

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 931

H. P. 731

House of Representatives, March 5, 1975

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Najarian of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Conform Certain Maine Statutes to the 14th Amendment of the Constitution of the United States, to Title VII of the United States Civil Rights Act of 1964, as Amended in 1972, and to the Maine Human Rights Act.

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

Sec. 1. 4 MRSA § 5, as last amended by PL 1971, c. 64, § 1, is further amended to read:

§ 5. Compensation of justices upon retirement

Any Justice of the Supreme Judicial Court who resigns his or her office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as a justice on either the Supreme Judicial Court or the Superior Court, or both, for at least 7 years, or after attaining the age of 65 years and after having served as a justice on either of said courts, or both, for at least 12 years, shall receive annually during the remainder of his or her life, whether or not he or she is appointed an Active Retired Justice as provided in section 6, an amount equal to $\frac{3}{4}$ of the currently effective annual salary of a Justice or Chief Justice of the Supreme Judicial Court, as the case may be, to be paid in the same manner as the salaries of the justices of said court are paid. Such justice shall terminate his or her service before his or her 71st birthday. Any justice, who continues to serve until or after his or her 71st birthday, shall waive his or her right to the compensation mentioned and make no claim therefor at the termination of his or her service. The right of any justice drawing such compensation to continue to receive it shall cease immediately if he or she acts as attorney or counsellor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he or she acts.

If such justice dies in office, or has heretofore died in office, ~~his widow his or her surviving spouse~~, as long as ~~she remains unmarried he or she is not the dependent of another person~~, or if he or she leaves no ~~widow surviving spouse~~, or at ~~her~~ his or her death or ~~remarriage~~ at the time he or she becomes the dependent of another person, then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Justice or Chief Justice of the Supreme Judicial Court, as the case may be. In case there is more than one child, the compensation shall be divided equally among them.

Any Justice of the Supreme Judicial Court who prior to his or her retirement age is unable, by reason of failing health, to perform his or her duties as such justice may, upon petition to or by order of the Supreme Judicial Court and approved by a majority of the Justices of the Supreme Judicial Court, be retired prior to his or her retirement age and when so retired he or she shall receive the same benefits as he or she would have received had he or she retired at full retirement age, and such retirement shall terminate his or her service.

If such justice dies having terminated his or her service and having become entitled to compensation as provided in this section, ~~his widow his or her surviving spouse~~, as long as ~~she remains unmarried he or she is not the dependent of another person~~, or if he or she leaves no ~~widow surviving spouse~~, or at ~~her~~ his or her death or ~~remarriage~~ at the time he or she becomes the dependent of another person, then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Justice or Chief Justice of the Supreme Judicial Court, as the case may be. In case there is more than one child, the compensation shall be divided equally among them.

Sec. 2. 4 MRSA § 103, as last amended by PL 1971, c. 64, § 2, is repealed and the following enacted in place thereof:

§ 103. Compensation upon retirement

Any Justice of the Superior Court who resigns his or her office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as such justice for at least 7 years, or after attaining the age of 65 years and after having served as such justice for at least 12 years, shall receive annually during the remainder of his or her life an amount equal to $\frac{3}{4}$ of the currently effective annual salary of a Justice of the Superior Court, to be paid in the same manner as the salaries of the justices of said court are paid. Such justice shall terminate his or her service before his or her 71st birthday. Any justice who continues to serve until or after his or her 71st birthday shall waive his or her right to the compensation mentioned and make no claim therefor at the termination of his or her service. The right of any justice drawing such compensation to continue to receive it shall cease immediately, if he or she acts as attorney or counsellor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he or she acts.

If such justice dies in office, or has heretofore died in office, his or her surviving spouse, as long as he or she is not the dependent of another person, or if he or she leaves no surviving spouse, or at his or her death or at the time he or she becomes the dependent of another person, then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Justice of the Superior Court. In case there is more than one child, the compensation shall be divided equally among them.

Any Justice of the Superior Court who prior to his or her retirement age is unable, by reason of failing health, to perform his or her duties as such justice may, upon petition to or by order of the Superior Court and approved by a majority of the Justices of the Superior Court, be retired prior to his or her retirement age and when so retired he or she shall receive the same benefits as he or she would have received had he or she retired at full retirement age, and such retirement shall terminate his or her service.

If such justice dies having terminated his or her service and having become entitled to compensation as provided in this section, his or her surviving spouse, as long as he or she is not the dependent of another person, or if he or she leaves no surviving spouse, or at his or her death or at the time he or she becomes the dependent of another person, then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Justice of the Superior Court. In case there is more than one child, the compensation shall be divided equally among them.

Sec. 3. 4 MRSA § 157-A, as enacted by PL 1973, c. 417, § 2; is amended to read:

§ 157-A. Compensation upon retirement

Any judge of the District Court who resigns his or her office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as such judge for at least 7 years, or after attaining the age of 65 years and after having served as such judge for at least 12 years, shall receive annually during the remainder of his or her life an amount equal to $\frac{3}{4}$ of the currently effective annual salary of a Judge of the District Court, to be paid in the same manner as the salaries of the judges of said court are paid. Such judge shall terminate his or her service before his or her 71st birthday. Any judge who continues to serve until or after his or her 71st birthday shall waive his or her right to the compensation mentioned and make no claim therefor at the termination of his or her service. The right of any judge drawing such compensation to continue to receive it shall cease immediately, if he or she acts as attorney or counsellor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he or she acts.

If such judge dies in office, or has heretofore died in office, ~~his widow his or her surviving spouse~~, as long as ~~she remains unmarried~~ he or she is not the dependent of another person, or if he or she leaves no ~~widow~~ surviving spouse or at ~~her~~ his or her death or ~~remarriage~~ at the time he or she becomes the

dependent of another person, then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Judge of the District Court. In case there is more than one child, the compensation shall be divided equally among them.

Any Judge of the District Court who prior to his or her retirement age is unable, by reason of failing health, to perform his or her duties as such judge may, upon petition to or by order of the District Court and approved by a majority of the Judges of the District Court, be retired prior to his or her retirement age and when so retired he or she shall receive the same benefits as he or she would have received had he or she retired at full retirement age, and such retirement shall terminate his or her service.

If such judge dies having terminated his or her service and having become entitled to compensation as provided in this section, ~~his widow his or her surviving spouse, as long as she remains unmarried he or she is not dependent of another person, or if he or she leaves no widow surviving spouse, or at her his or her death or remarriage at the time he or she becomes the dependent of another person,~~ then his or her child or children under the age of 18 years and until they respectively reach their 18th birthday, shall annually be entitled to $\frac{3}{8}$ of the currently effective annual salary of a Judge of the District Court. In case there is more than one child, the compensation shall be divided equally among them.

Sec. 4. 5 MRSA § 1121, sub-§ 1, ¶ C, as last amended by PL 1973, c. 606, is further amended to read:

C. Any member of the State Police who became a member of that department subsequent to July 9, 1943 may retire upon completion of 20 years of creditable service as a state police officer, but must retire upon attainment of age 55, except that any member who is a state police officer on January 1, 1967 and who will not have 20 years creditable service at the time age 55 is attained may continue in said service until 20 years is attained and forthwith shall be retired. Except that military service credits as allowed under section 1094 shall not be considered as part of the creditable service necessary for the 20 years service as a state police officer, but that any military service creditable under section 1091 shall be considered to be part of the creditable service necessary for the 20 years as a state police officer provided that he was a state police officer at the time of entrance into said military service and upon separation from military service again became a state police officer. Notwithstanding anything to the contrary, a state police officer appointed as the chief, deputy chief or as Commissioner of Public Safety, shall be permitted to continue in said position beyond attained age 55 or after completion of 20 years of creditable service until the end of the term for which he was appointed, and such chief, the deputy chief or Commissioner of Public Safety may be appointed or reappointed regardless of attained age or length of creditable service. The total amount of the service retirement allowance of a member retired in accordance with this paragraph shall be equal to $\frac{1}{2}$ of his or her current annual salary.

Upon the death of a member of the Maine State Police who is the recipient of a retirement allowance under this section, without optional modification,

or is retired under either the ordinary or occupational disability provisions, ~~his widow~~ **his or her surviving spouse** shall become entitled to a retirement allowance which shall be equal to $\frac{1}{2}$ of the amount being paid at the time of his ~~or her~~ death and which payment shall continue for the remainder of ~~her~~ **his or her** lifetime or until ~~she should remarry~~ **he or she becomes the dependent of another person**. Payment of the appropriate monthly amount shall be made to the ~~widow~~ **surviving spouse** for the account of any deceased member of the State Police who had retired without optional modification under this paragraph as of September 23, 1971 and shall not be retroactive.

For purposes of this Title, a member of the State Police shall be deemed to mean any state police officer or any such state police officer who is appointed Chief of the State Police or Commissioner of Public Safety

Any former member of the Maine State Police who is retired and who is living on the effective date of this Act and who, at the time he ~~or she~~ had retired, had chosen an optional retirement allowance may elect to change his ~~or her~~ selection at any time prior to December 31, 1973, to provide that ~~his widow~~ **his or her surviving spouse**, at the time of his ~~or her~~ death, shall become entitled to a retirement allowance which shall be equal to $\frac{1}{2}$ of the amount being paid at the time of his ~~or her~~ death and which payment shall continue for the remainder of ~~her~~ **his or her** lifetime or until ~~she should remarry~~ **he or she becomes the dependent of another person**. His ~~or her~~ retirement allowance payment will be changed as of the first day of the month following the date his ~~or her~~ election to make this change is received by the board of trustees and shall be paid thenceforth at the newly chosen rate without retroactivity. The amount to which he ~~or she~~ will become entitled will be equal to $\frac{1}{2}$ of the amount of the current annual salary he ~~or she~~ was earning at the point of his ~~or her~~ retirement. The amount of any retirement allowance adjustments previously granted shall not be changed, improved or impaired.

Sec. 5. 5 MRSA § 1121, sub-§ 1, ¶ D, the last 2 sentences of the first ¶ and the last ¶, as last repealed and replaced by PL 1973, c. 622, § 12, are amended to read:

Military service credits as allowed under section 1094 shall not be considered as part of the creditable service as a law enforcement officer under this section, but that any military service creditable under section 1091 shall be considered to be part of the creditable service necessary for the 20 years as a law enforcement officer, provided that he ~~or she~~ was a law enforcement officer in either of said departments at the time of entrance into said military service and upon separation from military service again became a law enforcement officer in either of said departments. The total amount of the service retirement allowance of a law enforcement officer retired in accordance with this paragraph shall be equal to $\frac{1}{2}$ of his ~~or her~~ current annual salary.

Upon the death of a law enforcement officer of the Department of Marine Resources or a law enforcement officer of the Department of Inland Fisheries and Game who is the recipient of a retirement allowance under this section,

without optional modification, or is retired under either the ordinary or occupational disability provisions, ~~his widow~~ **his or her surviving spouse**, who was his or her spouse at the time of his or her retirement, shall become entitled to a retirement allowance which shall be equal to $\frac{1}{2}$ of the amount being paid at the time of his or her death and which payment shall continue for the remainder of ~~her his or her~~ lifetime or until ~~she should remarry~~ **he or she becomes the dependent of another person.**

Sec. 6. 5 MRSA § 1121, sub-§ 7 is amended to read:

7. **Surviving spouses and children of sheriffs.** If a sheriff ~~or deputy sheriff~~ shall die as a result of injury received in line of duty, except while engaged in the duty of serving civil process, his ~~or her widow~~ **surviving spouse**, or, if none, his or her minor child or children, shall receive a pension equal to $\frac{1}{2}$ of the pay of such sheriff ~~or deputy sheriff~~ at the time of his or her death, but in no case shall such pension be less than \$1,000. Such pension shall be paid to the ~~widow surviving spouse~~ until ~~she he or she~~ dies or ~~remarries~~ **becomes the dependent of another person** and to a child or children until they die or reach the age of 18 years.

Sec. 7. 5 MRSA § 1121, sub-§ 7-A is enacted to read:

7-A. **Surviving spouses and children of deputy sheriffs.** If a deputy sheriff shall die as a result of injury received in line of duty, except while engaged in the duty of serving civil process, his or her surviving spouse, or, if none, his or her minor child or children, shall receive a pension equal to $\frac{1}{2}$ of the pay of such deputy sheriff at the time of his or her death, but in no case shall such pension be less than \$1,000. Such pension shall be paid to the surviving spouse until he or she dies or becomes a dependent of another person and to a child or children until they die or reach the age of 18 years.

Sec. 8. 5 MRSA § 1125, sub-§§ 1, 1-A and 2, as amended, are further amended to read:

1. **Firemen, policemen and State Police who are members.** If a member of the retirement system who is a member of a fire or police department shall die as the result of injury received in line of duty, ~~his widow~~ **his or her surviving spouse**, or, if none, his or her child or children under age 18, jointly, shall receive an annual sum equal to $\frac{1}{2}$ the average final compensation of such member at time of his or her death. In addition to the foregoing payments the amount of his or her contributions together with such interest thereon, not less than $\frac{3}{4}$ of accumulated regular interest, as the board of trustees shall allow shall be paid to such person, if any, as he or she has nominated by written designation duly acknowledged and filed with the board, otherwise to his or her estate.

1-A. **State Police, fish and game wardens and coastal wardens who are members.** If a member of the retirement system who is a member of the State Police, a law enforcement officer in the Department of Inland Fisheries and Game or a law enforcement officer in the Department of Marine Resources shall die as a result of an injury received in the line of duty his or her beneficiary, if ~~his widow~~ **his or her surviving spouse**, and if there is no sur-

viving child or children under age 18, shall receive an annual sum equal to $\frac{2}{3}$ of the current annual salary of the member; or his ~~or her~~ beneficiary, if his ~~widow~~ ~~or her surviving spouse~~, if the member is survived by a ~~widow~~ spouse and a child or children under age 18, jointly, shall be entitled to an annual sum equal to the current annual salary of the member; or his ~~or her~~ beneficiary, if his ~~or her~~ child or children, if the member is survived only by a child or children under age 18, jointly, shall receive an annual sum equal to the current annual salary of the member.

When the beneficiaries are a ~~widow~~ surviving spouse and child or children under age 18, they shall be paid the annual sum equal to the current annual salary only until the youngest surviving child reaches age 18, at which time the annual sum paid shall be reduced to $\frac{2}{3}$ of the annual salary of the member.

When the beneficiaries are a child or children under age 18, he ~~or she~~ or they shall be paid the annual sum equal to the current annual salary only until the youngest surviving child reaches age 18, at which time all payments shall cease.

2. State Police who are not members. If a member of the State Police who is not a member of the Retirement System shall die as a result of injury received in line of duty, his ~~widow~~ ~~or her surviving spouse~~ shall receive an annual sum equal to $\frac{2}{3}$ of current annual compensation, if the member was not survived by a child or children under age 18, or if he ~~or she~~ was survived by a ~~widow~~ spouse and child or children under age 18, jointly, they shall receive an annual sum equal to the current annual salary such officer was earning at the time of his ~~or her~~ death, or if the officer was survived only by a child or children under age 18, jointly, they shall receive an annual sum equal to the current annual salary such officer was receiving at the time of his ~~or her~~ death. Such payments shall be made from the appropriation of the State Police.

When the beneficiaries are a ~~widow~~ surviving spouse and child or children under age 18, they shall be paid the annual sum equal to the current annual salary only until the youngest surviving child reaches age 18, at which time the annual sum paid shall be reduced to $\frac{2}{3}$ of the annual salary of the member.

When the beneficiaries are a child or children under age 18, he ~~or she~~ or they shall be paid the annual sum equal to the current annual salary only until the youngest surviving child reaches age 18, at which time all payments shall cease.

Sec. 9. 17 MRSA § 2, as enacted by PL 1971, c. 539, § 1, is amended to read:

§ 2. Abduction of persons while armed with firearm

Whoever, if armed with a firearm, takes a ~~woman~~ person unlawfully and against ~~her~~ his or her will and by force, menace or duress compels ~~her~~ him or her to marry ~~him~~ or any other person or to be defiled shall be punished by imprisonment for any term of years. Whoever, if armed with a firearm, takes a ~~woman~~ person with intent by such means to compel ~~her~~ him or her to do so shall be punished by imprisonment for not less than 2 nor more than 25

years. The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Sec. 10. 18 MRSA § 1953 is amended to read:

§ 1953. Equal division impossible; preferences

When the whole or any part of the premises, of greater value than any party's share, cannot be divided without great inconvenience, the same may be assigned to any one or more of the parties, who will accept and pay to the others such sums as the commissioners award to make the partition just; but such partition shall not be established by the court until all such sums are paid or secured, with interest, to the satisfaction of the parties entitled thereto or to the satisfaction of the judge of the probate court having jurisdiction thereof; nor if inconsistent with the condition of the devise under which they claim; but in such assignment ~~males shall be preferred to females and the elder to the younger children of the same sex~~ elder children shall be preferred to younger children.

Sec. 11. 18 MRSA § 3509, last sentence, as amended by PL 1971, c. 598, § 23, is repealed and the following enacted in place thereof:

On the marriage of any ward under 18 years of age, the authority of his or her guardian ceases.

Sec. 12. 18 MRSA § 3552, first sentence is repealed and the following enacted in place thereof:

If the minor is under 14 years of age, the judge may nominate and appoint his or her guardian, but the most suitable guardian named by either the deceased father or the deceased mother in his or her will shall be appointed.

Sec. 13. 19 MRSA § 161, last 2 sentences are repealed and the following enacted in place thereof:

Real estate directly conveyed to a person by his or her spouse cannot be conveyed by said person without the joinder of his or her spouse, except real estate conveyed to him or her as security or in payment of a bona fide debt actually due him or her from said spouse. When payment was made for property conveyed to a spouse from the property of the conveying spouse or it was conveyed by a spouse to his or her spouse without a valuable consideration, it may be taken as the property of the conveying spouse to pay his or her debts contracted before such purchase.

Sec. 14. 19 MRSA § 582 is repealed and the following enacted in place thereof:

§ 582. Husband deserted or living apart from wife

If a wife, without just cause, deserts her husband, or if he is living apart from her for just cause, and if such desertion or living apart has continued for the period set out in section 581, the probate court may upon petition of the husband, or if he is mentally ill, upon the petition of his guardian or next friend, enter a decree that such husband is so deserted or is so living apart

and may prohibit the wife from imposing any restraint on his personal liberty during such time as such court shall by order direct. Such husband may thereafter convey his real property in the same manner as if he were sole, and no portion of his estate shall descend to his said wife at his decease, neither shall she be entitled to receive any distributive share thereof or to waive any will made by him in her favor. Nothing in this section shall preclude the court from incarcerating a husband for nonpayment of child support, alimony or attorney's fees in violation of a court order to do so.

Sec. 15. 19 MRSA § 694 is repealed and the following enacted in place thereof:

§ 694. Court may free either spouse from restraint pending divorce

Pending a divorce action, the court, on motion of either spouse may prohibit his or her spouse from imposing any restraint on his or her personal liberty; and enforce obedience by appropriate processes. Nothing in this section shall preclude the court from incarcerating a husband for nonpayment of child support, alimony or attorney's fees in violation of a court order to do so.

Sec. 16. 22 MRSA § 4761, sub-§ 3 is repealed as follows:

~~3. Marriage. By marriage to a male member of said tribe, membership by marriage can be acquired only by such persons as are in whole or to the extent of at least $\frac{1}{4}$ part of Indian blood, and it shall not include the previous issue of the person acquiring it. A certificate of marriage signed by the person solemnizing the same, or an attested copy of the record thereof, shall be sufficient evidence of such marriage~~

Sec. 17. 24-A MRSA, § 1518, sub-§ 6, as enacted by PL 1969, c. 132, § 1, is amended to read:

6. The application shall show whether the applicant was ever previously licensed anywhere as to insurance; whether any such license was ever refused, suspended, revoked or renewal or continuance refused; whether any insurer, general agent, agent or broker claims applicant to be indebted to it, and if so, the details thereof and applicant's defense thereto; whether applicant has ever had an agency contract cancelled, and the facts thereof; and, if applicant is a married ~~woman~~ person, like information with respect to ~~her husband~~ his or her spouse.

Sec. 18. 26 MRSA §§ 701 - 703, as amended, are further amended to read:

§ 701. Posting of notice of hours of labor

Every employer, except those otherwise designated, shall post and keep posted in a conspicuous place in every room in any establishment or place of occupation named in ~~sections 731 and 733~~ section 773 in which ~~females or male~~ minors under 16 years of age are employed, ~~except in any telephone exchange employing less than 3 female operators~~ a printed notice stating the number of hours such ~~females or male~~ minors are required or permitted to work on each day of the week, the hours of beginning and ending and the

recess allowed for meals. Every employer, engaged in furnishing public service or in any other kind of business in respect to which the bureau shall find that public necessity or convenience requires the employment of ~~women or male~~ minors by shifts during different periods or parts of the day, shall post in a conspicuous place in every room in which such persons are employed a printed notice stating separately the hours of employment for each shift or tour of duty, and the amount of time allowed for meals. The printed form of such notice shall be furnished by the director.

The employment of any such ~~female or male~~ minor for a longer time in any day than that stated in the printed notice, or, in case the hours named in such notice are less than as provided in ~~sections 731 and 733~~ section 774, the employment of such ~~female or male~~ minor for a longer time in any day than as provided in ~~sections 731 and 733~~ section 774 shall be deemed a violation of this section ~~except in cases of emergency or extraordinary public requirement as provided in section 733, and in such cases no employment in excess of the hours authorized under this Title shall be considered as legalized until a written report of the day and hours of its occurrence and its duration is sent to the director.~~ Whenever the nature of the business makes it impracticable to fix the recess allowed for meals at the same time for all ~~females or male~~ minors employed, the director may issue a permit dispensing with the posting of the hours when the recess allowed for meals begins and ends, and requiring only the posting of the total number of hours which ~~females or male~~ minors are required or permitted to work on each day of the week, and the hours of beginning and stopping such work. Such permit shall be kept by such employer upon such premises and exhibited to the director, ~~his a director's~~ deputy or any authorized agent of the bureau who is authorized to enforce this Title.

§ 702. Record of work hours of minors under 16

Every employer shall keep a time book or record for every ~~female and every male~~ minor under 16 years of age employed in any establishment or occupation named in ~~sections 731 and 733~~ section 701, stating the number of hours worked by each ~~female and each male~~ minor under 16 years of age on each day of the week. Such time book or record shall be open at all reasonable hours to the inspection of the director, ~~his a director's~~ deputy or any authorized agent of the bureau. Any employer who fails to keep the record required by this section or makes any false entry therein, or refuses to exhibit such time book or record or makes any false statement to the director, ~~his a director's~~ deputy or any authorized agent of the bureau in reply to any question put in carrying out ~~sections 701 to 737~~ to 703 shall be liable for a violation thereof.

§ 703. Exemptions for perishable goods

Nothing in sections 701, 702 ~~731 to 734, 736, 737~~ and 778 shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon to prevent decay thereof or damage thereto.

Sec. 19. 26 MRSA §§ 731 - 737, as amended, are repealed.

Sec. 20. 26 MRSA § 738 is amended to read:

§ 738. Penalty for employers

Any person who violates any of the provisions of sections 701 and 702 ~~734 to 737, 736 and 737~~ shall be punished by a fine of not less than \$25 nor more than \$50 for the first offense; for the 2nd offense by a fine of not less than \$50 nor more than \$200; for a 3rd offense and for every subsequent offense by a fine of not less than \$250 nor more than \$500.

Sec. 21. 28 MRSA § 2, sub-§ 22, first sentence, as amended by PL 1973, c. 193, is further amended to read:

“Tavern” shall mean a reputable place ~~for men only~~ operated by responsible persons where no food is sold, other than prepared packaged foods, bar snacks, and no business is carried on except the sale of cigarettes and tobacco products and except the sale of malt liquor at a bar.

Sec. 22. 32 MRSA § 4203, as last amended by PL 1971, c. 598, § 82, is repealed and the following enacted in place thereof:

§ 4203. Minors

No person shall place a tattoo or figure upon a person under the age of 18 years.

Sec. 23. 34 MRSA § 133, first ¶ is amended to read:

Whoever induces, aids or abets anyone committed to any state institution in escaping therefrom or from the custody of the Department of Mental Health and Welfare or who knowingly aids, harbors or conceals in any way anyone who has escaped therefrom, or who elopes with or marries a ~~female~~ person committed to the custody of the said departments or any state institution without the consent of the department in custody of the person shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

Sec. 24. 34 MRSA § 758 is enacted to read:

§ 758. Care of children of inmates and prisoners

If any inmate or prisoner at the time of his commitment to State Prison or the Men’s Correctional Center shall be the father of and have under his exclusive care, any child, which might be otherwise left without proper care or guardianship, the judge committing such man shall cause such child to be committed to such children’s home as may be provided by law for such purposes, or to the care and custody of some relative or proper person willing to assume such care or to the custody of the Department of Health and Welfare. Any commitment of a child under this section to the custody of any children’s home, or to any relative or other person, or to the Department of Health and Welfare shall be subject to Title 22, sections 3793 to 3795.

Sec. 25. 34 MRSA § 1007, sub-§ 1, ¶ B, as enacted by PL 1967, c. 150, is repealed and the following enacted in place thereof:

B. Conducting his or her own business or occupation including in the case of a person primarily responsible for the housekeeping and domestic needs of his or her family, housekeeping and attending the needs of his or her family;

Sec. 26. 37-A MRSA § 28, sub-§ 4, as enacted by PL 1971, c. 580, § 1, is repealed and the following enacted in place thereof:

4. Spouse. The term "spouse" shall be construed to mean the legally married spouse of the veteran, not divorced, or the widow or widower of the veteran, not previously divorced and who has not become the dependent of another person.

Sec. 27. 37-A MRSA § 29, first sentence and 4th sentence, as enacted by PL 1971, c. 580, § 1, are amended to read:

Aid shall be granted under sections 28 to 37 to the needy ~~wife~~ **spouse**, child or parent or parents, residing in the State, of a veteran, who if living, is disabled and a resident of the State or who is deceased.

The bureau shall require satisfactory proof as to the disability of a veteran and its effect on his ~~or her~~ ability to provide for himself ~~or herself~~ and dependents.

Sec. 28. 37-A MRSA § 50-J, as enacted by PL 1973, c. 788, § 196, is amended to read:

§ 50-J. Definition

For the purposes of administering this subchapter, an orphan of a veteran shall be defined as a child not under 16 years of age whose father ~~or mother~~ served in the military or naval forces of the United States and was killed in action or died from a service-connected disability as a result of such service or who is living and is determined to have a total disability, permanent in nature, resulting from a service-connected disability as a result of such service. Children of a veteran who at time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to service-connected disability, shall be eligible for benefits under this subchapter. Orphans, whose fathers ~~or mothers~~ entered the service from Maine or who have resided in the State for 5 years immediately preceding application for aid under this subchapter and which children have graduated from high school and are not over 21 years of age at the time of first entering a vocational school or an educational institution of collegiate grade, shall be eligible for benefits provided under this subchapter; except that an orphan who has been unable to enter before the age of 21 because engaged in service in the Armed Forces of the United States may enter when not over 25 years of age.

For the further purpose of administering this subchapter, a widow ~~or widower~~ of a veteran shall be defined as a person whose ~~husband~~ **spouse** met the residency and service requirements of this section, and the widow ~~or widower~~ of any person who was killed in action or who dies from a service-connected disability as determined by the Veterans Administration, or the ~~wife~~ **spouse**

of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability as determined by the Veterans Administration, or the widow or widower of a veteran who died while a disability so evaluated was in existence.

This subchapter shall apply to the ~~wives~~ spouses and children of those members of the Armed Forces on active duty who have been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

Sec. 29. 37-A MRSA § 50-K, first sentence, as enacted by PL 1973, c. 788, § 196, is amended to read:

In order to assist any person qualifying as an orphan or as a widow or widower, ~~wife spouse~~ or child of a veteran or member of the Armed Forces in accordance with section 41 in securing higher education, the bureau shall pay, for any person which it finds eligible for such assistance, a maximum of \$300 per year, for a period of time not exceeding 8 semesters of attendance nor exceeding 6 consecutive academic years from the date of first entrance, towards the cost of such higher education.

Sec. 30. 37-A MRSA § 50-L, as enacted by PL 1973, c. 788, § 196, is amended to read:

§ 50-L. Free tuition

All children qualifying as orphans and widows or widowers qualifying under this subchapter, and the ~~wives~~ spouses and children of those members of the Armed Forces described in the 3rd paragraph of section 41, shall be admitted to state supported post-secondary vocational schools or institutions of collegiate grade free of tuition.

Sec. 31. 39 MRSA § 58, first 2 ¶¶, as last amended by PL 1973, c. 557, § 4, are further amended to read:

If death results from the injury, the employer shall pay the dependents of the employee, dependent upon his or her earnings for support at the time of his or her accident, a weekly payment equal to $\frac{2}{3}$ his or her average gross weekly wages, earnings or salary, but not more than the average weekly wage in the State of Maine as computed by the Employment Security Commission, nor less than \$25 weekly, from the date of death, until such time as provided for in the following paragraph. Such weekly compensation shall be adjusted annually on July 1st so that it continues to bear the same percentage relationship to the average weekly wage in the State of Maine, as computed by the Employment Security Commission, as it did at the time of the injury.

If the dependent of the employee to whom compensation will be payable upon his death is the widow of such employee, upon her death or ~~remarriage~~ at the time she becomes a dependent of another person, compensation to her shall cease and the compensation to which she would have been entitled thereafter, but for such death or ~~remarriage~~ dependency, shall be paid to the child or children, if any, of the deceased employee, including adopted and step-children, under the age of 18 years, or over said age but physically or men-

tally incapacitated from earning, who are dependent upon the widow at the time of her death or ~~remarriage dependency~~. If the dependent is the widower, upon his death or at the time he becomes a dependent of another person, the remainder of the compensation which would otherwise have been payable to him shall be payable to the children above specified, if any, who at the time thereof are dependent upon him. In case there is more than one child thus dependent, the compensation shall be divided equally among them. Except in the case of dependents who are physically or mentally incapacitated from earning, compensation payable to any dependent child under the age of 18 years shall cease upon such child's reaching the age of 18 years or upon marriage.

Sec. 32. 39 MRSA § 143 is amended to read:

§ 143. Surviving spouse or next of kin, actions by

If, as the result of the negligence of an employer himself, or of a person for whose negligence an employer is liable under section 141, an employee is instantly killed or dies without conscious suffering, his or her ~~widow surviving spouse~~ or, if he or she leaves no ~~widow~~ surviving spouse, his or her next of kin, who, at the time of his or her death, were dependent upon his or her wages for support, shall have a right of action for damages against the employer.

STATEMENT OF FACT

The purpose of this bill is to amend or repeal the existing Maine laws which are currently in violation of the 14th Amendment of the Constitution of the United States, Title VII of the United States Civil Rights Act of 1964, as amended in 1972, or the Maine Human Rights Act, as these laws have been interpreted by the courts or decisions of the Equal Employment Opportunity Commission.