

# 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

---

---

## CHAPTER 509

H.P. 1171 — L.D. 1597

## AN ACT to Establish the Well Water Information Law.

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

12 MRSA c. 201-B is enacted to read:

## CHAPTER 201-B

## WATER WELLS

§550-B. Water well information

1. Definitions. As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

A. "Well" means any hole constructed by any method for the purpose of extracting water from below the ground.

B. "Well contractor" means any person, company, firm, partnership or corporation engaged in the business of constructing water wells.

2. Exemptions. Wells for which data reports are already required by any state agency are exempt from the reporting requirements of this chapter.

3. Water well information documentation. Completion reports shall be filed according to this subsection.

A. Within 180 days after completion of any well or dry hole, or the enlarging or deepening of an existing well, a well contractor shall submit a report to the Maine Geological Survey, on forms designed and provided by the Maine Geological Survey. The report shall contain information as may be required by the Maine Geological Survey, including, but not limited to, location, construction and well yield.

B. Any well contractor who has engaged in the construction of water wells, but who has not submitted well completion reports on a timely basis as required by this chapter, shall be in violation of this chapter.

4. Compliance with other laws and rules. Notwithstanding the provisions set forth in this chapter, all wells are to be constructed and maintained in accordance with all other laws and rules in effect.

5. Penalties. Any person, company, firm, partnership or corporation, who violates any standard or provision of this chapter, commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. In addition to other civil remedies, the court may issue an injunction.

6. Information use. Information collected by the Maine Geological Survey under this chapter is exempt from Title 1, chapter 13, subchapter I. The Maine Geological Survey shall make information collected under this chapter available to any federal, state or municipal entity or authorized agent of such entity.

Effective September 29, 1987.

## CHAPTER 510

H.P. 1074 — L.D. 1457

## AN ACT Relating to Training of Sewage Treatment Operators.

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

32 MRSA §4173-A, sub-§3, as repealed and replaced by PL 1985, c. 204, is amended to read:

3. Self supporting. This program shall be self-supporting from fees, grants or other sources of revenue not including the General Fund.

Effective September 29, 1987.

## CHAPTER 511

H.P. 1061 — L.D. 1436

## AN ACT Relating to Periodic Justification of State Government Programs under the Maine Sunset Laws.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1987; 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:

## PART A

Sec. 1. 2 MRSA §6, sub-§5, as repealed and replaced

by PL 1985, c. 785, Pt. B, §3, is amended to read:

5. Range 86. The salaries of the following state officials and employees shall be within salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

Director of State Lotteries;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Director of the Risk Management Division;

Chairman, Maine Unemployment Insurance Commission; and

Director of the Bureau of State Employee Health; and

Child Welfare Services Ombudsman.

Sec. 2. 22 MRSA §4002, sub-§3-A is enacted to read:

3-A. Child Welfare Services Ombudsman. "Child Welfare Services Ombudsman" means a public official appointed to receive and investigate citizens' complaints against state agencies which provide child welfare services and which may be infringing on the rights of individuals and, when deemed necessary, propose remedial action.

Sec. 3. 22 MRSA §4008, sub-§3, ¶D, as amended by PL 1985, c. 506, §43, is further amended to read:

D. An appropriate state executive or legislative official with responsibility for child protection services or the Child Welfare Services Ombudsman in carrying out his official functions, provided that no personally identifying information may be made available unless necessary to his functions;

Sec. 4. 22 MRSA c. 1071, sub-c. X is enacted to read:

### SUBCHAPTER X

#### CHILD WELFARE SERVICES OMBUDSMAN

##### §5001. Child Welfare Services Ombudsman

1. Office established. The Office of Child Welfare Services Ombudsman is established within the Executive Department and is autonomous from any other state agency. Its purpose is to represent the best interests of individuals involved in the State's child welfare system as a class and to investigate and resolve complaints against State Government agencies that may be infringing

on the rights of individuals involved in the State's child welfare system.

2. Appointment of the Child Welfare Services Ombudsman. The Child Welfare Services Ombudsman shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over human resources and to confirmation by the Legislature and shall serve at the pleasure of the Governor. Any vacancy shall be filled by similar appointment.

3. Powers and duties. The ombudsman may:

A. Provide ombudsman services to individual citizens in matters relating to those child welfare services provided by and under the jurisdiction of State Government;

B. Advise, consult and assist the Executive Branch and Legislative Branch of State Government, especially the Governor, on activities of State Government related to child welfare. The ombudsman shall be solely advisory in nature, shall not be delegated any administrative authority or responsibility nor supplant existing avenues for recourse or appeals. The ombudsman may make recommendations regarding any function intended to improve the quality of child welfare services in State Government. If findings, comments or recommendations of the ombudsman vary from, or are in addition to, those of the bureau, department or other state agency, the statements of the ombudsman shall be sent to the respective branches of State Government as attachments to those submitted by the bureau, department or other state agency. Recommendations may take the form of proposed budgetary, legislative or policy actions;

C. Review and evaluate, on a continuing basis, state and federal policies and programs relating to the provision of child welfare services conducted or assisted by any state departments or agencies for the purpose of determining the value and impact on individuals involved in the State's welfare system;

D. Receive and address inquiries, complaints, problems or requests for information and assistance regarding the State's child welfare services;

E. Conduct research, gather facts and evaluate procedures and policies regarding the State's child welfare services;

F. Consult with and advise state agencies on operational and management issues or specific or special situations regarding child welfare services and recommend remedial actions when necessary through direct oral communication, memoranda, reports or meetings;

G. Serve as a coordinator of communication and cooperation for all components of the State's child wel-

fare services system, especially among state agencies, whenever desirable or necessary;

H. Make referrals for service to relevant state agencies when appropriate;

I. Set priorities in order to effectively carry out the purposes of this subchapter; and

J. Inform the public to encourage a better public understanding of the current status of the State's child welfare system by collecting and disseminating information, conducting or commissioning studies and publishing the results and by issuing publications and reports.

4. Confidentiality of records. No information or records maintained by the office relating to a complaint or investigation may be disclosed unless the ombudsman authorizes the disclosure and the disclosure is otherwise permitted pursuant to section 4008. The ombudsman shall not disclose the identity of any complainant unless:

A. The complainant or his legal representative consents in writing to the disclosure with respect to that complainant; or

B. A court orders the disclosure.

A complainant or his legal representative, in providing the consent, may specify to whom the identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

5. Administration. The ombudsman shall administer, in accordance with current fiscal and accounting rules of the State and in accordance with the philosophy, objectives and authority of this subchapter, any funds appropriated for expenditure by the ombudsman or any grants or gifts which may become available, accepted and received by the ombudsman; make an annual report which shall be submitted directly to the commissioner, the Governor and the joint standing committee of the Legislature having jurisdiction over human resources, not later than March 1st of each year, concerning its work, recommendations and interests of the previous fiscal year and future plans; and shall make such interim reports as the ombudsman deems advisable. Copies of these reports shall be available to all Legislators and other state agencies upon request.

6. Expenses of the ombudsman. The ombudsman, within established budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related necessary expenses of the ombudsman or members of the office, incurred while traveling on official business.

7. Information from state agencies. State agencies shall provide to the ombudsman copies of all reports and other information required for the fulfillment of the purposes of this chapter pursuant to section 4008, subsec-

tion 3, paragraph D.

8. Legal services. The Department of the Attorney General shall provide legal services as the ombudsman deems necessary in order to carry out the purposes of this subchapter.

9. Location. Office space shall be made available for the ombudsman within the Capitol Complex.

10. Review. This office shall be reviewed 2 years after the effective date of this section by the joint standing committee of the Legislature having jurisdiction over human resources and the joint standing committee of the Legislature having jurisdiction over audit and program review.

## PART B

Sec. 1. 22 MRSA §4008, sub-§2, ¶A, as enacted by PL 1979, c. 733, §18, is repealed and the following enacted in its place:

A. An agency or person investigating or participating on a team investigating a report of child abuse or neglect when the investigation or participation is authorized by law or by an agreement with the department;

Sec. 2. 22 MRSA c. 1071, sub-c. XI is enacted to read:

### SUBCHAPTER XI

#### OUT-OF-HOME ABUSE AND NEGLECT INVESTIGATING TEAM

§5005. Out-of-home abuse and neglect investigating team

1. Definitions. As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

A. "Bureau" means the Bureau of Social Services within the Department of Human Services.

B. "Department" means the Department of Human Services.

C. "License" shall be defined in accordance with Title 5, section 8002, and shall include approval and registration.

D. "Out-of-home abuse and neglect" means abuse and neglect of a child which occurs in a facility or by a person subject to licensure or inspection by this department, the Department of Educational and Cultural Services, the Department of Corrections and the Department of Mental Health and Mental Retardation or in a facility operated by these departments.

E. "Team" means the out-of-home abuse and neglect investigating team.

2. Team established. The team is established to investigate reports of suspected abuse and neglect of children by persons or in facilities subject to licensure pursuant to this Title. The team is also authorized to assist other persons or agencies to investigate suspected abuse and neglect by persons or in facilities providing services to children that are subject to licensure pursuant to other titles and to assist in investigations of suspected abuse and neglect in state-operated facilities providing services for children.

3. Authority and responsibility. The team shall have the following authority and responsibilities regarding investigation of out-of-home abuse and neglect. The team:

A. Shall receive all reports of out-of-home abuse and neglect;

B. Shall investigate all reports received by the department regarding alleged out-of-home abuse and neglect occurring in facilities or by persons subject to licensure by the department;

C. Shall conduct a single investigation sufficient to determine not only if abuse or neglect have occurred but also to determine whether a licensing violation has occurred in order to protect children from further harm and establish a basis upon which to take licensing action. This procedure minimizes duplicative or redundant investigations to the extent possible in response to the same or related allegations of out-of-home abuse or neglect in facilities or by persons subject to licensure by the department;

D. Shall coordinate and consult with the bureau staff performing general licensing functions to eliminate duplicative or redundant investigations to the extent possible and to prevent, correct or eliminate the abuse or neglect or threat of abuse or neglect in out-of-home settings;

E. Shall provide the results of the investigation to the bureau's licensing staff for appropriate action;

F. Shall include relevant professionals outside the department as members of the team for all investigations of residential treatment centers, group homes or day care centers mandated by this subchapter and for other child care facilities as warranted;

G. When a report alleges out-of-home abuse and neglect in facilities or by persons not subject to licensure by the department, shall immediately refer the report to the agency or department charged with the responsibility to investigate such a report or, if applicable, to the state department operating the facility;

H. With respect to reports described in paragraph

G, may, on its own initiative or upon request of another department or agency charged with the responsibility to investigate, participate in the out-of-home abuse and neglect investigation of persons or facilities subject to licensure or operated by the Department of Educational and Cultural Services, the Department of Corrections or the Department of Mental Health and Mental Retardation;

I. Shall refer to office of the district attorney or office of the Attorney General, when appropriate, any case in which criminal activity is alleged and shall coordinate its investigation with that office in order to minimize the trauma to the children involved; and

J. Shall consult and train law enforcement personnel, advocates and others in the identification, reporting, prevention and investigation of out-of-home abuse and neglect as time allows.

4. Training. The team shall be trained in techniques of investigating out-of-home abuse and neglect of children, as well as child development; identification of abuse and neglect; interview techniques; treatment alternatives for perpetrators, victims and their families; licensing regulations applicable to facilities or persons licensed pursuant to Subtitle 6; and other statutory and regulatory remedies available to prevent, correct or eliminate abuse and neglect in out-of-home settings.

5. Records; confidentiality; disclosure. Records created pursuant to this subchapter shall be maintained in accordance with section 4008 and shall not be disclosed except as provided by that section or by section 7703, subsections 2 to 4.

6. Assistance. Staff performing general licensing functions may assist the team in conducting out-of-home investigations upon the request of the Director of the Bureau of Social Services, provided that the licensing staff member has neither currently licensed nor monitored for compliance the subject of the investigation.

**Sec. 3. 22 MRSA §7802, sub-§1-A is enacted to read:**

1-A. Consolidation of functions. All staff performing general licensing functions within the Bureau of Social Services, including the out-of-home abuse and neglect investigating team when investigating pursuant to section 5005, subsection 3, paragraph C, shall be consolidated as a single organizational unit.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect July 1, 1987. Except for Part B, section 3, which shall take effect on July 1, 1988.

Effective July 1, 1987, unless otherwise indicated.