

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,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
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1988

PUBLIC LAWS

OF THE

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

Sec. 3. Transition. Notwithstanding the Maine Revised Statutes, Title 1, section 302, section 1 of this Act shall apply to proceedings pending before the commission on or after January 1, 1988.

Effective August 4, 1988.

CHAPTER 672

S.P. 728 — L.D. 1987

AN ACT Relating to Sentences with Intensive Supervision.

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

Whereas, reducing the sentencing requirement for the program provides the opportunity for more offenders to be eligible for the program, which acts as an alternative to prison sentencing; and

Whereas, unless this legislation is enacted, the program can not reach its full potential and begin to alleviate, to some extent, the chronic overcrowding which currently exists in the State's correctional facilities; 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:

17-A MRSA §1262, sub-§1, as enacted by PL 1985, c. 821, §15, is amended to read:

1. The court may sentence a person to a term of imprisonment, not to exceed the maximum term authorized for the crime, an initial portion of which shall be for ~~one year~~ 6 months or more, to be served with intensive supervision, and the remainder, which shall not be less than ~~2 years~~ one year, suspended with probation, as authorized by chapter 49. As to both the initial unsuspended portion and the suspended portion, the court shall commit the person to the Department of Corrections. If the initial unsuspended portion is for more than ~~one year~~ 6 months, intensive supervision shall apply only to the ~~final year~~ portion of the initial unsuspended ~~portion~~ term, with the intensive supervision portion ranging from 6 to 18 months. That portion of the initial unsuspended term not to be served on intensive supervision shall be served in institutional confinement.

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

Effective April 6, 1988.

CHAPTER 673

S.P. 972 — L.D. 2581

AN ACT to Make Certain Personnel Records Maintained by the Bureau of Human Resources Available to the Bureau of Employee Relations.

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

Sec. 1. 5 MRSA §7070, sub-§4 is enacted to read:

4. Disclosure of certain information for grievance and other proceedings. The Director of Human Resources may release to the Director of Employee Relations specific information designated confidential by this section which has been requested by the Director of Employee Relations to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the Director of Employee Relations represents the State as defined in this subsection. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection to the Bureau of Employee Relations shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the Director of Human Resources.

B. The Director of Employee Relations shall specify in writing the confidential information required in the proceedings and the reasons explaining the need for the information, and shall provide a copy of the written request to the employee or employees.

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information.

The Director of Employee Relations may use this information in grievance proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Employee Relations shall not be open to public inspection and shall not be "public records," as defined in Title 1, section 402, subsection 3.

Sec. 2. 26 MRSA §979-Q, sub-§2 is enacted to read:

2. Disclosure of certain information for grievance and other proceedings. The Director of Human Resources may release to the Director of Employee Relations specific information designated confidential by this subsection which has been requested by the Director of Employee Relations to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the Director of Employee Relations represents the State as defined in this subsection. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection to the Bureau of Employee Relations shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the Director of Human Resources.

B. The Director of Employee Relations shall specify in writing the confidential information required in the proceedings and the reasons explaining the need for the information, and shall provide a copy of the written request to the employee or employees.

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information.

The Director of Employee Relations may use this information in grievance proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Employee Relations shall not be open to public inspection and shall not be "public records," as defined in Title 1, section 402, subsection 3.

Effective August 4, 1988.

CHAPTER 674

H.P. 1772 — L.D. 2425

AN ACT Concerning Safety Hazards on Maine Lakes.

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

Whereas, the marking of safety hazards on Maine's lakes is necessary for the coming boating season; and

Whereas, this Act will not become effective until after the majority of the boating season has passed, unless enacted as an emergency; 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. 38 MRSA §321, as amended by PL 1973, c. 460, §19, is further amended by adding at the end 3 new paragraphs to read:

If the Bureau of Parks and Recreation, after written request from the governing body of any city or town either declines to mark a waterway or is unable to mark a waterway, then the governing body of the city or town may mark hazards to boating on waterways within its jurisdiction. The Bureau of Parks and Recreation shall be deemed to have declined to mark a particular waterway if the bureau does not respond to a request within 30 days.

The Bureau of Parks and Recreation may at any time reverse a decision not to mark a certain waterway or portion of that waterway and replace any existing markings in accordance with the rules of uniform marking promulgated by the bureau.

Sec. 2. 38 MRSA §329, first ¶, as repealed and replaced by PL 1977, c. 696, §341, is repealed.

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

Effective April 6, 1988.

CHAPTER 675

H.P. 1624 — L.D. 2219

AN ACT to Permit the Department of Transportation to Exempt Certain Railroad Crossings from Requirements to Stop.

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

29 MRSA §998-B, sub-§3, ¶C, as enacted by PL 1985, c. 812, Pt. C, §4, is repealed and the following enacted in its place:

C. A railroad crossing on a line having no or limited rail traffic may be posted as an exempt crossing by