

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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Twin City Printery
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PUBLIC LAWS

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AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

CHAPTER 651

H.P. 1771 — L.D. 2424

AN ACT to Add a Hemophiliac to the Committee to Advise the Department of Human Services on AIDS.

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

5 MRSA §19202, first ¶, as repealed and replaced by PL 1987, c. 539, is amended to read:

The Committee to Advise the Department of Human Services on AIDS, as established by section 12004, subsection 10, shall consist of not less than 26 members nor more than 30 members to include representation of: One allopathic physician from nominees submitted by the Maine Medical Association; one osteopathic physician from nominees submitted by the Maine Osteopathic Association; one nursing home administrator from nominees submitted by the Maine Health Care Association; one funeral director from nominees submitted by the Maine Funeral Directors Association; one social worker from nominees submitted by the Maine Chapter of the National Association of Social Workers; one public school administrator from a local school district from nominees submitted by the Maine Superintendents Association; one nurse from nominees submitted by the Maine State Nurses Association; one representative from nominees submitted by the Maine Hospice Council; one teacher from nominees submitted by the Maine Teachers Association; 2 3 members of the high risk community one of whom must be a person afflicted with hemophilia; one insurance industry representative; one employee of a community mental health center; one dentist from nominees submitted by the Maine Dental Association; one state employee from nominees submitted by the Maine State Employees Association; 2 members of the public, including one parent of a school-age child; the Commissioner of Human Services or his designee who shall serve during the commissioners commissioner's term of office; one psychologist from nominees submitted by the Maine Psychological Association; one state employee from nominees submitted by the American Federation of State, County and Municipal Employees; one member representing hospitals from nominees submitted by the Maine Hospital Association; one member representing public health professionals from nominees submitted by the Maine Public Health Association; one representative of a nonprofit hospital or medical service organization; one substance abuse counselor; one member of the clergy; and 2 Legislators, one representative member of the House of Representatives appointed by the Speaker of the House and one Senator appointed by the President of the Senate. The members, except for those specifically designated in this paragraph, shall be appointed by the Governor for their competence and experience in connection with these fields.

Effective August 4, 1988.

CHAPTER 652

H.P. 1834 — L.D. 2511

AN ACT to Revise the Definition of Spouse Under the Maine State Retirement System.

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

Sec. 1. 5 MRSA §17852, sub-§4, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. For persons qualifying under section 17851, subsection 4, paragraph A:

(1) The total amount of the service retirement benefit is:

(a) Except as provided in division (b), 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 4, paragraph A; or

(b) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with division (a); and

(2) Upon the death of a State Police Officer who is receiving a retirement benefit after qualifying under section 17851, subsection 4, paragraph A, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

For the purpose of this subparagraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

Sec. 2. 5 MRSA §17852, sub-§5, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Upon the death of a law enforcement officer of the Department of Inland Fisheries and Wildlife who is receiving a retirement benefit after qualifying under section 17851, subsection 5, without optional modification, or is retired under article 3, the surviving

spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

Sec. 3. 5 MRSA §17852, sub-§6, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Upon the death of a law enforcement officer of the Department of Marine Resources who is receiving a retirement benefit after qualifying under section 17851, subsection 6, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement or, if the retired officer is divorced or widowed and remarried, the term means the person legally married to the officer at the time of the officer's death.

Sec. 4. **Application.** This new draft shall apply to all members retiring after September 30, 1985, and to the determination of spousal benefits in a case where a member retired prior to September 30, 1985, but dies after September 30, 1985.

Effective August 4, 1988.

CHAPTER 653

H.P. 1854 — L.D. 2537

AN ACT to Provide for Effective and Timely Public Notice of Hearings Conducted by State Boards and Agencies.

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

Whereas, public representation at hearings conducted by state boards and agencies is essential in resolving matters directly affecting the public health and welfare; and

Whereas, public participation is limited by ineffective public notification practices; and

Whereas, newspaper notices required by law are often in small print and buried in the legal section of the newspaper; and

Whereas, inadequate mailing lists maintained by state boards and agencies, combined with short notice periods further limit effective and timely notice; 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. 5 MRSA §9051-A is enacted to read:

§9051-A. Notice of environmental agency adjudicatory proceedings

Whenever adjudicatory hearings are held by the Department of Conservation, the Department of Environmental Protection and the Board of Pesticides Control, the hearings shall be held in accordance with the provisions of this section.

1. Notice of opportunity for hearing; license applications with substantial public interest. When the applicable law or the Constitution of Maine requires that an opportunity for a hearing be provided or an agency deems in any proceeding that a substantial public interest is involved, notice shall be given as follows.

A. Notice of the pending license application shall be provided 30 days next prior to the date of the expected date of an agency decision. Notice shall be provided by mail to:

(1) The person or persons whose legal rights, duties or privileges are at issue;

(2) The municipality or municipalities affected by the license application, as determined by the agency or board to the best of its ability;

(3) The county, if the affected locality as determined by the agency or board to the best of its ability is an unorganized territory;

(4) The Legislators of the geographic area or areas affected by the issue; and

(5) Persons who have made timely requests to be notified of an agency deliberation of a specific license application.

Interested persons may prepare and submit evidence and argument to the agency and request a hearing on the issue.