

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)

some
R. W. J.

Date: 6/15/11

(Filing No. H-656)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1089, L.D. 1480, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'PART A'

Amend the bill by striking out all of sections 9, 14, 25, 32, 33, 39, 40 and 43.

Amend the bill by inserting at the end before the emergency clause the following:

'PART B'

Sec. B-1. 31 MRSA §1592, sub-§8, as amended by PL 2011, c. 113, Pt. A, §12, is further amended to read:

8. Delivery of notice. The Secretary of State shall send notice of ~~its~~ the determination under subsection 1 by regular mail or other medium as defined by rule by the Secretary of State and the service upon the limited liability company is perfected 5 days after the Secretary of State deposits ~~its~~ the notice of the determination in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed or delivered by a medium authorized by the Secretary of State to the registered agent of the limited liability company.

Sec. B-2. 31 MRSA §1626, sub-§7, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

7. Delivery of notice. The Secretary of State shall send notice of ~~its~~ the determination under subsection 1 by regular mail and the service upon the foreign limited liability company is perfected 5 days after the Secretary of State deposits ~~its~~ the notice of the determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent in this State and the registered or principal office, wherever located, on file for the foreign limited liability company.

COMMITTEE AMENDMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

Sec. C-5. 34-A MRSA §11222, sub-§4-B, ¶C, as enacted by PL 2009, c. 570, §4, is amended to read:

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

- (1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or
- (2) If authorized in writing by the law enforcement agency having jurisdiction ~~for~~ or the bureau, to submit a new photograph without appearing in person.

Sec. C-6. 34-B MRSA §1207, sub-§1, ¶F, as amended by PL 2003, c. 563, §1, is further amended to read:

F. Nothing in this subsection precludes the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that, in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; and

Sec. C-7. 34-B MRSA §1207, sub-§1, ¶G, as amended by PL 2003, c. 563, §2, is repealed.

PART D

Sec. D-1. 14 MRSA §6001, sub-§1-B, as enacted by PL 2011, c. 122, §1, is amended to read:

1-B. Residential lease without termination or notice language. If a written residential lease or contract does not include a provision to terminate the tenancy or does not provide for any written notice of termination in the event of a material breach of a provision of the written residential lease or contract, either the landlord or the tenant may terminate the written residential lease or contract pursuant to this subsection.

A. A landlord may terminate the tenancy in accordance with section 6002, subsections 1 and 2. After a landlord has provided notice and service as provided in section 6002, including language advising the tenant that the tenant has the right to contest the termination in court, the landlord may commence a forcible entry and detainer action as provided in this section.

B. A tenant may terminate the tenancy by providing the landlord with 7 days' written notice of the termination if the landlord has substantially breached a provision of the written residential lease or contract. In the event that the tenant or the tenant's agent

R. 4 B.

1 has made at least 3 good faith efforts to personally serve the landlord in-hand, that
2 service may be accomplished by both mailing the notice by first-class mail to the
3 landlord's last known address and by leaving the notice at the landlord's last and usual
4 place of abode.

5 **Sec. D-2. 22 MRSA §3025, sub-§1, ¶D**, as amended by PL 2011, c. 60, §1, is
6 further amended to read:

7 D. Death when the person is in custody pursuant to an arrest, confined in a state
8 correctional or detention facility, county jail, other county correctional or detention
9 facility or local lockup or is ~~in transport between~~ on the way to or from a courthouse
10 or any of these places while in the custody of a law enforcement officer or county or
11 state corrections official;

12 **Sec. D-3. 30-A MRSA §1562-A**, as enacted by PL 2011, c. 60, §2, is amended to
13 read:

14 **§1562-A. Death of a person in custody**

15 When a ~~prisoner~~ person in county or state custody dies, an examination and inquest
16 must be held, and the ~~commissioner or the chief administrative officer of the facility~~
17 ~~sheriff or jailer~~ shall cause a medical examiner to be immediately notified for that
18 purpose pursuant to Title 22, section 3025. For purposes of this section, "~~county or state~~
19 ~~custody~~" means custody pursuant to an arrest, confinement in a ~~state correctional facility,~~
20 county jail, or other county correctional facility or ~~local lockup~~ or when the ~~prisoner~~
21 person is ~~in transport between~~ on the way to or from a courthouse or any of these places
22 while in the custody of a county law enforcement officer or county ~~or state~~ corrections
23 official. The medical examiner shall also review the case file and relevant medical
24 records and determine whether an autopsy is needed. If the medical examiner determines
25 that an autopsy is needed, an autopsy must be performed.

26 **Sec. D-4. 30-A MRSA §2678** is enacted to read:

27 **§2678. Death of a person in custody**

28 When a person in custody dies, an examination and inquest must be held, and the
29 chief of police shall cause a medical examiner to be immediately notified for that purpose
30 pursuant to Title 22, section 3025. For purposes of this section, "custody" means custody
31 pursuant to an arrest, confinement in a local lockup or when the person is on the way to
32 or from a courthouse or a local lockup while in the custody of a local law enforcement
33 officer. The medical examiner shall also review the case file and relevant medical
34 records and determine whether an autopsy is needed. If the medical examiner determines
35 that an autopsy is needed, an autopsy must be performed.

36 **Sec. D-5. 34-A MRSA §3045**, as amended by PL 2011, c. 60, §4, is further
37 amended to read:

38 **§3045. Death of client**

39 When any client in ~~county or state~~ custody dies, an examination and inquest must be
40 held, and the commissioner or the chief administrative officer of the facility shall cause a
41 medical examiner to be immediately notified for that purpose pursuant to Title 22, section

R. of S.

1 3025. For purposes of this section, "~~county or state custody~~" means ~~eustody pursuant to~~
2 ~~an arrest~~, confinement in a state correctional or detention facility, ~~county jail, other~~
3 ~~correctional facility or local lockup~~ or when the prisoner client is in transport between
4 any of these places on the way to or from a state correctional or detention facility while in
5 the custody of a ~~law enforcement officer or county or state corrections official~~. The
6 medical examiner shall also review the case file and relevant medical records and
7 determine whether an autopsy is needed. If the medical examiner determines that an
8 autopsy is needed, an autopsy must be performed.

9 **Sec. D-6. Effective date.** This Part takes effect 90 days after the adjournment of
10 the First Regular Session of the 125th Legislature.

11 **PART E**

12 **Sec. E-1. 38 MRSA §1665-B, sub-§2, ¶A**, as amended by PL 2011, c. 206, §29,
13 is further amended to read:

14 A. Establish and maintain a collection and recycling program for out-of-service
15 mercury-added thermostats. The collection and recycling program must be designed
16 and implemented to ensure that:

17 (1) A maximum rate of collection of mercury-added thermostats is achieved;

18 (2) Handling and recycling of mercury-added thermostats are accomplished in a
19 manner that is consistent with section 1663, with other provisions of this chapter
20 and with the universal waste rules adopted by the board pursuant to section
21 1319-O;

22 (3) Authorized bins for mercury-added thermostat collection are made available
23 at a reasonable one-time fee not to exceed \$25 to all ~~wholesaler~~ heating,
24 ventilation and air conditioning supply, electrical supply and plumbing supply
25 distributor locations that sell thermostats and to all retailers ~~and electrical supply~~
26 ~~wholesalers~~ who volunteer to participate in the program; and

27 (4) By January 1, 2007, authorized bins for mercury-added thermostat collection
28 are made available at a reasonable one-time fee not to exceed \$25 to
29 municipalities and regions requesting bins for mercury-added thermostat
30 collection at universal waste collection sites or at periodic household hazardous
31 waste collection events, as long as the collection sites or events are approved by
32 the department for mercury-added thermostat collections;

33 **Sec. E-2. 38 MRSA §1665-B, sub-§2, ¶E**, as amended by PL 2011, c. 206, §30,
34 is further amended to read:

35 E. Within 3 months after the department develops phase one of the plan required by
36 subsection 4, provide a financial incentive with a minimum value of \$5 for the return
37 of each mercury-added thermostat, ~~with or without a cover, by a contractor or service~~
38 technician to an established ~~wholesaler~~ recycling collection point;

39 **Sec. E-3. 38 MRSA §1665-B, sub-§2, ¶F**, as amended by PL 2011, c. 206, §31,
40 is further amended to read:

R. 4 S.

1 F. Within 3 months after the department develops phase 2 of the plan required by
2 subsection 4, provide a financial incentive with a minimum value of \$5 for the return
3 of each mercury-added thermostat, ~~with or without a cover~~, by a homeowner to an
4 established retail recycling collection point;

5 **Sec. E-4. PL 2011, c. 206, §32** is repealed.

6 **Sec. E-5. Retroactivity.** This Part applies retroactively to June 3, 2011.

7 **PART F**

8 **Sec. F-1. 20-A MRSA §13201, 2nd ¶**, as amended by PL 2011, c. 172, §2 and
9 affected by §4, is further amended to read:

10 After a probationary period of 3 years, subsequent contracts of duly certified teachers
11 must be for not less than ~~5~~ 2 years. Unless a duly certified teacher receives written notice
12 to the contrary at least 6 months before the terminal date of the contract, the contract must
13 be extended automatically for one year and similarly in subsequent years. The right to an
14 extension for a longer period of time through a new contract is specifically reserved to the
15 contracting parties.

16 **Sec. F-2. Effective date.** This Part takes effect 90 days after the adjournment of
17 the First Regular Session of the 125th Legislature.

18 **PART G**

19 **Sec. G-1. 20-A MRSA §11484, sub-§1, ¶B-1**, as enacted by PL 2001, c. 417,
20 §19, is repealed.

21 **Sec. G-2. 20-A MRSA §11484, sub-§1, ¶B-2**, as enacted by PL 2001, c. 417,
22 §19, is amended to read:

23 B-2. ~~One member~~ Two members appointed by the Governor from at large;

24 **Sec. G-3. 20-A MRSA §11484, sub-§1, ¶C**, as enacted by PL 1997, c. 732, §4,
25 is amended to read:

26 C. Two members appointed by the Governor with experience in and knowledge of
27 institutional investment of funds; ~~and~~

28 **Sec. G-4. 20-A MRSA §11484, sub-§1, ¶D**, as enacted by PL 1997, c. 732, §4,
29 is repealed.

30 **Sec. G-5. 20-A MRSA §11484, sub-§1, ¶¶E and F** are enacted to read:

31 E. One member appointed by the Governor with experience in and knowledge of
32 institutional investment of funds; and

33 F. One member appointed by the chair of the board who is a member of the board
34 other than the Treasurer of State.

35 **Sec. G-6. PL 2011, c. 150, §§5 to 8** are repealed.

36 **Sec. G-7. PL 2011, c. 150, §9** is amended to read:

R. 48.

1 **Sec. 9. Effective date.** Those sections of this Act that amend the Maine Revised
 2 Statutes, Title 20-A, section 11473, subsections 1 and 5; section 11474, subsection 2; and
 3 section 11476 take effect on July 1, 2012. ~~That section of this Act that repeals Title~~
 4 ~~20-A, section 11484, subsection 1, paragraph B-1 and that section of this Act that amends~~
 5 ~~Title 20-A, section 11484, subsection 1, paragraph B-2 take effect at the expiration of the~~
 6 ~~term of the member with knowledge of student financial assistance or when the position~~
 7 ~~is vacant. That section of this Act that repeals Title 20-A, section 11484, subsection 1,~~
 8 ~~paragraph D and that section of this Act that enacts Title 20-A, section 11484, subsection~~
 9 ~~1, paragraph E take effect at the expiration of the terms of the member representing~~
 10 ~~public institutions of higher education and the member representing private institutions of~~
 11 ~~higher education or when the positions are vacant.~~

12 **Sec. G-8. Transition.** Notwithstanding that section of this Part that repeals the
 13 Maine Revised Statutes, Title 20-A, section 11484, subsection 1, paragraph B-1, the
 14 member appointed pursuant to that paragraph may continue to serve until the expiration
 15 of the term to which the member was appointed, until the member vacates the
 16 membership or until the member is removed for cause, whichever occurs first.
 17 Notwithstanding that section of this Part that amends Title 20-A, section 11484,
 18 subsection 1, paragraph B-2, the Governor may not appoint a 2nd member under that
 19 paragraph until the expiration of the term of the member appointed pursuant to Title
 20 20-A, section 11484, subsection 1, paragraph B-1, the member vacates the membership or
 21 the member is removed for cause, whichever occurs first. Notwithstanding that section of
 22 this Part that repeals Title 20-A, section 11484, subsection 1, paragraph D, a member
 23 appointed pursuant to that paragraph may continue to serve until the expiration of the
 24 term to which the member was appointed, until the member vacates the membership or
 25 until the member is removed for cause, whichever occurs first. Notwithstanding that
 26 section of this Part that enacts Title 20-A, section 11484, subsection 1, paragraph E, the
 27 Governor may not appoint a member under that paragraph until the expiration of the term
 28 of the member appointed pursuant to the former Title 20-A, section 11484, subsection 1,
 29 paragraph D to represent public institutions or until that member is removed for cause or
 30 otherwise vacates the membership. Notwithstanding that section of this Part that enacts
 31 Title 20-A, section 11484, subsection 1, paragraph F, the chair of the board of directors of
 32 the Finance Authority of Maine may not appoint a member under that paragraph until the
 33 expiration of the term of the member appointed pursuant to the former Title 20-A, section
 34 11484, subsection 1, paragraph D to represent private institutions or until that member is
 35 removed for cause or otherwise vacates the membership.

36 **Sec. G-9. Effective date.** This Part takes effect 90 days after adjournment of the
 37 First Regular Session of the 125th Legislature.'

38 Amend the bill by striking out all of the emergency clause and inserting the
 39 following:

40 '**Emergency clause.** In view of the emergency cited in the preamble, this
 41 legislation takes effect when approved, except as otherwise indicated.'

42 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 43 section number to read consecutively.

COMMITTEE AMENDMENT

SUMMARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

This amendment includes both technical and substantive changes to the laws.

This amendment designates the provisions of the bill as Part A.

This amendment deletes sections 9, 14, 25, 32, 33, 39, 40 and 43 from the bill. Sections 32, 33 and 43 are added to the amendment with changes in Part B.

Part B includes technical corrections to sections originally printed in the bill. Section 1 is the same as section 32 of the bill except that it incorporates the amendment made by Public Law 2011, chapter 113. Section 2 is the same as section 33 of the bill. Section 3 is a corrected version of section 43 of the bill. Section 4 makes the amendments to the Maine Limited Liability Company Act take effect July 1, 2011, which is the date on which the Maine Limited Liability Company Act takes effect.

Part C makes technical corrections. Section 1 corrects the subject-verb agreement in the laws governing the Maine Commission on Indigent Legal Services. Section 2 repeals a section of law that was enacted in 1987 that had a purpose only through 1989. Section 3 corrects a cross-reference. Sections 4 and 5 correct clerical errors by changing the word "for" to "or" in 2 subsections within the sex offender registry laws. Sections 6 and 7 effect the repeal of language relating to a commission that was repealed in 1992.

Part D includes changes that may be considered substantive. Section 1 clarifies that the new subsection added by Public Law 2011, chapter 122 applies to only residential leases or contracts. Section 1 is not intended to affect the application or interpretation of any other provision of law. Sections 2 to 5 correct technical issues in language adopted pursuant to Public Law 2011, chapter 60 passed earlier in the session and ensure that implementation of the law occur. Sections 2 to 5 incorporate situations inadvertently left out of Public Law 2011, chapter 60, including death of a person in custody in a state or county detention facility, in custody on the way to or from a courthouse and while being transported to or from one of the facilities listed even if the transport is not being done to take the person to another of the facilities. By using the word "person" instead of "prisoner" it also covers juveniles who are in custody. Section 4 adds similar provisions for persons in custody of municipal law enforcement officers. Sections 2 to 5 correct language that would inadvertently require the Commissioner of Corrections to notify a medical examiner of a death about which the commissioner would not know, such as that of an arrestee who dies while being taken from a local lockup to the county jail by a municipal police officer. The amendment puts the responsibility for notification on the correct official. It also substitutes "sheriff or jailer" in the county jail provision for the same reason. Other changes clarify each provision to accurately reflect the type of situation involved at each level, whether state, county or local. Section 6 provides that the amendment made by section 1 takes effect 90 days after the adjournment of the First Regular Session of the 125th Legislature, which is the effective date of Public Law 2011, chapter 122 and chapter 60.

Part E makes substantive changes to carry out the intent of the Joint Standing Committee on Environment and Natural Resources concerning mercury-added thermostats. Several sections of L.D. 1398, enacted as Public Law 2011, chapter 206, were inadvertently not removed from the bill by both the majority and minority committee amendments. This Part resolves that oversight by amending the Maine

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1089, L.D. 1480

1 Revised Statutes, Title 38, section 1665-B to reinstate the law as it existed prior to the
2 enactment of Public Law 2011, chapter 206. Chapter 206 took effect on June 3, 2011.
3 Part E includes a retroactive effective date provision to make the entire Part apply
4 retroactively to June 3, 2011.

5 Part F corrects a clerical error in Public Law 2011, chapter 172 concerning teacher
6 contracts. This is a substantive change that carries out the intent of the Joint Standing
7 Committee on Education and Cultural Affairs. This Part takes effect 90 days after the
8 adjournment of the First Regular Session of the 125th Legislature, which is when chapter
9 172 takes effect.

10 Part G corrects the membership changes in the Advisory Committee on College
11 Savings enacted by Public Law 2011, chapter 150 as intended by the Joint Standing
12 Committee on Education and Cultural Affairs. Part G deletes wording that was
13 inadvertently retained and corrects the effective date and transition language.

COMMITTEE AMENDMENT