

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 453-End

AND AT THE  
**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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§448. Quality assurance

The commissioner shall, in conjunction with the Maine Agricultural Experiment Station, the Cooperative Extension Service and other public or private agencies, maintain a program of quality assurance by the diligent enforcement of all provisions of this Part which pertain to grading, labeling, licensing and advertising of agricultural products, and by providing direct and indirect assistance to the industry in the adoption of those new technologies and methods of production which will improve the quality of Maine agricultural products.

Effective September 23, 1983.

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## CHAPTER 564

H.P. 1243 - L.D. 1657

### AN ACT Relating to Joint Custody.

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

Whereas, the custody of children in domestic relations cases is an issue of fundamental importance to the people of the State; and

Whereas, the issue of child custody has been or is being examined by a number of states; and

Whereas, certain states have enacted laws dealing with the matter of joint custody in domestic relations cases; and

Whereas, 4 states have enacted legislation which creates a presumption favoring joint custody absent consent of the parents; and

Whereas, in the judgment of the Legislature the issue of the custody of children in domestic relations cases needs to be studied in depth in order to determine whether current Maine law in this area should be amended and, if so, in what ways the law should be amended; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now,

therefore,

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

Sec. 1. 19 MRSA §214, first ¶, as amended by PL 1983, c. 195, §1, is further amended to read:

If the father and mother of a minor child are living apart from each other, the judge of probate or the Superior Court Justice or the District Court in the county where either resides, on complaint of either and after such notice to the other as he may order, may decree which parent shall have the exclusive care and custody of the person of that minor, may apportion the care and custody of the minor between the parents or may decree that the parents shall have joint custody of the minor, as the good of the child may require. Where the parents have agreed to an award of joint custody or so agree in open court, the court shall award joint custody unless there is substantial evidence that joint custody should not be awarded. If the court elects not to award joint custody when the parents have agreed to it, the court shall state in its decision the reasons for denial of a joint custody award. The court may order reasonable rights of visitation with the minor child to a parent of the child, to any 3rd persons, or to both. The court shall not consider abandonment of the family residence as a factor in determining custodial rights when the abandoning party has been physically harmed or seriously threatened with physical harm by his spouse, when that harm or threat of harm by his spouse was causally related to the abandonment. He may order either parent of the minor child or children to contribute to the support of that minor child or children sums payable weekly, monthly or quarterly as are deemed reasonable and just and may enforce obedience by appropriate decrees, execution issuing for those sums when payable and for costs, which decrees shall be in force until further order of the judge or justice. An appeal shall lie from such decree or decrees to the Supreme Court of Probate, where originating in the Court of Probate, or to the Supreme Judicial Court where originating in the Superior Court, or to the Superior Court where originating in the District Court, but the original decrees shall be in force until reversed.

Sec. 2. 19 MRSA §752, first ¶, as amended by PL 1983, c. 195, §3, is further amended to read:

The court making an order of nullity or of divorce may make an order concerning the care, custody and support of the minor children of the parties and may decree which parent shall have exclusive care

and custody of any of the minor children, may apportion the care and custody of any of the minor children between the parents, may decree that the parents shall have joint custody of any of the minor children, or may grant the care and custody of those children to a 3rd person or to some suitable society or institution for the care and protection of children or to the Department of Human Services. Where the parents have agreed to an award of joint custody or so agree in open court, the court shall award joint custody unless there is substantial evidence that joint custody should not be awarded. If the court elects not to award joint custody when the parents have agreed to it, the court shall state in its decision the reasons for denial of a joint custody award. The court may order reasonable rights of visitation to a parent of any of the minor children, to any 3rd persons, or to both. The court shall not consider abandonment of the family residence as a factor in determining custodial rights when the abandoning party has been physically harmed or seriously threatened with physical harm by his spouse, when that harm or threat of harm by his spouse was causally related to the abandonment. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the children or an order to provide a policy or contract for coverage of those expenses. Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support. It may alter its order concerning the care, custody and support of the minor children from time to time as circumstances require, whether or not either parent be then living, upon motion of either party, such society or institution as aforesaid, the Department of Human Services, any 3rd person to whom care or custody has been granted, any blood relative or any person standing in loco parentis to the minor children; change the name of the wife, at her request; and in execution of the powers given it under this Title may employ any compulsory process which it deems proper, by execution, attachment or other effectual form, on which costs shall be taxed as in other actions. The court may enforce an order as provided under chapter 14.

Sec. 3. Study commission created. There is established a commission to study the matter of child custody in domestic relations cases.

Sec. 4. Appointment. The commission shall consist of 13 members, as follows: Two Senators appointed by the President of the Senate; 2 Representatives appointed by the Speaker of the House of Representatives; 2 attorneys who are members of the

Maine State Bar with extensive experience in domestic relations matters appointed by the Governor; one psychiatrist, one psychologist and one social worker each with substantial experience in child custody matters appointed by the Commissioner of Human Services; the Commissioner of Human Services or his designee; one Superior Court Judge and one District Court Judge appointed by the Chief Justice of the Supreme Judicial Court; and one member of the general public appointed by the Governor. The commission shall select a chairman from among its members.

**Sec. 5. Duties.** The commission shall undertake a complete study of the issue of child custody in domestic relations cases with particular attention to:

1. Whether the current statutes governing the custody of children in domestic relations are adequate;

2. Whether the current statutes governing the custody of children in domestic relations cases should be amended to change the law with regard to joint legal or joint physical custody;

3. Whether the decisions of law and some of the standards enacted in other states governing the determination of the custody of children in domestic relations cases should be expressly incorporated into the current statutes; and

4. Whether any institutional changes should be made in the present court system's handling of child custody matters in domestic relations cases.

**Sec. 6. Reports.** The commission shall present its findings, together with any recommended legislation to the Second Regular Session of the 111th Legislature by February 1, 1984.

**Sec. 7. Assistance.** The Office of Legislative Assistants shall provide assistance to the commission in carrying out its duties.

**Sec. 8. Appropriation.** There is appropriated to the commission from the General Fund the sum of \$2,500 for the fiscal year ending June 30, 1983, to carry out the purposes of this Act. Any unexpended balances shall not lapse but shall remain in a continuing carrying account until February 1, 1984.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.