

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

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

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

December 3, 1986 to June 30, 1987

Chapters 1-542

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

---

---

Twin City Printery  
Lewiston, Maine  
1987

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

**AN ACT to Authorize Hospitals to Use Magnetic  
Resonance Imaging Devices Located in  
Private Physicians' Facilities.**

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

Whereas, a certificate of need waiver for use of existing magnetic resonance imaging machines by inpatients is necessary immediately for the health and safety of patients; 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.** 22 MRSA §304-A, sub-§2, as enacted by PL 1981, c. 705, Pt. V, §16, is amended to read:

2. Acquisitions of major medical equipment. The following acquisitions:

A. The acquisition by any person of major medical equipment that will be owned by or located in a health care facility; or

B. The acquisition by any person of major medical equipment not owned by or located in a health care facility if:

(1) The equipment will not be used to provide services for inpatients of a hospital, but the person fails to file a written notice of intent to acquire the equipment at least 60 days prior to entering into a contract to acquire the equipment; or

(2) The department finds, within 30 business days after the date it receives a written notice of intent to acquire the equipment, that the equipment will be used to provide services for inpatients of a hospital.

There shall be a waiver for the use of major medical equipment on a temporary basis as provided in section 308, subsection 4. Magnetic resonance imaging machines acquired on or before June 1, 1987, shall not be subject to review regardless of any other provisions of this Act and shall be authorized to provide inpatient services;

**Sec. 2. Effective date.** This Act is repealed on July 1, 1988.

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

Effective June 19, 1987.

## CHAPTER 364

H.P. 1254 — L.D. 1712

**AN ACT Concerning the Receiving,  
Witnessing or Accepting of Absentee  
Ballots.**

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

21-A MRSA §791, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Class D crime. The commission of any act described as follows in this subsection is a Class D crime:

A. A person who forges the name of another on an absentee ballot, return envelope or the application for an absentee ballot; ;

B. Notwithstanding this subchapter, a candidate who delivers, receives, accepts, notarizes or witnesses an absentee ballot, other than his own absentee ballot, furnished by the clerk of a municipality in this State; or

C. A person who delivers, receives, accepts, notarizes or witnesses an absentee ballot, other than his own absentee ballot, for compensation other than reasonable reimbursement for actual meals and mileage. This paragraph does not apply to a governmental employee handling ballots in the course of his official duties or any person who handles absentee ballots before the unvoted ballots are delivered to the municipality or after the voted ballots are returned to the clerk.

Effective September 29, 1987.

## CHAPTER 365

H.P. 1267 — L.D. 1730

**AN ACT Relating to Determination of Benefit  
Claims under the Unemployment Compensation Law.**

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

**Sec. 1.** 26 MRSA §1193, sub-§1, ¶A, as amended by PL 1979, c. 651, §46, is further amended to read:

A. For the week in which he left his regular employment voluntarily without good cause attributable to such that employment, or to a claimant who has voluntarily removed himself from the labor market where presently employed to an area where employment opportunity is less frequent, if so found by the deputy, and disqualification shall continue until claimant has earned 4 times his weekly benefit amount in employment by an employer; provided no disqualification shall

may be imposed if the individual establishes that he left employment in good faith and accepted new employment on a permanent full-time basis and he became separated from the new employment for good cause attributable to employment with the new employing unit. Leaving work shall not be considered voluntary without good cause when it is caused by the illness or disability of the claimant or of his immediate family and the claimant took all reasonable precautions to protect his employment status by having promptly notified his employer as to the reasons for his absence and by promptly requesting reemployment when he is again able to resume employment; nor shall may leaving work be considered voluntary without good cause if the leaving was necessary for the claimant to accompany, follow or join his spouse in a new place of residence and he can clearly show within 7 14 days upon arrival at the new place of residence an attachment to the new labor market and the claimant is in all respects able, available and actively seeking suitable work;

Sec. 2. 26 MRSA §1194, sub-§2, as amended by PL 1985, c. 348, §7, is further amended to read:

2. Determination. A representative designated by the commissioner, and in this chapter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during that benefit year in accordance with section 1192, subsection 5.

The deputy shall promptly examine all subsequent claims filed and, on the basis of the facts found by him, shall determine whether or not that claim is valid with respect to sections 1192 and 1193, other than section 1192, subsection 5, or shall refer that claim or any question involved therein to an appeal tribunal or to the commission, which shall make a determination with respect thereto in accordance with the procedure described in subsection 3, except that in any case in which the payment or denial of benefits will be subject to section 1193, subsection 4, the deputy shall promptly transmit a report with respect to that subsection to the Director of Unemployment Compensation upon the basis of which the director shall notify appropriate deputies as to the applicability of that subsection.

The deputy shall determine in accordance with section 1221, subsection 3, paragraph A, the proper employer's experience rating record, if any, against which benefits of an eligible individual shall be charged, if and when paid.

The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons therefor. Subject to subsection 11, unless the claimant or any such interested party, within 15 calendar days after that notification was mailed to his last known address, files an appeal from that determination, that determination shall be final, provided that the period within which

an appeal may be filed may be extended, for a period not to exceed an additional 15 calendar days, for good cause shown. If new evidence or pertinent facts that would alter that determination become known to the deputy prior to the date that determination becomes final, a redetermination is authorized, but that redetermination must be mailed before the original determination becomes final.

If an employer's separation report for an employee is not received by the office specified thereon within 10 days after that report was requested, the claim shall be adjudicated on the basis of information at hand. If the employer's separation report containing possible disqualifying information is received after the 10-day period and the claimant is denied benefits by a revised deputy's decision, benefits paid prior to the date of the revised decision shall not constitute an overpayment of benefits. Any benefits paid after the date of the revised decision shall constitute an overpayment.

If an employer files an amended separation report or otherwise raises a new issue as to the employee's eligibility or changes the wages or weeks used in determining benefits which results in a denial of benefits or a reduction of the weekly benefit amount, the benefits paid prior to the date the determination is mailed shall not constitute an overpayment. Any benefits received after that date to which the claimant is not entitled pursuant to a new determination based on that new employer information shall constitute an overpayment.

If, during the period a claimant is receiving benefits, new information or a new issue arises concerning the claimant's eligibility for benefits or which affects the claimant's weekly benefit amount, no benefits may be withheld until a determination is made on the issue, ~~unless authorized by the claimant.~~ Before a determination is made, written notice shall be mailed to the claimant and other interested parties, which shall include the issue to be decided, the law upon which it is based, any factual allegations known to the bureau, the right to a fact-finding interview, the date and location of the scheduled interview, and ~~the claimant's rights regarding the continuation of benefits,~~ conduct of the interview and appeal. The fact-finding interview shall be scheduled not less than 5 days nor more than 14 days after the notice is mailed. The bureau shall include ~~with~~ in the notice a preprinted form, which the claimant may sign and return to the bureau after indicating thereon whether he wishes to continue to receive benefits until a determination is made, acknowledging an understanding a statement notifying the claimant that any benefits paid prior to the determination may be an overpayment under applicable law and recoverable by the bureau if it is later determined that the claimant was not entitled to the benefits. If the claimant does not appear for the scheduled interview, the deputy shall make a determination on the basis of available evidence. The deputy shall make a prompt determination of the issue based solely on any written statements of interested parties filed with the bureau before the interview, together with the evidence

presented by interested parties who personally appeared at the interview. Upon request and notice to all parties at the interview, the deputy may accept corroborative documentary evidence after the interview. In no other case may the deputy base his decision on evidence received after the interview has been held.

A. This subsection does not apply when the claimant reports that, in the week claimed:

- (1) The claimant worked and reports a specific amount of earnings for that work;
- (2) The claimant worked and had earnings from that work, but does not furnish the amount of earnings;
- (3) The claimant was not able or available for work for a specific portion of the week and there is sufficient information for the deputy to determine that the inability or unavailability for work was for good cause; or
- (4) The claimant received a specific amount of other remuneration as described in section 1193, subsection 5.

B. The commissioner shall notify all claimants when a weekly claim is filed that they must provide an estimate of their earnings if they do not know the actual amount and, if no estimate is provided, benefits will be withheld pending receipt of that information. Benefits shall be paid on the basis of the estimate provided until actual information is available.

Effective September 29, 1987.

## CHAPTER 366

S.P. 585 — L.D. 1736

### AN ACT Relating to the Administration of the Maine Children's Trust Fund.

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

Whereas, the Maine Children's Trust Fund, which is funded with income tax check-off funds, now has most of the funds that will be derived from check-off contributions from 1986 income tax returns; and

Whereas, it is necessary to begin to implement programs designed to prevent abuse, neglect and mental illness among children as soon as possible; 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 pub-

lic peace, health and safety; now, therefore,

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

22 MRSA §4085, sub-§2, as amended by PL 1985, c. 667, §3, is repealed and the following enacted in its place:

2. Limit on disbursements. Of the first \$100,000 of income each year, the amount remaining after payment of operating expenses and expenses for developing public awareness shall be expended by the board in the following proportions: A minimum of 1/3 shall be allocated to the trust fund and up to 2/3 allocated for grants to local programs. One half of the amount of income each year which exceeds \$100,000, but which does not exceed \$500,000, shall be set aside for the development of the trust fund. The board may expend the remainder in accordance with the duties set out in section 4084. The board may not expend the amount of income each year which exceeds \$500,000. For purposes of this section, income includes interest attributed to the fund pursuant to Title 36, section 5285. When the total amount of the fund reaches \$4,000,000, contributions to the fund shall cease, as provided in Title 36, section 5285, and the expenditures by the board shall be limited to the amount of interest credited annually to the fund.

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

Effective June 19, 1987.

## CHAPTER 367

H.P. 1272 — L.D. 1737

### AN ACT to Amend the Juvenile Code Relating to the Questioning of Juveniles.

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

15 MRSA §3203-A, sub-§2-A is enacted to read:

2-A. Questioning. When a juvenile is arrested, no law enforcement officer may question that juvenile until:

- A. A legal custodian of the juvenile is notified of the arrest and is present during the questioning;
- B. A legal custodian of the juvenile is notified of the arrest and gives consent for the questioning to proceed without the custodian's presence; or

C. The law enforcement officer has made a reasonable effort to contact the legal custodian of the juvenile, cannot contact the custodian and seeks to question the juvenile about continuing or imminent criminal activity.