

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

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Chapters 1-542

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PUBLIC LAWS

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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

CHAPTER 255

H.P. 1241 — L.D. 1693

AN ACT to Remove Statutory Protection for Those who Sexually Assault Voluntary Social Companions.

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

Sec. 1. 17-A MRSA §252, sub-§3, as amended by PL 1985, c. 414, §1, is repealed and the following enacted in its place:

3. Rape is a Class A crime.

Sec. 2. 17-A MRSA §253, sub-§4, as repealed and replaced by PL 1985, c. 544, is repealed and the following enacted in its place:

4. Violation of subsection 1 is a Class A crime.

Effective September 29, 1987.

CHAPTER 256

H.P. 1291 — L.D. 1769

AN ACT to Amend the Laws Relating to the Maine State Retirement System.

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

Sec. 1. 5 MRSA §17001, sub-§11, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

11. Department. "Department" means any department, commission, institution or agency of State Government including the Maine Vocational-Technical Institute System.

Sec. 2. 5 MRSA §17001, sub-§20, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

20. Member. "Member" means any employee person included in the membership of the retirement system, as provided in chapter 423, subchapter II, or chapter 425, subchapter II.

Sec. 3. 5 MRSA §17001, sub-§40, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department and any employee of the Maine Vocational-Technical Institute System, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301,

who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29;

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

Sec. 4. 5 MRSA §17102, sub-§1, ¶¶B and C, as enacted by PL 1985, c. 801, §§5 and 7, are repealed and the following enacted in their place:

B. A person who is a member of the retirement system through employment as a teacher and who is duly elected by the Maine Teachers' Association;

C. A person who is a member of the retirement system through employment as a state employee and who is duly elected by the Maine State Employees' Association;

Sec. 5. 5 MRSA §17154, sub-§8 is enacted to read:

8. Transfers among funds. When considered necessary by the executive director for the efficient administration of the retirement system, he may make transfers among the various funds of the system set forth in this subchapter in accordance with accepted accounting and actuarial principles.

Sec. 5-A. 5 MRSA §17205, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 6. 5 MRSA §17705, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

§17705. Refund of contributions

If the service of any member has terminated, except by death or by retirement under this Part, the member shall be paid the amount of his accumulated contributions, under the following conditions.

1. Ten or more years of service. If the member has 10 or more years of creditable service at the time he terminates service, he must have properly applied for a refund of contributions. Refunds of contributions are governed as follows.

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

B. An application for refund is void if the member filing the application returns to service as a state employee or teacher before issuance of the payment.

C. Only contributions made by a particular member may be refunded to that member under this section.

2. Less than 10 years of service. If the member has less than 10 years of creditable service at the time he terminates service, refunds of contributions are governed as follows:

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service.

C. An application for refund is void if the member filing the application returns to service as a state employee or teacher before issuance of the payment.

D. Only contributions made by a particular member may be refunded to that member under this section.

E. The member must have properly applied for a refund of contributions, provided that rules adopted by the board may provide for an automatic refund of contributions if the member has not properly applied for a refund and the amount of accumulated contributions is less than \$650.

Sec. 7. 5 MRSA §17803, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Time and manner of election. A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director stating the date on which he desires to retire.

Sec. 8. 5 MRSA §17804, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

Payment of a service retirement benefit shall begin on the first day of the month following the month in which the qualifying member becomes eligible to receive payment of his service retirement benefit under section 17851 or 17907. A full month's benefit shall be paid to the beneficiary or estate of the recipient for the month in which he dies. A qualifying member may select payment in one of the following methods.

Sec. 9. 5 MRSA §17804, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Full benefits. All retirement benefits shall be payable for life in equal monthly installments, including any fraction of a month up to the date of death, with no further payment made after the month in which the retiree dies.

Sec. 10. 5 MRSA §17804, sub-§5, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

5. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have some other benefit payable to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director, if:

A. The total value of the benefit during the qualifying member's life plus the benefit after his death is an actuarial equivalent of the benefit which the qualifying member would receive without optional modification; and

B. The method used to determine the benefit is approved by the board.

Sec. 11. 5 MRSA §17812 is enacted to read:

§17812. Limitation on benefits

Benefits are limited as follows.

1. One benefit only. A beneficiary may select only one benefit, regardless of how many benefits he qualifies for.

2. Election final. Except as provided in section 17803, subsection 4, and section 17957, if a beneficiary elects a benefit after receiving reasonable notification of available options from the retirement system, his election of benefit is final and may not be changed or revoked at a later date.

Sec. 12. 5 MRSA §17851, sub-§1, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 13. 5 MRSA §17851, sub-§2, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 14. 5 MRSA §17851, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

3. Member with creditable service of 25 years or more. A member who has completed 25 or more years of creditable service qualifies for a service retirement benefit if he retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System.

Sec. 15. 5 MRSA §17907, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

1. Beginning. If the executive director receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termina-

tion of active service of the member. If the executive director receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and

B. The application was made as soon as reasonably possible.

Sec. 16. 5 MRSA §17907, sub-§2, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

A. The disability retirement benefit ceases and eligibility for a service retirement benefit begins:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of his disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age;

Sec. 17. 5 MRSA §17907, sub-§2, ¶¶B and C, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

B. After the disability has continued for 5 years, the disability of the beneficiary must render him unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 17903, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), his disability retirement benefit shall be discontinued until he withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all his rights to any further benefits under this article shall cease.

(4) If it is determined, on the basis of the examina-

tion or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of his disability retirement benefit shall cease; and

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 17806; ; and

Sec. 18. 5 MRSA §17907, sub-§2, ¶D is enacted to read:

D. A full month's benefit shall be paid to the beneficiary or estate of the disability retirement recipient for the month in which he dies.

Sec. 19. 5 MRSA §17955, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 20. 5 MRSA §18007, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 21. 5 MRSA §18061, sub-§2, ¶A, as enacted by PL 1985, c. 801, §§5, 7, is amended to read:

A. On retirement for reasons other than disability, the average amount of basic insurance in force for the last 3 years prior to retirement shall be continued in force at no cost to the participant, if he has participated in the group life insurance program for a minimum of 10 years ~~continuously and immediately before retirement.~~

(1) Except as provided in paragraph B, the average amount shall be reduced at the rate of 15% per year to a minimum of 40% of the average amount or \$2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions shall become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached.

Sec. 22. 5 MRSA §18203, as enacted by PL 1985, c. 801, §§5 and 7, is amended by adding before subsection 1 a new paragraph to read:

A participating local district may withdraw from further participation in the retirement system under the terms and conditions of this section.

Sec. 23. 5 MRSA §18251, sub-§2, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Membership in the retirement system is optional for elected officials or officials appointed for a fixed term. These special provisions apply to the following:

(1) Membership of trustees of a water district is governed by Title 35, section 3223;

(2) Membership of trustees of a sanitary district is governed by Title 38, section 1104.

(3) Membership of trustees of a sewer district is governed by Title 38, section 1252.

Sec. 24. 5 MRSA §18251, sub-§2, ¶B as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

Sec. 25. 5 MRSA §18306, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

§18306. Refund of contributions

If the service of any member has terminated, except by death or retirement under this Part, or if an employee of a district which withdraws from participation under section 18203 wishes to have his contributions refunded, the member or employee shall be paid the amount of his accumulated contributions under the following conditions.

1. Ten or more years of service. If the member has 10 or more years of creditable service at the time he terminates service, he must have properly applied for a refund of contributions. Refunds of contributions are governed as follows.

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and of the last payroll upon which the name of the member appears, whichever occurs later.

B. An application for refund is void if the member filing the application returns to service before issuance of the payment.

C. Only contributions made by a particular member may be refunded to that member under this section.

2. Less than 10 years of service. If the member has less than 10 years of creditable service at the time he terminates service, refunds of contributions are governed as follows:

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and of the last payroll upon which the name of the member appears, whichever occurs later.

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service.

C. An application for refund is void if the member filing the application returns to service before issuance of the payment.

D. Only contributions made by a particular member may be refunded to that member under this section.

E. The member must have properly applied for a refund of contributions, provided that rules adopted by the board may provide for an automatic refund of contributions if the member has not properly applied for a refund and the amount of accumulated contributions is less than \$650.

Sec. 26. 5 MRSA §18309, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Contribution rate. Except as provided in subsection 2, each fire fighter, including the chief of a fire department, employed by a participating local district which provides a special retirement benefit under section 18453, subsection 4 or 5, shall contribute to the retirement system at a rate of 8% of earnable compensation so long as he is employed as a fire fighter.

Sec. 27. 5 MRSA §18310, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Contribution rate. Except as provided in subsection 2, each police officer, including the chief of a police department, employed by a participating local district which provides a special retirement benefit under section 18453, subsection 7 or 8, shall contribute to the retirement system at a rate of 8% of earnable compensation so long as he is employed as a police officer.

Sec. 28. 5 MRSA §18351, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Board determination. The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal working time in any year shall be equivalent to one year's service credit.

Sec. 29. 5 MRSA §18358, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. Service credit for prior service for the periods of previous service certified by the participating local district as creditable prior service rendered to that district or to the State, for which the participating local district makes contributions; and

Sec. 30. 5 MRSA §18403, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Time and manner of election. A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director stating the date on which he desires to retire.

Sec. 31. 5 MRSA §18404, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

Payment of a service retirement benefit shall begin on the first day of the month following the month in which the qualifying member becomes eligible to receive payment of his service retirement benefit under section 18451 or 18507. A full month's benefit shall be paid to the beneficiary or estate of the recipient for the month in which he dies. A qualifying member may select payments in one of the following methods.

Sec. 32. 5 MRSA §18404, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Full benefits. All retirement benefits shall be payable for life in equal monthly installments, ~~including any fraction of a month, up to the date of death~~ with no further payment made after the month in which the retiree dies. If a participating local district adopts section 18454, the benefits set forth in section 18454 will be considered full benefits for purposes of this section.

Sec. 33. 5 MRSA §18404, sub-§5, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

5. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have some other benefit payable to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director, if:

A. The total value of the benefit during the qualifying member's life plus the benefit after his death is an actuarial equivalent of the benefit which the qualifying member would receive without optional modifications; and

B. The method used to determine the benefit is approved by the board.

Sec. 34. 5 MRSA §18412 is enacted to read:

§18412. Limitation on benefits

Benefits are limited as follows:

1. One benefit only. A beneficiary may select only one benefit, regardless of how many benefits he qualifies for; and

2. Election final. Except as provided in section 18403, subsection 4, and section 18560, if a beneficiary elects a benefit after receiving reasonable notification of available options from the retirement system, his election of a benefit is final and may not be changed or revoked at a later date.

Sec. 35. 5 MRSA §18451, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A member's qualification for service retirement benefits is governed by subsection 1, 2 or 3, unless the requirements of section ~~18644~~ 18453 are satisfied, in

which case, one or more of the subsections of section 18453 governs.

Sec. 36. 5 MRSA §18451, sub-§1, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 37. 5 MRSA §18451, sub-§2, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 38. 5 MRSA §18451, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

3. Member with creditable service of 25 years or more. A member who has completed 25 or more years of creditable service qualifies for a service retirement benefit if he retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System.

Sec. 39. 5 MRSA §18453, sub-§10, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

10. Additional Benefits #1. An additional retirement benefit for all employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service not included in the qualifying employment served after completion of the age and service conditions for retirement under those subsections.

Sec. 40. 5 MRSA §18507, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

1. Beginning. If the executive director receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termination of active service of the member. If the executive director receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and

B. The application was made as soon as was reasonably possible.

Sec. 41. 5 MRSA §18507, sub-§2, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

A. A disability retirement benefit ceases and eligibility for a service retirement benefit begins:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of his disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age;

Sec. 42. 5 MRSA §18507, sub-§2, ¶D is enacted to read:

D. A full month's benefit shall be paid to the beneficiary or estate of the disability retirement recipient for the month in which he dies.

Sec. 43. 5 MRSA §18558, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 44. 5 MRSA §18607, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 45. 35 MRSA §3223, sub-§5, as enacted by PL 1981, c. 447, §1, is repealed and the following enacted in its place:

5. Trustees retirement. Persons who have not been trustees prior to January 1, 1987, and who are not full-time employees, shall not be eligible to become members of the Maine State Retirement System as a result of their selection as trustees. For purposes of determining a water district trustee's eligibility to be a member of the Maine State Retirement System prior to January 1, 1987, the provisions of the appropriate governing charter in effect at the time of the trustee's application for membership shall control.

Sec. 46. 38 MRSA §1104, sub-§3, as enacted by PL 1981, c. 466, §3, is repealed and the following enacted in its place:

3. Trustees retirement. Persons who have not been trustees prior to January 1, 1987, and who are not full-time employees, shall not be eligible to become members of the Maine State Retirement System as a result of their selection as trustees.

Sec. 47. 38 MRSA §1252, sub-§6, as enacted by PL 1981, c. 466, §13, is repealed and the following enacted in its place:

6. Trustees retirement. Persons who have not been trustees prior to January 1, 1987, and who are not full-time employees, shall not be eligible to become members of the Maine State Retirement System as a result of their selection as trustees.

Effective September 29, 1987.

CHAPTER 257

H.P. 547 — L.D. 734

AN ACT to Authorize the Increase of the Maximum Speed Limit to 65 Miles Per Hour.

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

Whereas, a 55 m.p.h. speed limit was federally imposed to combat shortages and rising prices during the threat of the 1973 Arab oil embargo; and

Whereas, that serious conservation effort accomplished its purpose and now should be modified to meet a more realistic level of compliance for modern day travel; and

Whereas, there has been improved technology in auto safety and highway construction since 1973 so that Maine motorists can drive safely and comfortably at 65 m.p.h. on rural interstate highways; and

Whereas, recent research conducted by the Federal Highway Administration indicates that the speed of travel is not the most critical factor in determining safety on the nation's major thoroughfares; and

Whereas, there is widespread public contempt for the present speed limit on rural interstate highways of this State; and

Whereas, the Federal-Aid Highway Act of 1987 permits the speed limit to be raised on the rural interstate highways of this State to 65 m.p.h.; 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. 23 MRSA §1973, sub-§2, as enacted by PL 1981, c. 595, §3, is amended to read:

2. Speed limit. The authority may by rule prescribe a maximum limitation on the speed of vehicles using the turnpike, but not exceeding 55 65 miles per hour or such maximum speed as is permitted on similar roads in the State, and so limit the speed at any point or place thereon, and may regulate the volume and weight of vehicles admitted to the turnpike.

Sec. 2. 29 MRSA §1251, first ¶, as amended by PL 1979, c. 397, §4, is further amended to read: