

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

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

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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.

Effective September 29, 1987.

CHAPTER 368

H.P. 1273 — L.D. 1740

**AN ACT to Improve Enforcement Procedures
under the Land Use Regulation Law.**

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

Whereas, the Law Court has recently ruled that the current \$500 per day penalty specified in law is the maximum penalty for violations of the land use regulation laws regardless of the extent or nature of environmental damage resulting from the violation; and

Whereas, the existing penalties for violations of the land use conservation laws do not provide a sufficient deterrent to potential violators; 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:

12 MRSA §685-C, sub-§8, as amended by PL 1977, c. 694, §235-A, is further amended to read:

8. Enforcement, inspection and penalties for violations. Standards, rules, regulations and orders issued by the commission pursuant to this chapter shall have the force and effect of law. No development may be undertaken, except in conformance with this chapter, the standards, rules, regulations and orders enacted or issued pursuant to this chapter, and any real estate or personal property existing in violation of such shall be a nuisance. For the purposes of inspection and to assure compliance with standards, orders and permits issued or adopted by the commission, authorized commission staff or consultant personnel may conduct such investigations, examinations, tests and site evaluations deemed necessary to verify information presented to it, and may obtain access to any lands and structures regulated pursuant to this chapter.

~~A violation of any provision of this chapter or the rules promulgated hereunder is punishable by a fine of up to but not more than \$500 for each day of the violation.~~

Any person who violates any provision of this chapter, or the terms or conditions of any standards, rules, permits or orders adopted or issued pursuant to this chapter, is subject to a civil penalty, payable to the State, of not more than \$10,000 for each day of the violation.

In addition to the other penalties provided, the commission may, in the name of the State of Maine, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation hereof or ~~of the orders or of the standards; or rules or regulations promulgated hereunder.~~ This action may include, but is not limited to, proceedings to revoke or suspend any commission permit or approval, taken either before the commission itself in accordance with Title 5, section 10004, before the Administrative Court in accordance with Title 4, sections 1152 to 1157, or, notwithstanding the provisions of Title 4, section 1151, subsection 2, or Title 5, section 10051, before the Superior Court as part of an enforcement action brought by the commission.

In addition to any such penalties or remedies provided in this subsection, the court may order restoration of any area affected by any action or inaction found to be in violation of any of the provisions of this chapter or of any order, standard, rule or permit of the commission, or any decree of the court, to the condition of such area prior to the violation. When such restoration is not practicable, the court may order other actions to be taken by the person charged with the violation which are in mitigation of the damage caused by the violation.

A person who willfully or knowingly falsifies any statement contained in the certification required, a permit application or other information required to be submitted to the commission shall be punished by a fine of up to but not more than \$500 in violation of this chapter and subject to the penalties of this chapter.

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

Effective June 19, 1987.

CHAPTER 369

S.P. 497 — L.D. 1514

**AN ACT to Amend the Laws Governing Diagnostic
Evaluations of Juveniles for Juvenile
Court Proceedings.**

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

15 MRSA §3309-B is enacted to read:

§3309-B. Limitations on diagnostic evaluations in a secure detention facility

The court shall not order a juvenile to undergo a diagnostic evaluation at a secure detention facility unless the juvenile meets the requirements of section 3202-A, subsection 4, paragraphs C and D.

Effective September 29, 1987.