

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

**Sec. 3. 29-A MRSA §2556, sub-§2**, as amended by PL 1999, c. 641, §1, is further amended to read:

**2. Petition.** An habitual offender whose license has been revoked pursuant to section 2552 may petition the Secretary of State for a work-restricted license only after the expiration of ~~8 months~~ 18 months from the date the license was revoked pursuant to section 2552.

See title page for effective date.

## CHAPTER 515

H.P. 1409 - L.D. 1847

### An Act Regarding Fire Inspections for Foster Homes

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

**Sec. 1. 22 MRSA §8103, sub-§1**, as amended by PL 1997, c. 728, §12, is further amended to read:

**1. Procedures.** All procedures and other provisions included in section 7904-A, subsections 1 and 2, for boarding care facilities also apply to children's homes, except that the written statement referred to in section 7904-A, subsection 1 need not be furnished annually by the Commissioner of Public Safety to the department ~~when a children's home serves only one or 2 children for a facility licensed as a family foster home or a specialized children's home.~~ In these instances an inspection must be performed every 2 years.

See title page for effective date.

## CHAPTER 516

H.P. 1519 - L.D. 2023

### An Act to Amend the Election Laws

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

**Sec. 1. 21-A MRSA §115, sub-§1**, as amended by PL 1987, c. 188, §2, is repealed.

**Sec. 2. 21-A MRSA §411, sub-§1**, as amended by PL 1995, c. 154, §2, is further amended to read:

**1. Determination of primary.** When the state committee of a political party certifies that there is a

contest among candidates for nomination as the presidential candidate of the party and has notified the State of its intent to participate in a presidential preference primary election, the State shall hold a presidential preference primary election.

**Sec. 3. 21-A MRSA §411-A, sub-§3**, as amended by PL 1997, c. 436, §61, is further amended to read:

**3. Statement of intent.** A statement that the party intends to participate in a presidential preference primary election. Such a statement of intent is irrevocable for that particular presidential preference primary election; and

**Sec. 4. 21-A MRSA §415, sub-§1**, as repealed and replaced by PL 1995, c. 154, §8, is amended to read:

**1. Selection by convention.** Delegates must be selected by state parties meeting in convention pursuant to subchapter I, article III at any time after the presidential preference primary election.

**Sec. 5. 21-A MRSA c. 5, sub-c. VI**, as amended, is repealed.

**Sec. 6. 21-A MRSA §605, sub-§3** is enacted to read:

**3. Poster for prospective registrants and voters.** The Secretary of State shall prepare instruction posters to advise prospective registrants and voters of their rights.

A. An instruction poster advising prospective registrants and voters of their rights must be conspicuously posted at the entrances to all polling places and voter registration places.

**Sec. 7. 21-A MRSA §606, sub-§3**, as amended by PL 1995, c. 459, §43, is further amended to read:

**3. Receipt issued; inspection of ballots in an election.** Upon receipt of a package or box containing absentee ballots or blank absentee ballots for an election, the clerk shall open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if the correct number of ballots has not been received and shall also immediately send the Secretary of State a receipt for the absentee ballots the clerk receives received noting any discrepancies on the receipt. The clerk shall then proceed to issue absentee ballots or blank absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk shall open, in the

presence of one or more witnesses, the sealed package or box ~~containing the~~ of ballots in order to ensure and verify that the ballots do not contain any errors and that the correct number of ballots ~~have~~ has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if ~~a sufficient~~ the correct number of ballots has not been received. Ballots to be used for testing electronic tabulating devices may be removed at this time and immediately marked as provided by section 3-A. The clerk shall complete the clerk's portion of the warden's receipt of ballots and shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day when it is delivered to the warden at the polling place.

**Sec. 8. 21-A MRSA c. 9, sub-c. I-A**, as enacted by IB 1995, c. 2, §1, is repealed.

**Sec. 9. 21-A MRSA §651, sub-§1**, as amended by PL 2001, c. 310, §34, is further amended to read:

**1. Election materials sent to voting place.** Before the polls are opened, the clerk shall deliver or have delivered the election materials marked for each voting place to the warden at that voting place. The warden shall give the clerk a receipt noting the number of ballots received after the election officials have opened the boxes of ballots and verified the contents.

A. ~~In~~ Notwithstanding section 606, subsection 3, in a municipality that has an island voting district, the clerk may deliver the ballots and other election materials to that district on the day before the election and leave them in the protective custody of the warden or ward clerk.

**Sec. 10. 21-A MRSA §695, first ¶**, as enacted by PL 1985, c. 161, §6, is amended to read:

The election ~~officials~~ clerks shall count the ballots under the supervision of the warden as soon as the polls are closed, except that if, in the opinion of the municipal clerk the public interests will best be served, referendum ballots may be counted on the day immediately following the election, ~~provided that~~ as long as the count is completed within 24 hours after the polls are closed. If referendum ballots are counted under this exception, the municipal clerk is responsible for the security and safekeeping of the ballots until the count has been completed.

**Sec. 11. 21-A MRSA §698, sub-§3**, as amended by PL 2001, c. 310, §47, is further amended to read:

**3. Lists packed separately.** The warden and one election clerk from each of the major parties shall sign the incoming voting list certification as soon as the names of all persons who have voted, including

persons who have voted by absentee ballot, have been checked off. The election clerks shall place the incoming voting list in a separate package outside the containers of used and unused ballots and seal the package with the signed incoming voting list certification. The incoming voting list includes any certificates entitling voters to be placed on the voting list and any supplemental voting list, where applicable, pursuant to section 122, subsection 7. The municipal clerk shall keep the list sealed for 30 days or until the time for any recount, contested election or appeal has passed, whichever is longer. After that time period, the clerk shall unseal the list and keep it in the clerk's office as a public record for the time required pursuant to section 23.

**Sec. 12. 21-A MRSA §711, first ¶**, as repealed and replaced by PL 2001, c. 310, §48, is amended to read:

As soon as the results of the election have been declared, the election return must be prepared. The warden at each ward or precinct shall fill out the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question and recording the total number of state ballots cast in that ward or precinct. The warden and one other election official shall sign the return and immediately deliver it to the municipal clerk.

**Sec. 13. 21-A MRSA §722, sub-§1**, as repealed and replaced by PL 1999, c. 426, §23, is amended to read:

**1. How tabulated.** The Secretary of State shall tabulate all votes that appear by an election return to have been cast for ~~a~~ each question or candidate whose name appeared on the ballot. All write-in candidates, as defined in section 1, subsection 51, receiving less than 5% of the votes cast for that office must be titled "others" when the tabulation is processed.

**Sec. 14. 21-A MRSA §723, sub-§1**, as amended by PL 2001, c. 310, §49, is further amended to read:

**1. Primary election.** In a primary election, the person who receives a plurality of the votes cast for nomination to any office, as long as there is at least one vote cast for that office, is nominated for that office, except for write-in candidates under paragraph A and section 722-A.

A. A person who has not qualified as a candidate for nomination by primary election by filing a petition and consent under sections 335 and 336, but who fulfills the other qualifications under section 334, may be nominated at the primary election if that person receives a number of valid

write-in votes equal to at least twice the minimum number of signatures required under section 335, subsection 5, on a primary petition for a candidate for that office.

B. The Secretary of State shall immediately certify by mail the nomination of each person nominated by the primary election.

**Sec. 15. 21-A MRSA §723, sub-§2,** as amended by PL 1999, c. 426, §26, is further amended to read:

**2. Other elections.** In any other election, the person who receives a plurality of the votes cast for election to any office, as long as there is at least one vote cast for that office, is elected to that office, except that write-in candidates must also comply with section 722-A.

**Sec. 16. 21-A MRSA §752-A** is enacted to read:

**§752-A. Federal absentee ballot**

The federal absentee ballot may be used in primary and general elections by members of the United States Armed Forces and citizens outside the United States who are qualified pursuant to section 751.

**Sec. 17. 21-A MRSA §801, sub-§1,** as enacted by PL 1985, c. 161, §6, is amended to read:

**1. Vote for presidential candidate construed.** A vote for the ~~candidate~~ candidate for President and Vice President is a vote for the presidential electors nominated by the ~~candidate's~~ candidate's political party or by petition.

**Sec. 18. 21-A MRSA §852, sub-§5,** as amended by PL 2001, c. 310, §65, is further amended to read:

**5. Closing of polls.** As soon as the polls have closed and the last qualified voter has voted, the warden shall proceed to ~~count~~ supervise the counting of the ballots under the observation of the public. The warden shall run the official tally tape from each electronic tabulating device and shall record the total votes from the tape on the tally sheet provided by the Secretary of State. The official tally tape must be signed by the warden and one election clerk from each of the major parties and must be packed in a tamper-proof ballot box with the other election materials pursuant to section 698, subsection 2-A. The warden shall run an additional copy of the tally tape to provide to the clerk with the tally sheets and the return of votes cast and may run additional copies of the tally tape to post for public review. All unused ballots must be packaged and sealed pursuant to section 698, subsection 2-B for return to the municipal clerk. The ballot

box for the electronic voting device must be opened at the polling place. The regular counted ballots are placed in the tamper-proof ballot boxes and all unread or red-lined ballots requiring hand counting or ballots containing write-in votes that must be recorded on a write-in tally sheet are counted by the election clerks. The election clerks count in teams of 2, consisting of one election clerk from each of the major parties. If it appears that any ballot is damaged so that it can not be properly counted by the electronic tabulating device, the ballot must be counted manually. Once all of the hand counting has been completed, the election clerks shall complete the tally sheets ~~and other election forms provided by the Secretary of State and.~~ The tabulations must be signed by the warden and the 2 election clerks who counted the ballots. The election officials shall complete and sign the other election forms as provided in this Title, and shall return the ballots and other materials to the clerk packed pursuant to section 698, subsections 2-A and 2-B and the incoming voting list packed pursuant to section 698, subsection 3.

**Sec. 19. 21-A MRSA §904-A,** as amended by PL 1997, c. 61, §1, is repealed.

See title page for effective date.

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**CHAPTER 517**

**H.P. 1464 - L.D. 1961**

**An Act to Allow Private Psychiatric Hospitalization of Residents of Department of Corrections Juvenile Facilities**

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

**Sec. 1. 34-A MRSA §3809-A, sub-§3** is enacted to read:

**3. Psychiatric hospitalization.** The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to necessary psychiatric hospitalization, including hospitalization in a nonstate mental health institution or hospital for the mentally ill. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client terminates, but the juvenile client remains subject to the control of the commissioner and staff and rules of the facility until the expiration of the period of commitment or until discharge from the facility. Nothing in this subsection may be construed to override the requirement to make application for psychiatric hospitalization in accordance with Title 34-B, section 3863, unless