

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.

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

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

Sec. 11. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
<u>EDUCATIONAL AND CULTURAL SERVICES,</u>		
<u>DEPARTMENT OF</u>		
All Other	\$100,000	\$150,000

Effective September 23, 1983.

CHAPTER 577

S.P. 626 - L.D. 1764

AN ACT to Revise the General Assistance
Laws.

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

Sec. 1. 22 MRSA c. 1161 is enacted to read:

CHAPTER 1161

MUNICIPAL GENERAL ASSISTANCE

§4301. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Basic necessities. "Basic necessities" means food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, telephone where it is necessary for medical reasons and any other commodity or service determined essential by the overseer in accordance with the municipality's ordinance and this chapter.

2. Dwelling unit. "Dwelling unit" means a building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit.

3. Eligible person. "Eligible person" means a person who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance.

4. Emergency. "Emergency" means any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person.

5. General assistance program. "General assistance program" means a service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance.

6. Household. "Household" means an economic unit composed of a group of individuals legally obligated for the support of each other or a group of unrelated individuals who customarily share a dwelling unit, pool income or share expenses in common. When a household shares a basic necessity, such as housing, with an otherwise unrelated person or persons, the applicant shall be eligible for assistance for their pro rata share of the costs of the shared item or the cost of obtaining an alternative. Income from the unrelated individuals shall not be considered available to the applicant if there is no pooling of income.

7. Income. "Income" means any form of income in cash or in kind received by the household, including net remuneration for services performed, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

The following items are not available within the meaning of this subsection and subsection 10:

A. Income property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

B. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

C. Income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, income shall be considered available for the week, weeks, month or months it was intended to cover when it was received by the applicant or members of the applicant's household. The consideration shall not disqualify an applicant who has exhausted his income to purchase basic necessities.

8. Just cause. "Just cause" means a valid, verifiable reason that hinders an individual in complying with one or more conditions of eligibility.

9. Municipality of responsibility. "Municipality of responsibility" means the municipality which is liable for the support of any eligible person at the time of application.

10. Need. "Need" means the condition whereby a person has insufficient income, money, property, credit, assets or other means available to provide basic necessities for the individual and the individual's family.

11. Net general assistance costs. "Net general assistance costs" means those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers and does not include the administrative expenses of the general assistance program.

12. Overseer. "Overseer" means an official designated by a municipality to administer a general assistance program. The municipal officers shall serve as a board of overseers if no other persons are appointed or elected.

13. Real estate. "Real estate" means any land, buildings, homes, mobile homes and any other things affixed to that land.

§4302. Delegation of duties; oath; bond

Overseers may authorize some person whom they shall designate to perform such of the duties imposed upon them by this chapter as they may determine. The overseers may designate more than one person to per-

form those duties. Before entering upon the performance of those duties, the person or persons so designated shall be sworn and shall give bond to the town for the faithful performance of those duties, in such sum and with such sureties as the overseers order.

§4303. Prosecution and defense of towns

For all purposes provided for in this chapter, the overseers or any person appointed by them in writing may prosecute and defend a town.

§4304. General assistance offices

1. Local office. There shall be in each municipality a general assistance office or designated place where any person may apply for general assistance at regular, reasonable times designated by the municipal officers. Notice shall be posted of these times, as well as the name of the overseer available to take applications in an emergency at all other times.

2. District office. In situations where in the judgment of a municipality the number of applicants does not justify the establishment of a local office or designated place, or where for other reasons a local office or designated place is not necessary, 2 or more municipalities, by a vote of their respective legislative bodies, may establish a district office for the administration of general assistance and make agreements as to the payment of expenses and any other matters relevant to the operation of the office.

Any district office established pursuant to this subsection shall be located so as to be accessible by a toll-free telephone call from any part of every municipality it is designated to serve.

Every district general assistance officer shall be available for the taking of applications at least 35 hours each week and shall make provision for designated personnel to be available to take applications in an emergency 24 hours a day.

3. Emergencies. In any case when an applicant is unable, due to illness, disability, lack of transportation, lack of child care or other good cause, to apply in person for assistance or unable to appoint a duly authorized representative, the overseer shall accept an application by telephone subject to verification by mail and a visit to the applicant's home with the consent of the applicant.

§4305. Municipal ordinance required

1. Program required; ordinance. A general assistance program shall be operated by each municipality and shall be administered in accordance with an ordinance enacted, after notice and hearing, by the municipal officers of each municipality.

2. Availability of ordinance. Each ordinance shall be available in the town office and shall otherwise be easily accessible to any member of the public. Notice to that effect shall be posted.

3. Standards of eligibility. Municipalities may establish standards of eligibility, in addition to need, as provided in this chapter. Each ordinance shall establish standards which shall:

A. Govern the determination of eligibility of persons applying for relief and the amount of assistance to be provided to eligible persons;

B. Provide that all individuals wishing to make application for relief shall have the opportunity to do so; and

C. Provide that relief shall be furnished or denied to all eligible applicants within 24 hours of the date of submission of an application.

4. Ordinance filed. Each municipality shall present a copy of the ordinance establishing eligibility standards, administration and appeal procedures to the Department of Human Services. The ordinance filed shall include all forms and notices, including the application form, notice of decision and appeal rights. Any amendment or modification of the municipal ordinance shall be submitted to the department for comment and filing.

§4306. Records; confidentiality of information

The overseer shall keep complete and accurate records pertaining to general assistance, including the names of eligible persons assisted and the amounts paid for their assistance. Records, papers, files and communications relating to an applicant or recipient made or received by persons charged with responsibility of administering this chapter are confidential and no information relating to a person who is an applicant or recipient may be disclosed to the general public, unless expressly permitted by that person.

§4307. Municipality of responsibility

1. Residency. Municipalities shall provide relief as follows.

A. Overseers of a municipality or some person or persons designated by them to act in their behalf shall have the care of all eligible persons who are residents of the municipality and shall cause them to be relieved at the expense of that municipality, except as provided in section 4311. For the purpose of this section, a "resident" is defined as a person who has moved into a municipality with the intention of remaining in that municipality and establishing a household.

B. Overseers of a municipality shall also have the care of eligible persons who apply to them for assistance and who are neither residents of that municipality nor of any other municipality and shall cause them to be relieved at the expense of that municipality.

C. Nothing contained in this section may establish a durational residency requirement for general assistance or permit a municipality to deny assistance to an otherwise eligible applicant when there is any dispute regarding residency.

2. Institutional resident. In the case of an applicant who is in a group home, shelter, rehabilitation center, nursing home, hospital or other institution at the time of application and who has either been in that institution for 6 months or less or has a residence which he has maintained and to which he intends to return, the municipality of responsibility shall be the municipality where the applicant was a resident immediately prior to entering the institution.

3. Moving; relocation. Overseers of a municipality will not move or transport a recipient or applicant into another municipality in order to relieve their municipality of responsibility for that recipient's or applicant's support. When the overseers of a municipality assist a recipient to relocate, at the recipient's request, in another municipality, the sending municipality shall continue to be responsible for the support of the recipient for 30 days after relocation.

§4308. Initial and subsequent applications

No person may receive assistance from any municipality until the applicant or a duly authorized

representative has made a written application to the overseer, except that in an emergency the application may be made verbally and the assistance shall be granted temporarily. Further assistance shall be granted upon completion of a written application and determination of eligibility.

Notwithstanding any other provisions of this chapter, any person who makes an application for assistance, who has not applied for assistance during the previous 6 months, shall have his eligibility determined solely on the basis of need.

All subsequent applications within 6 months shall be considered in accordance with this chapter and the municipal ordinance. Notwithstanding this or any other section of this chapter, persons who do not have sufficient resources to provide one or more basic necessities in an emergency shall be eligible, although they would otherwise be considered ineligible.

§4309. Eligibility

1. Eligibility of applicant. The overseer shall make a determination of eligibility each time a person applies or reapplies for general assistance pursuant to this chapter and the ordinance adopted by the municipality in accordance with section 4305. The period of eligibility shall be for a period not to exceed one month, whereupon at the expiration of that period the person may reapply for assistance and his eligibility may be redetermined.

2. Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is notified of any change in the recipient's circumstances which may affect the amount of assistance to which the recipient is entitled or which may make the recipient ineligible; provided that once a determination of eligibility has been made for a specific time period, no reduction in assistance for that time period may be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

The overseer shall seek the facts necessary to establish eligibility first from the applicant. Facts sought from other sources, with the exception of public records, shall be gathered only with the knowledge of the applicant.

When available information is inconclusive or con-

flicting regarding a fact which is material and necessary to determine eligibility, the applicant will be advised as to what questions remain. To be considered inconclusive or conflicting, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the overseer. Assistance may be denied or terminated if the applicant is unwilling to supply the overseer with necessary verification or permission to make collateral contacts or if the administrator cannot determine that eligibility exists after contact with the applicant or the applicant's collateral contacts.

3. Eligibility of members of person's household. Failure of an otherwise eligible person to comply with this chapter shall not affect the general assistance eligibility of any member of the person's household who is not capable of working, including at least:

A. A dependent minor child;

B. An elderly, ill or disabled person; and

C. A person whose presence is required in order to provide care for any child under the age of 6 years or for any ill or disabled member of the household.

§4310. Emergency benefits prior to full verification

Whenever an applicant for general assistance states to the administrator that the applicant is in need of immediate assistance to meet basic necessities, the overseer shall, pending verification, issue to the applicant either personally or by mail, within 24 hours of the application, sufficient benefits to provide the basic necessities needed immediately by the applicant, provided that the following conditions are met.

1. Probability of eligibility for assistance after full verification. As a result of the initial interview with the applicant, the overseer shall have determined that the applicant will probably be eligible for assistance after full verification is completed.

2. Documentation. Where possible, the applicant shall submit to the overseer at the time of the initial interview, adequate documentation to verify that there is a need for immediate assistance.

3. Information obtained. When adequate documentation is not available at the time of the initial application, the overseer may contact at least one other person for the purpose of obtaining information to confirm the applicant's statements about his need for immediate assistance.

4. Limitations. In no case:

A. May the authorization of benefits under this section exceed 30 days; and

B. May there be further authorization of benefits to the applicant until there has been full verification confirming the applicant's eligibility.

§4311. State reimbursement to municipalities; reports

1. Departmental reimbursement. When a municipality incurs net general assistance costs in any fiscal year in excess of .0003 of that municipality's 1981 state valuation as determined by the State Tax Assessor in the statement filed by him as provided in Title 36, section 381, the Department of Human Services shall reimburse the municipality for 90% of the amount in excess of these expenditures when the department finds that the municipality has been in compliance with all requirements of this chapter. If a municipality elects to determine need without consideration of funds distributed from any municipally-controlled trust fund which must otherwise be considered for purposes of this chapter, the department shall reimburse the municipality for 66 2/3% of the amount in excess of such expenditures when the department finds that the municipality has otherwise been in compliance with all requirements of this chapter.

2. Submission of reports. Municipalities shall submit reports as follows.

A. For purposes of this section, those municipalities that received reimbursement during the previous fiscal year of the State and those municipalities which expect to receive reimbursement during the current fiscal year of the State must submit monthly reports on forms provided by the department.

B. Those municipalities that did not receive reimbursement during the previous fiscal year and do not expect to receive reimbursement for the current fiscal year must submit quarterly reports on forms provided by the department.

3. Claims. The Department of Human Services may refuse to accept and pay any claim for reimbursement which is not submitted by a municipality to the department within 90 days of the payment upon which that claim is based.

§4312. Assistance; unincorporated place

When an organized municipality grants assistance to eligible persons from an unincorporated or unorganized township, the municipality shall be reimbursed 100% for net general assistance costs to those individuals. The Department of Human Services may appoint agents within the unorganized townships to administer a general assistance program.

§4313. Reimbursement to individuals relieving eligible persons; prior approval; emergencies

Municipalities, as provided in section 4307, shall pay expenses necessarily incurred for providing basic necessities to eligible persons anywhere in the State by any person not liable for their support provided that the municipality of responsibility shall be notified and approve those expenses and services prior to their being made or delivered, except as provided in this section.

1. Emergency care. In the event of an emergency admission of an eligible person to the hospital, the hospital shall notify the overseer of the liable municipality. The notification shall be by telephone and confirmed by certified mail return receipt requested, or by certified mail, and shall be made within 3 business days of the person's admission.

2. Burial. In the event of the death of an eligible person, the funeral director shall notify the overseer prior to making any burial preparations. Notwithstanding section 4305, subsection 3, paragraph C, a decision on any application for assistance with burial expenses need not be rendered until the overseer has verified that no relative or other resource is available to pay for the burial costs, but in no case shall the decision be rendered more than 10 days after receiving an application.

§4314. Cooperation in administration of general assistance

1. State departments. Upon the request of any municipal official charged with the responsibility of administering general assistance, the Department of Human Services and any other department of the State having information which has a bearing on the eligibility of any person applying for general assistance

shall release that information. The information shall be restricted to those facts necessary for the official to make a determination of eligibility for general assistance.

2. Financial institutions. A treasurer of any bank, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by the overseer of any municipality or its agents, or by the Commissioner of Human Services or his agents or by the Director of the Bureau of Veterans' Services or his agents, inform that overseer or the Department of Human Services or the Bureau of Veterans' Services of the amount deposited in the corporation or association to the credit of the person named in the request, who is a charge upon the municipality or the State, or who has applied for support to the municipality or the State.

3. Verification of employment. The applicant has responsibility for providing documentary verification of benefits received during the period for which assistance is requested, or in the month immediately prior to the application for assistance when those wages and benefits are expected to be the same during the period for which assistance is requested.

The overseer shall give the applicant written notice that if the applicant does not provide the documentary verification within one week of the application, the employer will be contacted.

Notwithstanding any other provision of law, every employer shall, upon written request of the overseer, release information regarding any wages or other financial benefits paid to the applicant or a member of the applicant's household. No employer may discharge or otherwise adversely affect an employee because of any request for information pursuant to this section.

4. Confidentiality. Any person who seeks and obtains information under this section is subject to the same rules of confidentiality as the person who is caretaker of the information which is by law confidential.

5. Refusal. Any person who refuses to provide any information to an overseer who requests it in accordance with this section shall state in writing the reasons for the refusal within 3 days of receiving the request.

6. Penalty. Any person who refuses upon request to provide such information without just cause com-

mits a civil violation for which a forfeiture of not less than \$25 nor more than \$100 may be adjudged to be recovered in a civil action in any court of competent jurisdiction. Any person who willfully renders false information to an administrator is guilty of a Class E crime.

§4315. False representation

Whoever knowingly and willfully makes any false representation of a material fact to the overseer of any municipality or to the department or its agents for the purpose of causing himself or any other person to be granted assistance by the municipality or by the State may be ineligible for assistance for a period of up to 60 days and is guilty of a Class E crime.

No person may be denied general assistance solely for making a false representation prior to being afforded the opportunity for an appeal. If a person's application has been approved, there shall be no revocation of general assistance during the period of entitlement, until that person has been provided notice and an opportunity for an appeal as provided in sections 4321 and 4322.

If the fair hearing officer finds that the recipient made a false representation to the overseer in violation of this section, that recipient shall be required to reimburse the municipality for any assistance rendered for which he was ineligible and shall be ineligible from receiving further assistance for a period of up to 60 days.

Any recipient whose assistance is terminated or denied under this section shall have the right to appeal that decision pursuant to the Maine Rules of Civil Procedure, Rule 80-B.

No recipient who has been granted assistance, in accordance with this chapter, may have that assistance terminated prior to the decision of the fair hearing officer. In the event of any termination of assistance to any recipient, the dependents of that person may still apply for and, if eligible, receive assistance.

§4316. Work requirement

1. Ineligibility for assistance. An applicant is ineligible for assistance for 60 days if the municipality establishes that the person, without just cause, refuses to search for employment when such search is reasonable and appropriate, refuses to register for work, refuses to accept a suitable job

offer under this section, or refuses to participate in a training or educational program which would assist him in securing employment. An applicant is further ineligible for assistance for 60 days if he quits work after an initial application without just cause, or willfully fails to perform or willfully performs below average standards the job assigned under subsection 4 without just cause.

2. Eligibility regained; limitations. An applicant may regain his eligibility during the 60-day period by becoming employed or otherwise complying with this section.

In no case may the requirement to search for work or participate in a work or training program interfere with:

A. Existing employment or participation in a vocational training or primary or secondary educational program which would assist the individual in securing employment;

B. The individual's ability to follow up on a bona fide job offer; or

C. Attendance at an interview for possible employment.

3. Just cause. Just cause for failure to meet work requirements or the use of potential resources shall be found when there is reasonable and verifiable evidence of:

A. Physical or mental illness or disability;

B. Below-minimum wages;

C. Sexual harassment;

D. Physical or mental inability to perform required job tasks;

E. Inability to work required hours or to meet piece work standards;

F. Lack of transportation to and from work or training;

G. Inability to arrange for necessary child care or care of ill or disabled family member;

H. Any reason found to be good cause by the Employment Security Commission; and

I. Any other evidence which is reasonable and

appropriate.

The overseer shall not require medical verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention. In any case in which the overseer requires medical verification, and the applicant has no means of obtaining such verification, the overseer shall grant assistance for the purpose of obtaining such verification.

4. Municipal work program. In addition, a municipality may require that an otherwise eligible person who is capable of working be required to perform work for the municipality as a condition of receiving general assistance. Any such work requirement shall be subject to the following provisions.

A. No person may, as a condition of general assistance eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person would otherwise receive under state general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is computed at a rate of at least the state's minimum wage.

B. In no case may eligible persons performing work under this subsection replace regular municipal employees.

C. In no case may an eligible person in need of emergency assistance be required to perform work under this subsection prior to receiving general assistance.

D. Expenses related to work performed under this subsection by an eligible person shall be considered in determining the amount of net general assistance to be provided to the person.

E. General assistance provided by a municipality for work performed by an eligible person under this subsection shall be:

(1) Included in the reimbursable net general assistance costs; and

(2) Itemized separately in reports to the Department of Human Services under section 4311.

§4317. Use of potential resources

Any applicant or recipient must make a good faith

effort to secure any potential resource which may be available, including, but not limited to, any state or federal assistance program, employment benefits, governmental or private pension programs, available trust funds, support from legally liable relatives, child-support payments and jointly held resources where the applicant or recipient share may be available to the individual. Assistance shall not be withheld pending receipt of such resource as long as application has been made or good faith effort is being made to secure the resource.

Any individual applying for or receiving assistance due to a disability must make a good faith effort to make use of any medical and rehabilitative resources that may be recommended by a physician which are available without financial burden and which would not constitute further physical risk to the individual.

Any applicant who refuses to utilize potential resources without just cause, after receiving a written 7-day notice, shall be disqualified from receiving assistance until he has made a good faith effort to secure the resource.

Any applicant who forfeits receipt of or causes reduction in benefits from another public assistance program because of fraud, misrepresentation or a knowing or intentional violation of program rules committed by the applicant within the 60 days prior to his application for assistance, is not eligible to receive general assistance to replace the forfeited assistance for a period of 60 days from the date of application for general assistance, except as provided for initial applications.

§4318. Recovery of expenses

A municipality or the State, which has incurred general assistance program costs for the support of any eligible person, may recover the full amount expended for that support either from the person relieved or from any person liable for the recipient's support, their executors or administrators, in a civil action. In no case may a municipality or the State be authorized to recover through a civil action, the full or part of, the amount expended for the support of a previously eligible person, if:

1. Repayment. As a result of the repayment of that amount this person would, in all probability, again become eligible for general assistance; or

2. Public assistance. This person is presently

receiving any form of public assistance.

§4319. Liability of relatives for support; procedure

The father, mother, grandfather, grandmother, children or grandchildren, by consanguinity, living within or owning real or tangible property within the State, shall support persons chargeable in proportion to their respective ability. A municipality, the State or any kindred of an eligible person having incurred expense for the relief of that eligible person may complain to the Superior Court in the county where the kindred reside or to any other court of competent jurisdiction. The court may cause the kindred to be summoned, and upon hearing or default may assess and apportion a reasonable sum upon those who are found to be of sufficient ability, for the support of the eligible person to the time of the assessment, and shall issue a writ of execution. The assessment shall not be made to pay any expense for relief afforded more than 6 months before the complaint was filed. The complaint may be filed with the clerk of the court who shall issue a summons thereon, returnable and to be served as writs of summons are. On suggestion of either party that there are other kindred of ability not named, the complaint may be amended by inserting their names, and they may be summoned in like manner and be proceeded against as if originally named. The court may assess and apportion upon the kindred a sum sufficient for the future support of the eligible person to be paid quarterly, until further order; and may direct with whom of the kindred consenting thereto and for what time he may dwell, having regard to his comfort and their convenience. On application of the municipality, the State or person to whom payment was ordered, the clerk may issue or renew a writ of execution returnable to the next term of the court to collect what may be due for any preceding quarter. The court may, from time to time, make any further order on complaint of a party interested and, after notice given, alter the assessment or apportionment. On failure to sustain a complaint, the respondents recover costs.

§4320. Liens on real estate

The amount of money spent by a municipality or the State to provide mortgage payments to an eligible person under this chapter may, except for good cause, claim a lien on any real estate, either land or buildings or a combination thereof, owned by that person.

The liens shall be effective until enforced by an action for equitable relief, or until discharged, or

until released by the municipal officers or the State, upon the death of the recipient, or at the time of sale of the property. Interest on the amount of money constituting the lien may be charged at a rate established by the department, but in no event may the rate exceed the maximum rate of interest allowed by the Treasurer of State, pursuant to Title 36, section 186.

The municipal officers or the State shall file a notice of the lien or its discharge with the register of deeds of the county wherein the property is located. The person named in the lien shall be notified by certified mail return receipt requested and shall be entitled to all other rights under the law in accordance with Title 36, sections 942 and 943. Notice of lien shall include written notice of these exemptions.

No lien may be claimed or enforced under this section while the person against whom the lien is claimed or enforced is either presently receiving any form of public assistance, or, as a result of the lien, would in all probability again become eligible for general assistance.

In no event may the lien be enforced prior to the death of the recipient of general assistance or the transfer of the property.

§4321. Grant, denial, reduction or termination to be communicated in writing; right to a hearing

Any action relative to the grant, denial, reduction, suspension or termination of relief provided under this chapter must be communicated to the applicant in writing. The decision shall include the specific reason or reasons for that action and shall inform the person affected of his right to a hearing, the procedure for requesting such a hearing, the right to notify the department and the available means for notifying the department, if he believes that the municipality has acted in violation of this chapter. All proceedings relating to the grant, denial, reduction, suspension or termination of relief provided under this chapter are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant or recipient.

§4322. Right to a fair hearing

Any person aggrieved by a decision, act, failure to act or delay in action concerning his application for general assistance under this chapter shall have the right to an appeal. If a person's application has been approved there shall be no revocation of

general assistance during the period of entitlement until that person has been provided notice and an opportunity for hearing as provided in this section. After 24 hours from the time a person applies for general assistance, or immediately after a person receives notice that an approved application has been revoked, that person may request an appeal within 5 working days. A hearing shall be held by the fair hearing officer within 7 working days following the receipt of a written request by the applicant for an appeal. The hearing may be conducted by one or more fair hearing officers. In no event may an appeal be held before a person or body responsible for the decision, act, failure to act or delay in relating to the applicant.

The person requesting the appeal shall be afforded the right to confront and cross-examine any witnesses against him, present witnesses in his own behalf and be represented by counsel or other spokesman, and be advised of these rights in writing. The decision of such an appeal shall be based solely on evidence adduced at the hearing. The person requesting the appeal shall, within 5 days after the appeal, be furnished with a written decision detailing the reasons for that decision. When any decision by a fair hearing officer or court authorizing assistance is made, that assistance shall be provided within 24 hours. Review of any action or failure to act under this chapter shall be pursuant to the Maine Rules of Civil Procedure, Rule 80-B. The municipality shall keep and provide a sufficient record of fair hearing for the court review.

§4323. Department of Human Services; responsibilities

The Department of Human Services shall be responsible for the proper administration of general assistance. The department shall assist municipalities in complying with this chapter. The department shall annually review and comment on each municipal ordinance and any amendment filed with respect to its adequacy and compliance with this chapter and make any recommendations it deems appropriate to the municipality.

1. Review. The department shall review the administration of general assistance in each municipality for compliance with this chapter. This review shall be made on a regular basis and may be made in response to a complaint from any person as necessary.

The department shall inspect the municipality's records and discuss the administration of the program with the overseer. The overseer or his designee

shall be available during the department's review and shall cooperate in providing all necessary information.

The department shall report the results of its review in writing to the municipality. The written notice shall set forth the department's findings of whether the municipality is in compliance with this chapter.

2. Violation; penalty. If the department finds any violation of this chapter after review, it shall notify the municipality that it has 30 days in which to correct that violation and specify what action shall be taken in order to achieve compliance. The municipality shall file a plan with the department setting forth how it will attain compliance. The department shall notify the municipality if the plan is acceptable and that it will review the municipality for compliance within 60 days of accepting the plan. Any municipality which fails to file an acceptable plan with the department or which is in violation of this chapter at the expiration of the 60-day period shall be subject to a civil penalty of not less than \$500. The Department of Human Services shall enforce this section in any court of competent jurisdiction. Every 30-day period that a municipality is in violation of this chapter after review and notification shall constitute a separate offense. In addition to the civil penalty, the department shall withhold reimbursement to any municipality which is in violation of this chapter until it reaches compliance.

3. Departmental assistance. Whenever the department finds that a person in immediate need of general assistance have not received that assistance as a result of a municipality's failure to comply with the requirements of this chapter, the department shall grant this assistance in accordance with regulations adopted by it. The expense of that assistance granted, including a reasonable proportion of the state's administrative cost as can be attributed to that assistance, shall be billed by the department to the municipality. Should that bill remain unpaid 30 days after presentation to the municipality, the department shall refer the bill to the Treasurer of State for payment from any taxes, revenue, fines or fees due from the State to the municipality.

4. Appeal. Any municipality which is aggrieved by any decision or action made by the department pursuant to this section shall have the right to appeal pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. A request for that appeal shall be in writing and shall be made within 30 days of receiving notification. The appeal

shall be held within 30 days of receipt of that request and shall be conducted by one or more fair hearing officers. In no event may an appeal be held before a person or body responsible for the decision or action. Review of any decision under this section shall be pursuant to the Maine Rules of Civil Procedure, Rule 80 C.

§4324. Report to the Legislature

The Department of Human Services shall review and evaluate the impact and effect of this chapter, and shall report its findings and recommendations to the First Regular Session of the 112th Legislature. The report shall include, but not be limited to, the following:

1. Findings. Specific findings concerning the consequences of ineligibility and disqualification determinations on individuals applying for aid from municipal general assistance programs; and

2. Estimation. An estimation of the number of individuals or families assisted, including the amount of that assistance, who would be categorically and financially eligible for:

A. The Aid to Families with Dependent Children-Unemployed Parent Program;

B. The Aid to Families with Dependent Children Optional Program providing Medicaid coverage to pregnant women with no other children; and

C. An emergency assistance program for which the financial eligibility standard is based on the state's aid to families with dependent children standard of need.

Sec. 2. 22 MRSA §4450, as repealed and replaced by PL 1977, c. 417, §2, is repealed.

Sec. 3. 22 MRSA §4461, as amended by PL 1965, c. 23, is repealed.

Sec. 4. 22 MRSA §4467, as amended by PL 1977, c. 417, §3, is repealed.

Sec. 5. 22 MRSA §4483, as amended by PL 1977, c. 417, §4, is repealed.

Sec. 6. 22 MRSA §4488 is repealed.

Sec. 7. 22 MRSA §4491, as amended by PL 1977, c. 417, §6, is repealed.

Sec. 8. 22 MRSA §4492, as amended by PL 1977, c. 417, §7, is repealed.

Sec. 9. 22 MRSA §4496, as repealed and replaced by PL 1975, c. 664, is repealed.

Sec. 10. 22 MRSA §4497, as amended by PL 1977, c. 417, §8, is repealed.

Sec. 11. 22 MRSA §4498, as repealed and replaced by PL 1977, c. 417, §9, is repealed.

Sec. 12. 22 MRSA §4499, as amended by PL 1981, c. 298, is repealed.

Sec. 13. 22 MRSA §4500, as amended by PL 1975, c. 293, §4, is repealed.

Sec. 14. 22 MRSA §4500-A, as repealed and replaced by PL 1977, c. 417, §11, is repealed.

Sec. 15. 22 MRSA §4504, as amended by PL 1979, c. 382, §2, is repealed.

Sec. 16. 22 MRSA §4505, as amended by PL 1975, c. 574, §3, is repealed.

Sec. 17. 22 MRSA §4507, as repealed and replaced by PL 1977, c. 417, §14, is repealed.

Sec. 18. 22 MRSA §4508, as enacted by PL 1975, c. 574, §4, is repealed.

Effective September 23, 1983.

CHAPTER 578

H.P. 1241 - L.D. 1653

AN ACT to Insure State Enforcement of
Equal Opportunity in State-supported
Educational Programs.

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

Sec. 1. 5 MRSA §4553, sub-§2-A is enacted to read:

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for