

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

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

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

12 MRSA §6433, sub-§1, ¶E, as repealed and replaced by PL 1979, c. 353, §1, is amended to read:

E. A gap caused by separating both ends of 2 laths 1 3/4 inches (44.5 mm.) on the top of the parlor section next to the middle bow or supporting frame and ~~directly~~ over the parlor head; or

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

Effective June 2, 1989.

CHAPTER 218

S.P. 61 - L.D. 44

An Act to Establish a Supreme Judicial Court Sentence Review Mechanism Relative to Sentences Involving Terms of Imprisonment of One Year or More

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

Sec. 1. 15 MRSA §2141, as amended by PL 1979, c. 13, §8, is repealed.

Sec. 2. 15 MRSA §2142, as amended by PL 1979, c. 541, Pt. A, §141, is repealed.

Sec. 3. 15 MRSA §2143, as amended by PL 1977, c. 510, §7, is repealed.

Sec. 4. 15 MRSA §2144, as amended by PL 1977, c. 510, §8, is repealed.

Sec. 5. 15 MRSA c. 306-A is enacted to read:

CHAPTER 306-A

SUPREME JUDICIAL COURT SENTENCE REVIEW

§2151. Application to the Supreme Judicial Court by defendant for review of certain sentences

In cases arising in the District Court or the Superior Court in which a defendant has been convicted of a criminal offense and sentenced to a term of imprisonment of one year or more, the defendant may, except in any case in which a different term of imprisonment could not have been imposed, apply to the Supreme Judicial Court, sitting as the Law Court, for review of the sentence.

§2152. Sentence Review Panel of the Supreme Judicial Court

There shall be a Sentence Review Panel of the Supreme Judicial Court to consider applications for leave to

appeal from sentence, and no appeal of the sentence may proceed before the Supreme Judicial Court unless leave to appeal is first granted by the panel. The Sentence Review Panel shall consist of 3 justices of the Supreme Judicial Court to be designated from time to time by the Chief Justice of the Supreme Judicial Court. No justice may sit or act on an appeal from a sentence imposed by that justice. Leave to appeal shall be granted if any one of the 3 panelists votes in favor of granting leave. If leave to appeal is denied, the decision of the panel shall be final and subject to no further review.

§2153. Procedure for application

The time for filing an application for leave to appeal and the manner and any conditions for the taking of the appeal shall be as the Supreme Judicial Court shall by rule provide.

§2154. Purposes of sentence review by Supreme Judicial Court

The general objectives of sentence review by the Supreme Judicial Court are:

1. Sentence correction. To correct a sentence which is excessive in length, having regard to the nature of the offense, the character of the offender and the protection of the public interest;

2. Promote respect for law. To promote respect for law by correcting abuses of the sentencing power and by increasing the fairness of the sentencing process;

3. Rehabilitation. To facilitate the possible rehabilitation of an offender by reducing manifest and unwarranted inequalities among the sentences of comparable offenders; and

4. Sentencing criteria. To promote the development and application of criteria for sentencing which are both rational and just.

§2155. Factors to consider by Supreme Judicial Court

In reviewing a criminal sentence, the Supreme Judicial Court is authorized to consider:

1. Propriety of sentence. The propriety of the sentence, having regard to the nature of the offense, the character of the offender and the protection of the public interest; and

2. Manner in which sentence was imposed. The manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based.

§2156. Relief

1. Substitution of sentence or remand. If the Supreme Judicial Court determines that relief should be granted, it may:

A. Substitute for the sentence under review any other disposition that was open to the sentencing court, provided however, that the sentence substituted shall not be more severe than the sentence appealed; or

B. Remand the case to the court that imposed the sentence for any further proceedings that could have been conducted prior to the imposition of the sentence under review and for resentencing on the basis of such further proceedings, provided however, that the sentence shall not be more severe than the sentence originally imposed.

2. Affirmation of sentence. If the Supreme Judicial Court determines that relief should not be granted, it shall affirm the sentence under review.

§2157. Sentence not stayed nor bail authorized for sentence appeal

1. Execution of sentence not stayed. An appeal under this chapter shall not stay the execution of a sentence.

2. Bail unavailable. Bail has no application to an appeal under this chapter.

See title page for effective date.

CHAPTER 219

H.P. 270 - L.D. 382

An Act to Mandate Notification of Emergency Medical Services Personnel at Risk for Transmission of Communicable Diseases

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

Sec. 1. 5 MRSA §19203-C, sub-§1, as enacted by PL 1987, c. 811, §6, is amended to read:

1. Petition. A health care provider or an employee or patient of a health care facility Any person described in subsection 1-A who has been accidentally exposed to blood or body fluid of a patient in a health care facility may petition the District Court with jurisdiction over the health care facility where the patient was being treated at the time of the accidental exposure to require the patient to submit to an HIV test provided that the following conditions have been met:

A. The exposure to blood or body fluids creates a significant risk of HIV infection, as defined by the Bureau of Health through the promulgation of rules in accordance with the Maine Administrative Procedure Act, chapter 375;

B. The authorized representative of the health care facility has informed the patient of the accidental

exposure and has sought to obtain written informed consent from the patient; and

C. Written informed consent was not given by the patient and the patient has stated in writing the refusal to be tested.

Sec. 2. 5 MRSA §19203-C, sub-§1-A is enacted to read:

1-A. Persons authorized. This section applies to the following persons:

A. A health care provider;

B. An employee or patient of a health care facility; or

C. An emergency medical services person, as defined in Title 32, section 83, law enforcement officer or fire fighter who rendered assistance to a person transported to a health care facility.

See title page for effective date.

CHAPTER 220

H.P. 287 - L.D. 399

An Act to Require 5 Commissioners in York County

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

Sec. 1. 30-A MRSA §61-A is enacted to read:

§61-A. York County

Notwithstanding section 61, there shall be a Board of Commissioners for York County consisting of a chair and 4 other citizens. All other provisions of section 61 apply to York County.

Sec. 2. 30-A MRSA §66, sub-§16, ¶¶A and C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

A. Commissioner District Number 1 consists of the municipalities of Acton, Berwick, Buxton, Cornish, Eliot, Hollis, Kittery, Lebanon, Limerick, Limington, Newfield, North Berwick, Parsonsfield and South Berwick. The term of office of the commissioner from this district shall expire in ~~1988~~ 1992 and every ~~4~~ 2 years thereafter.

C. Commissioner District Number 3 consists of the municipalities of Alfred, Dayton, Lyman, Old Orchard Beach, Saco, Sanford, Shapleigh and Waterboro. The term of office of the commissioner from