of each year, each health maintenance organization which issues a program of contract in this State that contains a provision whereby in nonemergency cases the insured is required to be prospectively evaluated through a prehospital admission certification, preinpatient service eligibility program or any similar preutilization review or screening procedure prior to the delivery of contemplated hospitalization, inpatient or outpatient health care or medical services which are prescribed or ordered by a duly licensed physician shall file a report on the results of that evaluation for the preceding year with the superintendent which shall contain the following:

A. The number and type of evaluations performed.

(1) For the purposes of this section, the term "type of evaluations" means the following preutilization review categories: Presurgical inpatient days; setting of medical service, such as inpatient or outpatient services; and the number of days of service;

B. The result of the evaluation, such as whether the medical necessity of the level of service contemplated by the patient's physician was agreed to or whether benefits paid for the service were reduced by the health maintenance organization;

C. The number and result of any appeals by patients or their physicians as a result of initial review decisions to reduce benefits for services as determined through prospective evaluations; and

D. Any complaints filed in a court of competent jurisdiction and served upon a health maintenance organization filing under this section stating a cause of action against that organization on the basis of damages to patients alleged to have been proximately caused by a delay, reduction or denial of medical benefits by the organization, as determined through prospective evaluations, and the determination of liability or other disposition of the complaint.

2. Maine residents. This section is applicable to

evaluations, appeals and complaints relating to Maine residents only.

3. Confidentiality. Any information provided pursuant to this section shall not identify the names of patients.

Effective September 29, 1987.

CHAPTER 169

H.P. 1144 — L.D. 1554

AN ACT to Exempt Municipal Combination Snowplows and Dump Trucks from the Weight Limitations Imposed on Other Highway Vehicles.

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

29 MRSA §1757 is enacted to read:

§1757. Exemption

Any vehicle once modified for the purposes of snowplowing is exempt from the weight limits imposed by this chapter when equipped with a snowplow and wing or wings and engaged in snow plowing or ice control.

At all other times, the vehicles described in this section are exempt from section 1652, subsection 2, paragraph C.

Effective September 29, 1987.

CHAPTER 170

S.P. 513 — L.D. 1555

AN ACT Amending the Laws Relating to Private Security Guards.

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

Whereas, the Legislature anticipates labor strikes in the coming summer months which will involve the use of security guards and weapons; and

Whereas, legislation is urgently needed to better qualify both in-state and out-of-state security guards and deal with the problem of weapons used in strike situations; 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. 32 MRSA §9403, sub-§1-A is enacted to read:

1-A. Agent. "Agent" means a principal corporate officer, partner, owner or majority shareholder of a contract security company or a resident of the State who manages or supervises the security guard business of a resident or nonresident contract security company within the State. This definition does not apply in section 9412, subsection 2, wherein "agent" has the common dictionary definition indicated by its context.

Sec. 2. 32 MRSA §9403, sub-§§3-A to 3-J are enacted to read:

3-A. Dangerous substance. "Dangerous substance" means alcohol or any substance that is a schedule W, X, Y or Z drug under Title 17-A, chapter 45.

3-B. Drug abuser. "Drug abuser" means a person who uses any dangerous substance in violation of any law of the State.

3-C. Drug addict. "Drug addict" means a drug-dependent person who due to the use of a dangerous substance has developed such a tolerance to the substance that abrupt termination of the use of the substance would produce withdrawal symptoms.

3-D. Drug-dependent person. "Drug-dependent person" means a person who is unable to function effectively and whose inability to do so results from the use of a dangerous substance.

3-E. Employee. "Employee" means a natural person who performs one or more security guard functions under a contract of hire between the natural person and a contract security company or between the natural person and a proprietary security organization. A natural person who is an employee of a contract security company may not simultaneously be an employee of a proprietary security organization. This definition does not apply in section 9412, subsection 4, wherein "employee" has its common dictionary definition.

3-F. Firearm. "Firearm" has the same meaning as set forth in Title 17-A, section 2, subsection 12-A.

3-G. Formal charging instrument. "Formal charging instrument" means a complaint, indictment, information, juvenile petition or other formal written accusation against a person for some criminal or juvenile offense.

3-H. Fugitive from justice. "Fugitive from justice" has the same meaning as set forth in Title 15, section 201, subsection 4.