

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

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ONE HUNDRED AND TWELFTH LEGISLATURE

1985

ria which must be met by municipal shellfish conservation programs and ordinances in order to obtain approval by the commissioner.

Effective September 19, 1985.

CHAPTER 53

S.P. 203 - L.D. 553

AN ACT to Reenact Provisions for the Court, for Good Cause, to Hear Certain Contested Motions in Separation, Annulment or Divorce Proceedings Where There are Minor Children of the Parties Prior to Referring to Mediation.

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

Whereas, in 1984 the Legislature enacted a law to allow judges, for good cause shown, to hear certain contested motions in separation, annulment or divorce proceedings where there are minor children of the parties, pending a final order and prior to referring the parties to mediation; and

Whereas, this law contained a sunset provision that will result in the automatic repeal of this law on March 31, 1985; and

Whereas, the continuing ability of judges to hear certain contested motions in separation, annulment or divorce proceedings where there are minor children of the parties is vital to the interest of the parties and the minor children involved; 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, sub-§4, as amended by PL 1983, c. 862, §48, is further amended to read:

4. Mediation. Prior to a contested hearing under this section where there are minor children of the parties, the court shall refer the parties to mediation; except that, ~~the court,~~ for good cause shown, the court, prior to referring the parties to mediation, may hear contested motions for temporary relief, pending final judgment on any issue or combination of issues of parental rights and responsibilities, child support or possession of the family residence pending a final order judgment under this section and prior to referring the parties to mediation for which good cause for temporary relief has been shown. Any agreement reached by the parties through mediation on any issues shall be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may refer the parties back to mediation order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 2. 19 MRSA §581, sub-§4, as amended by PL 1983, c. 862, §49, is further amended to read:

4. Mediation. Prior to a contested hearing under this section where there are minor children of the parties, the court shall refer the parties to mediation; except that, ~~the court,~~ for good cause shown, the court, prior to referring the parties to mediation, may hear contested motions for temporary relief, pending final judgment on any issue or combination of issues of parental rights and responsibilities, child support or possession of the family residence pending a final order judgment under this section and prior to referring the parties to mediation for which good cause for temporary relief has been shown. Any agreement reached by the parties through mediation on any issues shall be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to

make a good faith effort to mediate, the court may refer the parties back to mediation order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 3. 19 MRSA §693, as repealed and replaced by PL 1977, c. 439, §3, is amended to read:

§693. Expenses pending divorce

Pending In accordance with section 752, subsection 4, pending a divorce action, the court may order either spouse to pay to the other spouse, or to the attorney for the other spouse, sufficient money for the defense or prosecution thereof; may make reasonable provision for either spouse's separate support, on a motion for which costs and counsel fees may be ordered; enter such decree for the care, custody and support of the minor children as the court deems proper; and in all cases enforce obedience by appropriate processes on which costs and counsel fees shall be taxed as in other actions. 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 such 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.

Sec. 4. 19 MRSA §752, sub-§4, as amended by PL 1983, c. 862, §50, is further amended to read:

4. Mediation. Prior to a contested hearing under this section where there are minor children of the parties, the court shall refer the parties to mediation; except that, the court, for good cause shown, the court, prior to referring the parties to mediation, may hear contested motions for temporary relief, pending final judgment on any issue or combination of issues of parental rights and responsibilities, child support or possession of the family residence pending a final order judgment under this section and prior to referring the parties to mediation for which good cause for temporary relief has been shown. Any agreement reached by the parties through mediation on any issues shall be reduced to writing,

signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may refer the parties back to mediation order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 5. PL 1983, c. 862, §103, as amended by PL 1985, c. 7, is repealed.

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

Effective March 31, 1985.

CHAPTER 54

H.P. 704 - L.D. 1014

AN ACT to Implement Procedures for Insuring the Safe Return and Proper Disposal of Restricted Pesticide Containers.

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

Whereas, by Public Law 1983, chapter 542, the Legislature required for certain limited and restricted use pesticide container deposits sufficient to promote return of the containers, identifying stickers to be affixed to the containers, triple rinsing or equivalent cleaning of the containers and provisions for refunding deposits; and

Whereas, the Legislature required that the provisions of that Act shall go into effect by April 1, 1985; and