

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 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

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

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 436

H.P. 171 - L.D. 205

**AN ACT to Create a Cause of Action Against
the State for Wrongful Imprisonment.**

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

Sec. 1. 14 MRSA c. 743 is enacted to read:

CHAPTER 743**WRONGFUL IMPRISONMENT****§8201. Wrongful imprisonment**

1. Exceptions to immunity. Notwithstanding any immunity of the State from suit, including the Maine Tort Claims Act, chapter 741, the State shall be liable for the wrongful imprisonment of a person.

2. Action. The State shall be liable for damages for wrongful imprisonment of a person, provided that the person alleges and proves the following by clear and convincing evidence:

A. That he was convicted of a criminal offense under the laws of this State;

B. As a result of that conviction, he was sentenced to a period of incarceration and was actually incarcerated;

C. Subsequent to the conviction and as a condition precedent to suit, the person received a full and free pardon pursuant to the Constitution of Maine, Article V, Part First, Section 11, which is accompanied by a written finding by the Governor who grants the pardon that the person is innocent of the crime for which he was convicted; and

D. The court finds that he is innocent of the crime for which he was convicted.

3. Scope of law. For purposes of this law, a person is deemed to have committed a criminal offense notwithstanding a finding by a state or federal court that the law under which he was convicted is violative of the Constitution of Maine or the United States Constitution.

4. Governor's denial of request. A Governor's failure to issue a written finding that the person is innocent of the crime for which he was convicted is final and not subject to judicial review.

5. Settlement. After commencement of an action under subsection 2, the Attorney General may compromise or settle any claim under this chapter.

§8202. Limitation on damages

1. Damages; limitation. In any action for damages permitted by this chapter, the claim for and award of damages, including costs, against the State shall not exceed \$100,000 for all claims arising as a result of a single conviction.

2. Costs. Court costs, interest and all other costs which a court may assess shall be included within the damage limit specified by this section.

3. Exclusion from judgment or award. A judgment or award against the State pursuant to this chapter shall not include punitive or exemplary damages.

4. Payable from General Fund. Any judgment or award of damages permitted by this chapter shall be paid out of the General Fund.

§8203. Jurisdiction

The Superior Court shall have original jurisdiction over all claims permitted under this chapter.

§8204. Limitation of action

Every claim for wrongful imprisonment permitted under this chapter shall be forever barred from the courts of this State, unless an action is begun in the courts within 2 years after the date of the full and free pardon of the conviction upon which the claim is based.

Sec. 2. Application. Any claim which, pursuant to this Act, would constitute a right of action, but for the 2-year statute of limitations established in this Act, shall be maintainable if brought within one year of the effective date of this Act.

Application to the Governor for a hearing under this Act by a person convicted of a criminal offense prior to the effective date of this Act shall be made to the Governor within 3 months of the effective date of this Act.

Sec. 3. Sunset. This Act is repealed on November 1, 1988.

Effective September 19, 1985.

CHAPTER 437

H.P. 584 - L.D. 854

AN ACT to Amend the Disclosure of Licensing
Records Regarding Adult and Child Care
Programs to Clarify Procedures
Relating to Vital Statistic Records
and Clarify Officials Authorized to
Act as Public Guardians or Conservators
under the Probate Code.

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

Sec. 1. 18-A MRSA §5-606, sub-§(c), as amended by PL 1981, c. 493, §2, is further amended to read:

(c) Persons duly delegated by the officials authorized to act under subsections (a) and (b) may include a staff of competent social workers, or competent social workers assigned to the public guardian or conservator by the Department of Mental Health and Mental Retardation or the Department of Human Services. In the event that the delegation is to an individual, such individual shall be qualified therefor by reason of education or experience, or both, in administering to the needs of the individual or individuals over whom he is to exercise administrative or supervisory authority under the public guardian.

Sec. 2. 22 MRSA §2705, sub-§1 is amended to read:

1. Amended certificate. A certificate which has been altered or amended after its filing shall be marked "amended," and the date on which the certificate or record was amended and a summary description of the evidence submitted in support of the correction shall be endorsed on the record or permanently attached to it. Any certified copies of certificates or records amended under this section shall be marked "amended." Notwithstanding this subsection, administrative correction of clerical errors within one year