

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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C. For obtaining or attempting to obtain any such license through misrepresentation, or for failure to disclose a material fact required to be disclosed in the application, or for fraud; ;

D. For misappropriation or conversion to ~~his~~ the applicant's or licensee's own use, or illegal withholding, or illegal failure to remit; moneys belonging to policyholders, or insurers, or beneficiaries, or others and received in conduct of business under the license; ;

E. For material misrepresentation of the terms of any existing or proposed insurance contract; ;

F. For willful overinsurance of property located in this State; ;

G. For holding at the same time licenses as a resident agent or broker in this and any other ~~State~~; state; or

H. If in conduct of ~~his~~ the licensee's affairs under the license, the licensee has used fraudulent, or coercive, or dishonest practices, or has been shown himself to be incompetent, or untrustworthy, or financially irresponsible, or a source of injury and loss to the public.

**Sec. 12. 24-A MRSA §1539, sub-§2**, as repealed and replaced by PL 1977, c. 694, §408, is amended to read:

2. The superintendent may ~~file a complaint with the Administrative Court seeking the suspension or revocation of deny, suspend, revoke or limit the permissible activities~~ under licenses held or applied for by a firm or corporation for any of such causes as relate to any individual designated or registered in the license to exercise its powers.

**Sec. 13. 24-A MRSA §1539, sub-§3**, as enacted by PL 1983, c. 419, §9, is amended to read:

3. ~~Notwithstanding subsections 1 and 2, the~~ The superintendent may revoke, suspend or refuse to renew any license issued under this chapter, pursuant to Title 5, section 10004, without proceeding in conformity with chapter 3 or Title 5, chapter 375, subchapter IV or VI, when:

A. The decision to take that action is based solely upon a conviction in court of any offense denominated in Title 5, section 5301, subsection 2, or a conviction in the courts of any other state or any country of an offense which would be denominated under Title 5, section 5301, had the offense occurred in this State. Any revocation, suspension or denial of license under this paragraph shall be in accordance with Title 5, sections 5302 to 5304;

B. The Maine license has been issued upon the basis of a reciprocal agreement with another government and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in this State has revoked or suspended its license; or

C. The health or physical safety of a person or persons is in immediate jeopardy at the time of the superintendent's action, and acting in accordance with chapter 3 or Title 5, chapter 375, subchapter IV or VI, would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days.

**Sec. 14. 24-A MRSA §2736-B**, as enacted by PL 1979, c. 558, §9, is amended to read:

**§2736-B. Order**

The superintendent shall issue ~~his~~ an order or decision within 30 days after the close of the hearing, or of any rehearing or reargument or within such other period as the superintendent for good cause may require, but not to exceed an additional 30 days. In ~~his~~ the order or decision, the superintendent shall either approve or disapprove the rate filing. If ~~he~~ the superintendent disapproves the rate filing, the superintendent shall establish the date on which the filing is no longer effective, specify the filing ~~he~~ the superintendent would approve and authorize the insurer to submit a new filing in accordance with the terms of ~~his~~ the order or decision.

**Sec. 15. 24-A MRSA §3476, sub-§3**, as amended by PL 1973, c. 585, §12, is further amended to read:

3. If the superintendent does not by affirmative action approve or disapprove the proposed change of control within 30 days after the date such application was so filed with ~~him~~ the superintendent, the proposed change may be made without such approval. Except; that if the superintendent gives notice to the parties of a hearing to be held by ~~him~~ the superintendent with respect to the proposed change of control, and the hearing is held within such 30 days or on a date mutually acceptable to the superintendent and the parties, the superintendent shall have ~~to~~ 30 days after the conclusion of the hearing within which to so approve or disapprove the proposed change; and if not so approved or disapproved, the change may thereafter be made without the superintendent's approval.

See title page for effective date.

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## CHAPTER 270

H.P. 303 - L.D. 415

**An Act to Amend the Child and Family Services and Child Protection Act and the Law Governing Shelters for Children**

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

**Sec. 1. 22 MRSA §4007, sub-§3**, as enacted by PL 1979, c. 733, §18, is amended to read:

**3. Motion for examination.** ~~At any time during the proceeding, after a clear and convincing showing of the necessity for information that cannot be obtained by other means, the court may order that a child, parent, alleged parent, person frequenting the household or having custody at the time of the alleged abuse or neglect, any other party to the action or person seeking care or custody of the child be examined by a physician, psychologist or psychiatrist pursuant to the Maine Rules of Civil Procedure, Rule 35.~~

**Sec. 2. 22 MRSA §4008, sub-§2, ¶F,** as amended by PL 1987, c. 714, §5, and c. 744, §4, is repealed and the following enacted in its place:

F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the researcher and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact;

**Sec. 3. 22 MRSA §4008, sub-§2, ¶G,** as amended by PL 1987, c. 714, §6 and c. 744, §5, is repealed and the following enacted in its place:

G. Any agency or department involved in licensing or approving homes for, or the placement of, children or dependent adults, with protection for identity of reporters and other persons when appropriate;

**Sec. 4. 22 MRSA §4008, sub-§2, ¶H,** as enacted by PL 1987, c. 714, §7 and c. 744, §6, is repealed and the following enacted in its place:

H. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857;

**Sec. 5. 22 MRSA §4008, sub-§2, ¶I and J** are enacted to read:

I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the Indian Child Welfare Act, United States Code, Title 25, Section 1903; and

J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply.

**Sec. 6. 22 MRSA §4011, sub-§1,** as amended by PL 1987, c. 744, §8, is further amended to read:

**1. Reasonable cause to suspect.** When, while acting in a professional capacity, an adult who is a medical or osteopathic physician, resident, intern, emergency medical services' services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant, chiropractor, podiatrist, registered or licensed practical nurse, teacher,

guidance counselor, school official, social worker, court appointed special advocate or guardian ad litem for the child, homemaker, home health aide, medical or social service worker, psychologist, child care personnel, mental health professional, law enforcement official, state fire inspector, municipal code enforcement official or municipal fire inspector knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, that person shall immediately report or cause a report to be made to the department.

A. Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person shall immediately notify either the person in charge of the institution, agency or facility, or a designated agent, who shall then cause a report to be made. The staff may also make a report directly to the department.

B. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

D. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person shall immediately report or cause a report to be made to the appropriate district attorney's office.

**Sec. 7. 22 MRSA §4021, sub-§3, ¶A,** as enacted by PL 1981, c. 369, §10, is amended to read:

A. The department may interview a child without prior notification to the parent or custodian when the department has reasonable grounds to believe that prior notice would increase the threat of serious harm to the child or another person. The department may conduct one initial interview with a child without prior notification to the parent or custodian of the child when the child contacts the department or a person providing services puts the child into contact with the department.

**Sec. 8. 22 MRSA §4023, sub-§2,** as enacted by PL 1979, c. 733, §18, is amended to read:

**2. Authorization.** The department may provide short-term emergency services, directly or through contracts or written agreements with agencies, to a child who has been or appears to be:

A. Threatened with serious harm;

B. A runaway from ~~his~~ the child's parents or custodian; ~~or~~

C. Without any person responsible for ~~him~~ the child; or

D. Taken into interim care under Title 15, section 3501, by a law enforcement officer.

**Sec. 9. 22 MRSA §4023, sub-§4, ¶A**, as amended by PL 1983, c. 354, §5, is further amended to read:

A. Prior to or on initiating short-term emergency services, the department or agency shall take reasonable steps to notify a custodian that the child will receive or is receiving the services. Notwithstanding this subsection, until October 1, 1990, shelters for homeless children, as defined in section 8101, subsection 4-A, are governed by the parental notification requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children.

**Sec. 10. 22 MRSA §4023, sub-§5**, as enacted by PL 1979, c. 733, §18, is amended to read:

5. **Time limit.** Short-term emergency services shall not exceed 72 hours from the time of the department's assumption of responsibility for the child. Notwithstanding this subsection, until October 1, 1990, shelters for homeless children, as defined in section 8101, subsection 4-A, are governed by the time-limit requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children.

**Sec. 11. 22 MRSA §4031, sub-§1, ¶B**, as enacted by PL 1979, c. 733, §18, is amended to read:

B. The Probate Court and the Superior Court shall have concurrent jurisdiction to hear petitions under sections 4032 and act on requests for preliminary child protection orders under section 4034. The As soon as the action is taken by the Probate Court may transfer a case or the Superior Court, the matter shall be transferred to the District Court on the motion of any party or its own motion. The Probate Court order shall remain in effect unless modified by the District Court.

**Sec. 12. 22 MRSA §4031, sub-§1, ¶C**, as enacted by PL 1985, c. 547, is repealed.

**Sec. 13. 22 MRSA §4038, sub-§6**, as enacted by PL 1985, c. 739, §14, is amended to read:

6. **Disposition.** The court may make any further order, based on a preponderance of evidence, that is authorized under section 4036. ~~When custody of the child has been ordered to the department under a final protection order or this section, the court must make a determination within 18 months either to:~~

~~A. Return the child to his parent;~~

~~B. Continue reunification efforts for a specific limited time not to exceed 6 months and to judicially review the matter within the time specified; or~~

~~C. Enter an order under section 4036, subsection 1, paragraph G-1.~~

**Sec. 14. 22 MRSA §4038, sub-§7**, as enacted by PL 1985, c. 739, §14, is repealed and the following enacted in its place:

7. **Review of child in custody of the department.** When a child has been placed in the custody of the department, the following shall be accomplished.

A. The court shall review the final protection order and make a determination within 18 months of its initial order either to:

(1) Return the child to the parent;

(2) Continue reunification efforts for a specific limited time not to exceed 6 months and to judicially review the matter within the time specified; or

(3) Enter an order under section 4036, subsection 1, paragraph G-1.

B. Before the court may enter an order returning the custody of the child to a parent, the parent shall show that the parent has carried out the responsibilities set forth in section 4041, subsection 1, paragraph B, that, to the court's satisfaction, the parent has rectified and resolved the problems which caused the removal of the child and any subsequent problems which would interfere with the parent's ability to care for and protect the child from jeopardy and that the parent can protect the child from jeopardy.

**Sec. 15. 22 MRSA §8101, sub-§4-A** is enacted to read:

4-A. **Shelter for homeless children.** "Shelter for homeless children" means an emergency shelter designed to provide for the overnight lodging and supervision of children 10 years of age or older for no more than 30 consecutive overnights.

See title page for effective date.

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## CHAPTER 271

### S.P. 71 - L.D. 60

#### An Act to Implement the Interim Recommendations of the Manufactured Housing Commission

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

**Sec. 1. 10 MRSA §9003, sub-§1**, as amended by PL 1987, c. 395, Pt. A, §35, is further amended to read: