

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2029

H.P. 1525

House of Representatives, December 26, 2001

An Act to Amend the Laws Regarding Public Health.

Submitted by the Department of Human Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2001. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative KANE of Saco.

Cosponsored by Senator EDMONDS of Cumberland and

Representatives: COTE of Lewiston, FULLER of Manchester, MAILHOT of Lewiston,
MATTHEWS of Winslow, Senator: MARTIN of Aroostook.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§36-B**, as enacted by PL 1991, c.
4 780, Pt. LL, §1, is repealed.

6 **Sec. 2. 19-A MRSA §651, sub-§1**, as enacted by PL 1995, c. 694,
8 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

10 **1. Place of recording.** Residents of the State intending to
12 be joined in marriage shall record notice of their intentions in
14 the office of the clerk of the municipality in which each at
16 least one of them resides. If only one of the parties resides in
18 the State, the parties shall record notice of their intentions in
20 the office of the clerk of the municipality in which the resident
22 party resides. If there is no clerk in the place of their
24 residence, the notice must be filed with the clerk of an
adjoining municipality. ~~If both parties reside out of the State,~~
~~they must record notice of their intentions in the office of the~~
~~clerk of the municipality in which the parties propose to have~~
~~the marriage solemnized.~~ If both parties to a marriage reside
outside the State, they must file intentions in any municipal
office. Once the intentions are filed and the license is issued,
the parties are free to marry anywhere within the State.

26 **Sec. 3. 19-A MRSA §652, sub-§§2 and 4**, as enacted by PL 1995,
28 c. 694, Pt. B, §2 and affected by Pt. E, §2, are repealed.

30 **Sec. 4. 19-A MRSA §654, sub-§2**, as enacted by PL 1995, c. 694,
32 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

34 **2. Return of original; copies.** The person who solemnized
36 the marriage shall return each original certificate to the clerk
38 who issued the certificate within 7 working days following the
40 date on which the marriage is solemnized by that person. ~~If the~~
~~marriage was solemnized in a municipality other than the place or~~
~~places where the parties to the marriage reside, that person~~
~~shall return a copy of the certificate, or of either certificate~~
~~if 2 were issued, to the clerk of the town where the marriage was~~
~~solemnized. The clerk and the State Registrar of Vital Statistics~~
each shall retain a copy of the certificate.

42 **Sec. 5. 19-A MRSA §655, sub-§1, ¶A**, as enacted by PL 1995, c.
44 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

46 A. If a resident of this State:

48 (1) A justice or judge;

 (2) A lawyer admitted to the Maine Bar; or

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~~(3) -- A justice of the peace, or~~

(4) A notary public under Title 4, chapter 19; and

Sec. 6. 19-A MRSA §657, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§657. Lack of jurisdiction or authority

A marriage, solemnized before any known inhabitant of the State professing to be a justice, judge, ~~justice of the peace or~~ notary public, or an ordained or licensed minister of the gospel, is not void, nor is its validity affected by any want of jurisdiction or authority in the justice, judge, ~~justice of the peace,~~ notary or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

Sec. 7. 22 MRSA §253, first ¶, as repealed and replaced by PL 1995, c. 653, Pt. C, §1 and affected by §3, is amended to read:

The department shall adopt before January 15, 1997 2002 and review every year 2 years after 1997 2002 a state health plan in accordance with the United States Public Health Services Act, 42 United States Code, Sections 201 to 300 aaa-13 (1995). This plan must identify the health care, facility and human resource needs in the State, the resources available to meet those needs and priorities and recommendations for addressing those needs on a statewide basis.

Sec. 8. 22 MRSA §772, sub-§2, ¶C, as amended by PL 1999, c. 76, §1, is further amended to read:

~~C. Has been determined to be acceptable by the United States Environmental Protection Agency under the Radon Measurement Proficiency Program conducted under 15 United States Code, Section 2661, or other means of proving proficiency as determined by the department~~ meet the proficiency requirements as determined by the department through rule. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 9. 22 MRSA §776, sub-§1, as enacted by PL 1989, c. 657, §1, is amended to read:

1. Personal use. A person performing testing or mitigation on a building owned or inhabited by that person but not for sale

2 at the time that person performs testing or mitigation on that
3 building;

4 **Sec. 10. 22 MRSA §1405-A**, as enacted by PL 1991, c. 780, Pt.
5 LL, §2, is repealed.

6 **Sec. 11. 22 MRSA §1406** is enacted to read:

7 **§1406. Maine Cancer Registry Data Review Committee**

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11 The Maine Cancer Registry Data Review Committee, referred to
12 in this section as the "committee," is established. The
13 committee is appointed and convened by the Bureau of Health to
14 review and advise the administrators of the statewide
15 cancer-incidence registry established in section 1404 on the
16 release of identifiable data as requested by researchers for the
17 purposes of cancer prevention, control and research. The
18 committee is composed of not fewer than 3 members, representing
19 training and experience in the fields of medical or public health
20 research or disease prevention and control. The committee must
21 be guided by rules adopted by the Bureau of Health providing for
22 the protection of the confidentiality of all cancer case data
23 reported to the registry. These rules, which are routine
24 technical rules pursuant to Title 5, chapter 375, subchapter
25 II-A, must include a prohibition on disclosure to any person of
26 information to the statewide cancer-incidence registry that
27 identifies, or could lead to the identification of, an individual
28 cancer patient, except for disclosure to other state cancer
29 registries and local and state health officials.

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31 **Sec. 12. 22 MRSA §2000**, as amended by PL 1971, c. 598, §36,
32 is further amended to read:

33 **§2000. Definition of "child"**

34
35 For the purposes of this chapter, the word "child" shall
36 mean means any person who has not attained the age of 18 22 years.

37
38 **Sec. 13. 22 MRSA §2001** is amended to read:

39 **§2001. Program of service**

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41 The department, through its Bureau of Health, is authorized
42 to administer a program of services for children who are ~~crippled~~
43 disabled or who are suffering from conditions ~~which that~~ lead to
44 crippling a disability, and to supervise the administration of
45 those services included in the program ~~which that~~ are not
46 administered directly by it. The purpose of ~~such-included the~~
47 program ~~shall-be~~ is to develop, extend and improve services for
48 locating such children and for providing for medical, surgical,
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2 corrective and other services and of care, and for facilities for
3 diagnosis, hospitalization and aftercare. Nothing in this chapter
4 shall may be construed as authorizing any public official, agent
5 or representative, in carrying out said this chapter, to take
6 charge of any child over the objection of either the father or
7 the mother of such child, or of the person standing in loco
8 parentis to such child, except pursuant to a proper court order.

9 **Sec. 14. 22 MRSA §2615, sub-§1**, as repealed and replaced by PL
10 1995, c. 622, §5, is amended to read:

11 **1. Notification.** A public water system shall notify the
12 public of the nature and extent of possible health effects as
13 soon as practicable, but not later than the time ~~periods~~ period
14 established under subsection 4, if the system:

15 A. Is not in compliance with a state drinking water rule;

16 B. Fails to perform monitoring, testing or analyzing or
17 fails to provide samples as required by departmental rules;

18 C. Is subject to a variance or an exemption granted under
19 section 2613; or

20 D. Is not in compliance with the terms of a variance or an
21 exemption granted under section 2613.

22 Public notification under this section must be provided
23 concurrently to the system's local health officer and to the
24 department. When required by law, the department shall forward a
25 copy of the notification to the Administrator of the United
26 States Environmental Protection Agency. The department may
27 require notification to a public water system's individual
28 customers by mail delivery or by hand delivery within a
29 reasonable time, but not earlier than required under federal laws.

30 **Sec. 15. 22 MRSA §2615, sub-§§3 and 4**, as enacted by PL 1995,
31 c. 622, §6, are amended to read:

32 **3. Form of notification.** In addition to the notification
33 required under subsection 1, a public water system shall provide
34 public notification ~~by--furnishing--a--copy--of--the--information~~
35 ~~required--under--subsection--1--in--accordance--with--this--subsectien~~
36 ~~pursuant to the requirements in 40 Code of Federal Regulations,~~
37 ~~Sections 141 to 143 (2001). A--public--water--system--that--may~~
38 ~~provide--notification--via--newspaper--or--media--may--voluntarily~~
39 ~~provide--notification--to--its--customers--via--mail--or--hand--delivery.~~
40 ~~Notification--must--be--provided.~~

41 ~~A.---To---a---daily---newspaper---or---the---communications---media~~
42 ~~covering--the--territory--served--by--the--system,--or~~

2 ~~B. When a public water system is not served by a daily~~
3 ~~newspaper or communications media, or when a public water~~
4 ~~system is a nontransient, noncommunity system, directly to~~
5 ~~its customers via hand delivery or through continuous~~
6 ~~posting in conspicuous places reasonably calculated to reach~~
7 ~~the customers within the territory served by the system.~~

8
9 **4. Additional time of notification.** A public water system
10 shall provide public notification pursuant to subsection 3 on a
11 ~~notification schedule as follows:~~

12 A. When a boil-water order is properly issued to a public
13 water system under section 2614, subsection 3, within 24
14 hours,;

15 ~~B. When a violation of a maximum contaminant level does not~~
16 ~~result in an acute risk to public health, when a treatment~~
17 ~~technique is required or when a schedule is contained within~~
18 ~~a variance or an exemption, within 14 days;~~

19 ~~C. When a violation of a maximum contaminant level results~~
20 ~~in an acute risk to public health, within 72 hours of the~~
21 ~~identification of the violation;~~

22 ~~D. For minor monitoring violations, as defined by the~~
23 ~~commissioner by rule, at least once annually;~~

24 ~~E. For monitoring violations, other than for minor~~
25 ~~monitoring violations, within 90 days of the identification~~
26 ~~of the violation and at least once annually; and~~

27 ~~F. For ongoing violations, once notification for a~~
28 ~~violation under this section has been provided, notification~~
29 ~~by mail delivery or by hand delivery at least once every 3~~
30 ~~months for as long as the violation continues.~~

31 **Sec. 16. 22 MRSA §2701, first ¶,** as amended by PL 1975, c. 293,
32 §4, is further amended to read:

33 The Department of Human Services shall establish an the
34 ~~Office of Vital Statistics~~ Health Data and Program Management,
35 which shall maintain a state-wide statewide system for the
36 registration of vital statistics.

37 **Sec. 17. 22 MRSA §2701, sub-§1,** as amended by PL 1985, c. 785,
38 Pt. B, §89, is further amended to read:

39 **1. Registrar.** The Commissioner of Human Services shall
40 appoint a State Registrar of Vital Statistics, referred to in

2 this chapter as the "state registrar," who shall must be
qualified in accordance with the standards of education and
experience prescribed by the Bureau of Human Resources.

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6 **Sec. 18. 22 MRSA §2701, sub-§2,** as repealed and replaced by PL
1995, c. 694, Pt. D, §29 and affected by Pt. E, §2, is amended to
read:

8
10 **2. Supervision.** The state registrar has charge of the
Office of ~~Vital-Statistics~~ Health Data and Program Management and
is custodian of its files and records. The state registrar:

12
14 A. Shall preserve all certificates, records and other
reports returned to the state registrar under this Title;

16 B. Has general supervision of this Title and rules of the
department relating to the registration of vital statistics;

18
20 C. Has general supervision of Title 19-A, chapter 23;

22 D. Shall direct, supervise and control the activities of
all persons engaged in the operation of the system of vital
statistics;

24
26 E. Shall conduct training programs to promote uniformity of
policy and procedures throughout the State in matters
pertaining to the system of vital statistics; and

28
30 F. Shall monitor the accuracy, completeness and validity of
all information returned to the state registrar under this
Title and Title 19-A, chapter 23.

32
34 **Sec. 19. 22 MRSA §2701, sub-§5,** as amended by PL 1983, c. 669,
is further amended to read:

36 **5. Deputy State Registrar.** The state registrar may
designate an employee of the Office of ~~Vital-Statistics~~ Health
38 Data and Program Management to represent the Office of ~~Vital~~
Statistics Health Data and Program Management. The
40 representative shall-be is known as the Deputy State Registrar of
Vital Statistics and shall-have has the authority of the state
42 registrar in the state registrar's absence.

44 **Sec. 20. 22 MRSA §2701, sub-§7, ¶¶A and B,** as enacted by PL
1995, c. 260, §2, are amended to read:

46
48 A. "File" means the presentation and acceptance of a vital
record or report for registration by the Office of ~~Vital~~
Statistics Health Data and Program Management or a municipal
50 clerk as specified in departmental rule.

2 B. "Date of filing" means the date a vital record is
4 accepted for registration by the Office of Vital-Statistics
Health Data and Program Management or a municipal clerk.

6 **Sec. 21. 22 MRSA §2704** is amended to read:

8 **§2704. Registration of births and deaths at Veterans
10 Administration Center**

12 Certificates of live births, deaths and fetal deaths
14 occurring at the Veterans Administration Center at Togus shall-be
16 are filed directly with the state registrar. The state registrar
18 shall forward copies of all such certificates of live birth,
death and fetal death to the clerk of the municipality where the
parents of the child reside or where the deceased was a resident
or-was-buried.

20 **Sec. 22. 22 MRSA §2706, sub-§5** is amended to read:

22 **5. Person's own records disclosed.** Vital records of a
24 person shall must be made available at any reasonable time upon
26 his that person's request or to his that person's duly designated
28 attorney or agent or attorney for an agent designated by sueh
30 that person or by a court having jurisdiction over said that
32 person whether the request be made in person, by mail, telephone
34 or otherwise, provided the state registrar is satisfied as to the
36 identity of the requester, and if an attorney or agent, provided
38 the state registrar is satisfied as to his the attorney or
40 agent's authority to act as such agent or attorney. If such
agent or attorney has been appointed by a court of competent
jurisdiction, or his the attorney or agent's appearance for such
person is entered therein, the state registrar shall upon request
so ascertain by telephone call to the register, clerk or recorder
of said court, and this shall must be deemed sufficient
justification to compel compliance with the request for said
record. The state registrar shall, as soon as possible,
designate persons in the Office of Vital-Statistics Health Data
and Program Management who may act in his the state registrar's
absence, or in case of his the state registrar's
disqualification, to carry out the intent of this subsection.

42 **Sec. 23. 22 MRSA §2761, sub-§4**, as amended by PL 1997, c. 537,
44 §57 and affected by §62, is further amended to read:

46 **4. Child not born of marriage.** Except as otherwise
48 provided in this subsection, if the mother was not married at the
time of either conception or birth, or between conception and
50 birth, neither the name of the putative father nor any other
information about the putative father may be entered on the

2 certificate without his written consent and that of the mother.
3 The signature of the putative father on the written consent must
4 be acknowledged before an official authorized to take oaths. The
5 signature of the mother on her written consent must also be
6 acknowledged before an official authorized to take oaths. If a
7 determination of paternity has been made by a court of competent
8 jurisdiction, then the name of the father as determined by the
9 court must be entered on the birth certificate without the
10 father's or the mother's consent. If the putative father
11 executes an acknowledgement of paternity with the department and
12 the putative father is either named in writing by the mother as
13 the father or is presumed to be the father based on the results
14 of blood or tissue-typing tests, the name of the father must be
15 entered on the birth certificate without the father's or the
16 mother's consent. All voluntary acknowledgments and
17 adjudications of paternity in this State must be filed with the
18 Office of Vital-Statistics Health Data and Program Management for
19 comparison with information in the state registry of support
20 orders as established in Title 19-A, section 2104.

21 **Sec. 24. 22 MRSA §2765, sub-§2-A, ¶C**, as enacted by PL 1989,
22 c. 818, §10, is amended to read:

23 C. When a new certificate of birth is established following
24 adoption or legitimation, it must be substituted for the
25 original certificate of birth. After that substitution, the
26 original certificate of birth and the evidence of adoption
27 ~~or legitimation~~ are not subject to inspection except upon
28 order of the Probate Court or the Superior Court. The
29 application for legitimation may be released to persons
30 listed on the original birth certificate upon completion of
31 written application to the State Registrar of Vital
32 Statistics or the registrar's designee.

33 **Sec. 25. 22 MRSA §2766, 2nd ¶**, as enacted by PL 1983, c. 356,
34 is amended to read:

35 Upon verification of the information in this section, the
36 state registrar shall prepare a form identifying the birth
37 parents of the adoptee. This form shall must be attached to the
38 new certificate of birth established pursuant to section 2765. A
39 copy of the form shall must be attached to an abstract of birth
40 issued by the Office of Vital-Statistics Health Data and Program
41 Management and shall must be provided to the adoptee.

42 **Sec. 26. 22 MRSA §2842, sub-§2**, as amended by PL 1993, c. 600,
43 Pt. B, §§21 and 22, is further amended to read:

44 **2. Medical certificate by physician.** The medical
45 certification of the cause of death shall must be completed in

2 typewritten block style and signed in a timely fashion by a
3 physician authorized to practice in the State who has knowledge
4 of the patient's recent medical condition, in accordance with
5 department regulations and other laws detailing who can certify
6 and in what time frame, except when the death falls under the
7 jurisdiction of the medical examiner as provided in section
8 3025. If the patient was a resident of a nursing home licensed
9 under section 1817 at the time of death and if the physician in
10 charge of the patient's care or another physician designated by
11 the physician in charge had not examined the patient within 48
12 hours prior to death, or within 2 weeks prior to death in the
13 case of a terminally ill patient, the physician in charge or
14 another physician designated by the physician in charge shall
15 examine the body prior to completing the certification of death
16 process. Any physician who fails to complete the medical
17 certification of the cause of death fully, in typewritten block
18 style and in a timely manner, or who fails to examine the body of
19 a nursing home resident prior to certifying cause of death as
20 required by this section shall must be reported to the Board of
21 Licensure in Medicine or the Board of Osteopathic Licensure,
22 whichever is appropriate, by the State Registrar of Vital
23 Statistics of the Department of Human Services.

24 For the purposes of this subsection, the following terms have the
25 following meanings.

26 A. "Life-sustaining procedure" means any medical procedure
27 or intervention that, when administered to a qualified
28 patient, will serve only to prolong the dying process and
29 shall does not include nutrition and hydration.

30 B. "Terminally ill patient" means a patient who has been
31 diagnosed as having an incurable or irreversible condition
32 that, without the administration of life-sustaining
33 procedures, will, in the opinion of the attending physician,
34 result in death within a short time.

35 **Sec. 27. 22 MRSA §2842, sub-§3**, as amended by PL 1987, c. 329,
36 §1, is further amended to read:

37 **3. Medical certificate by medical examiner.** When a death
38 occurs under circumstances which that make it a medical examiner
39 case as defined in section 3025, or when inquiry as to the cause
40 of death is required by law, the medical examiner shall complete
41 and-sign in typewritten block style the medical certification of
42 the cause of death and sign the death certificate. A
43 certification need not be completed before the remains are ready
44 for release.

45 The medical examiner shall ~~be~~ is responsible for the identity of

2 the deceased and the time, date, place, cause, manner and
3 circumstances of death on the death certificate. Entries may be
4 left "pending" if further study is needed; or, at the specific
5 direction of the Attorney General relative to cases under
6 investigation by his the attorney general's office, entries shall
7 must be left "withheld" until such time as the Attorney General,
8 in his the attorney general's sole discretion, determines that
9 any criminal investigation and prosecution will not be harmed by
10 public disclosure of such information. Notwithstanding section
11 2706, subsection 4, unless directed otherwise by the Attorney
12 General as specified in this subsection, this information for
13 which the medical examiner is responsible may be made available
14 to the general public by the Office of Chief Medical Examiner.

15 **Sec. 28. 22 MRSA §2843, 3rd ¶**, as enacted by PL 1985, c. 231,
16 §2, is amended to read:

17 A municipal clerk may issue a burial-transit disposition of
18 human remains permit to a funeral director who presents a report
19 of death and states that he the funeral director has been unable
20 to obtain a medical certification of the cause of death. The
21 funeral director shall name the attending physician or medical
22 examiner who will certify to the cause of death and present
23 assurances that he or she has agreed to do so. The funeral
24 director shall exercise due diligence to secure the medical
25 certification and file the death certificate as soon as possible.
26

27 **Sec. 29. 22 MRSA §2844**, as amended by PL 1989, c. 54, is
28 further amended to read:

29 **§2844. Subregistrars**

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31 The town or city clerk may appoint one or more suitable and
32 proper persons in the municipality as subregistrars, who shall-be
33 are authorized to issue permits for transportation and final
34 disposition of dead human bodies in the same manner as is
35 required of the town or city clerk. Permits may be issued by a
36 subregistrar only when the town or city clerk or deputy clerk is
37 not available. The completed death certificate or report of
38 death, upon which the permit is issued, together with a copy of
39 the burial-transit disposition of human remains permit shall must
40 be forwarded to the town clerk at the earliest opening of the
41 municipal office after the date of issue, and all permits by
42 whomsoever issued shall must be returned to the town clerk as
43 required by section 2843. The appointment of subregistrars shall
44 must be made with reference to locality, so as to best suit the
45 convenience of the inhabitants of the town, and such appointment
46 shall must be in writing and recorded in the office of the town
47 or city clerk. The subregistrars in any town shall hold office
48 at the pleasure of the town clerk.
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2 notification that must be given by a public water system to conform the requirements to federal regulation.