

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

CHAPTER 117

S.P. 295 - L.D. 793

An Act to Make the Department of Mental Health and Mental Retardation Responsible for the Burial Expenses of State Wards

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

34-B MRSA §5205 is enacted to read:

§5205. Payment of burial expenses for state wards

The department shall pay burial expenses for deceased persons who die while wards of the bureau as defined in section 5001, subsection 7, and who have no known survivors. The department may first apply to the cost of burial any funds that are available as part of a mortuary trust or any other funds of the ward remaining at the time of the ward's death which are available for this purpose.

See title page for effective date.

CHAPTER 118

H.P. 642 - L.D. 876

An Act to Allow the Department of Human Services to Share Information with Support Teams for Foster Parents

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

22 MRSA §4008, sub-§2, ¶E, as amended by PL 1983, c. 354, §1, is further amended to read:

E. A person having the legal responsibility or authorization to educate, care for, evaluate, treat or supervise a child, parent or custodian who is the subject of a record. This shall include a member of a treatment team or group convened to plan for or treat a child or family which is the subject of a record. This may also include a member of a support team for foster parents, if that team has been reviewed and approved by the department;

See title page for effective date.

CHAPTER 119

S.P. 123 - L.D. 189

An Act to Exempt Speech and Hearing Centers from Home Health Care Licensure

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

Sec. 1. 22 MRSA §2142, sub-§3, as amended by PL 1985, c. 189, §1, is further amended to read:

3. **Home health care provider.** "Home health care provider" means any business entity or subdivision thereof, whether public or private, proprietary or not for profit, which is engaged in providing acute, restorative, rehabilitative, maintenance, preventive or health promotion services through professional nursing or another therapeutic service, such as physical therapy, ~~speech pathology~~, home health aides, nurse assistants, medical social work, nutritionist services or personal care services, either directly or through contractual agreement, in a client's place of residence. This term does not apply to any sole practitioner providing private duty nursing services or other restorative, rehabilitative, maintenance, preventive or health promotion services in a client's place of residence or to municipal entities providing health promotion services in a client's place of residence. Beginning October 1, 1991, "home health care provider" includes any business entity or subdivision thereof, whether public or private, proprietary or nonprofit, which is engaged in providing speech pathology services.

Sec. 2. 22 MRSA §2147, sub-§11, as amended by PL 1985, c. 189, §2, is further amended to read:

11. **Licensed boarding care facilities.** ~~Boarding-care~~ Boarding care facilities licensed pursuant to chapters 1663 and 1665 when the services are provided to clients residing in those facilities; ~~and~~

Sec. 3. 22 MRSA §2147, sub-§12, as enacted by PL 1985, c. 189, §3, is amended to read:

12. **Municipal entities.** Municipal departments or agencies or other municipal entities in their provision of nontherapeutic preventive and promotional health educational services ~~where~~ when persons providing those services are employed by the municipality; ~~and~~

Sec. 4. 22 MRSA §2147, sub-§13 is enacted to read:

13. **Speech and hearing centers.** Until October 1, 1991, agencies or organizations engaged in the provision of only speech pathology and audiology services.

See title page for effective date.

CHAPTER 120

S.P. 185 - L.D. 342

An Act to Amend the Uniform Partnership Act with Regard to Partnership Title in Real Estate

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

Sec. 1. 31 MRSA §288, as enacted by PL 1973, c. 377, §1, is repealed and the following enacted to read:

§288. Partnership property

1. Real property acquired before October 3, 1973.

Any estate in real property acquired by a partnership in the partnership name before October 3, 1973, is vested in that partnership without any further action or conveyance by the partnership or any of its members. Any such property shall not be deemed to have been held by the partners as tenants in common but shall be deemed to have been held in the partnership name.

A. Any partner in a partnership that held real property in the partnership name before October 3, 1973, may reserve any rights and claims relating to the property and specifically derived from the partnership relationship by filing a notice in the registry of deeds of the county in which the property is located within 2 years after the effective date of this subsection. The notice must contain:

- (1) A description of the property;
- (2) The name of the partnership and the names of the partners; and
- (3) A specific reference by volume and page to the recorded conveyance in which the partner seeks to preserve the partner's rights and claims.

The register of deeds shall charge the customary filing fee for a filing. Within a reasonable time after the notice is recorded, the register of deeds shall enter, upon the margin of the record of the prior conveyance referred to in the notice, the volume and page in which the copy of the notice may be found.

A notice may be filed under this paragraph by the claimant or by any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on the claimant's own behalf, but no disability or lack of knowledge of any kind may suspend or extend the 2-year period provided for filing.

B. Nothing in this subsection may be construed to extend the period for bringing an action or doing any other required act under any statute of limitations.

2. Partnership property acquired or conveyed after October 3, 1973. Partnership property acquired or conveyed after October 3, 1973, shall be subject to the following.

A. All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

B. Unless the contrary intention appears, property acquired with partnership funds is partnership property.

C. Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

D. A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

Sec. 2. 31 MRSA §290, as enacted by PL 1973, c. 377, §1, is repealed and the following enacted in its place:

§290. Conveyance of real property of the partnership

1. Real property acquired before October 3, 1973.

Any conveyance of real property by any partnership made before October 3, 1973, is valid without further act by the partnership or any of its members.

A. Any partner in a partnership that held real property in the partnership name before October 3, 1973, may reserve any rights and claims relating to the property and which have been specifically derived from the partnership relationship by filing a notice in the registry of deeds of the county in which the property is located within 2 years after the effective date of this subsection. The notice must contain:

- (1) A description of the property;
- (2) The name of the partnership and the names of the partners; and
- (3) A specific reference by volume and page to the recorded conveyance in which the partner seeks to preserve the partner's rights and claims.

The register of deeds shall charge the customary filing fee for such a filing. Within a reasonable time after the notice is recorded, the register of deeds shall enter upon the margin of the record of the prior conveyance referred to in the notice the volume and page in which the copy of the notice may be found.

A notice may be filed under this paragraph by the claimant or by any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on the claimant's own behalf, but no disability or lack of knowledge of any kind may suspend or extend the 2-year period provided for filing.

B. Any partner in a partnership that held real property in the partnership name before October 3, 1973, which has continued to hold record title to the real property in the same name until the effective date of this subsection, may reserve any rights and claims relating to the property which have been specifically derived from the partnership relationship by filing a

notice as provided in paragraph A at any time before the later of:

(1) Two years after the effective date of this subsection; or

(2) The recording of a conveyance for value to an unrelated 3rd party. For the purposes of this subsection, "unrelated 3rd party" means a person or entity having no legal or equitable interest in the partnership or the real property before the conveyance is recorded.

C. Nothing in this subsection may be construed to extend the period for bringing an action or doing any other required act under any statute of limitations.

2. Conveyance of real property after October 3, 1973. Real property of the partnership conveyed after October 3, 1973, shall be subject to the following.

A. Where title to real property is in the partnership name, any partner may convey title to that property by a conveyance executed in the partnership name; but the partnership may recover that property unless the partner's act binds the partnership under the first paragraph of section 289, or unless such property has been conveyed by the grantee or a person claiming through the grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded the partner's authority.

B. Where title to real property is in the name of the partnership, a conveyance executed by a partner, in the partner's own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the first paragraph of section 289.

C. Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to that property, but the partnership may recover that property if the partners' act does not bind the partnership under the first paragraph of section 289, unless the purchaser or the purchaser's assignee is a holder for value, without knowledge.

D. Where the title to real property is in the name of one or more or all the partners, or in a 3rd person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in the partner's own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the first paragraph of section 289.

E. Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in that property.

See title page for effective date.

CHAPTER 121

H.P. 281 - L.D. 393

An Act to Amend the Law to Provide for Appeal of Civil Contempt Orders

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

14 MRSA §252, as amended by PL 1979, c. 668, §1, is further amended to read:

§252. Summary process where decree disobeyed; contempt

Whenever a party or the Department of Human Services, if it is subrogated to a party under Title 19, chapter 7, subchapter V, complains in writing and under oath that the process, decree or order of court, which is not, except as provided in Title 19, section 771, for the payment of money only, has been disregarded or disobeyed by any person, summary process shall issue by order of any justice, requiring ~~such~~ that person to appear on a day certain and show cause why ~~he~~ that person should not be adjudged guilty of contempt. Such process shall fix a time for answer to the complaint and may fix a time for hearing on oral testimony, depositions or affidavits, or may fix successive times for proof, counterproof and proof in rebuttal, or the time for hearing and manner of proof may be subsequently ordered upon the return day or thereafter. The court may for good cause enlarge the time for ~~such~~ the hearing. If the person so summoned does not appear as directed or does not attend the hearing at the time appointed therefor as enlarged, or if, upon hearing, ~~he~~ the person is found guilty of such disregard or disobedience, ~~he~~ the person shall be adjudged in contempt and the court may issue a writ of habeas corpus to bring ~~him~~ the person before it to receive sentence and may punish ~~him~~ the person by such reasonable fine or imprisonment as the case requires. The court may allow ~~such~~ the offender to give bail to appear at a time certain, when ~~such~~ the punishment may be imposed if ~~he~~ the person continues in contempt; but when a second time found guilty of contempt in disregarding or disobeying the same order or decree, no bail shall be allowed. When ~~such~~ the person purges ~~himself of his~~ that contempt, the justice may remit ~~such~~ the fine or imprisonment or any portion thereof. ~~No appeal lies from any order or decree for such punishment, save upon questions of jurisdiction; nor shall such appeal~~ Appeal from any order or decree or judgment under this section shall be governed by the Maine Rules of Civil Procedure. Such appeal shall not suspend the enforcement of any such order or decree unless the court so directs.

See title page for effective date.

CHAPTER 122

H.P. 417 - L.D. 582

An Act to Amend the Law Regarding Shoplifters