

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
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ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

violates subsection 1, paragraph C, commits a Class E crime. In the case of a person who has one previous conviction of a violation of subsection 1, paragraph A or B, within a 6-year period, the fine shall be not less than \$500, which penalty shall not be suspended. In the case of a person who has 2 or more previous convictions of a violation of subsection 1, paragraph A or B, within a 6-year period, the fine shall be not less than \$1,000 and the sentence shall include a period of incarceration of not less than 6 months, which penalty shall not be suspended. In the case of a person who has no previous conviction of subsection 1, paragraph A or B, within a 6-year period, the fine shall not be less than \$500, which penalty shall not be suspended if that person is convicted of a violation of subsection 1, paragraph A or B, involving a minor less than 14 years old.

See title page for effective date.

CHAPTER 294

H.P. 74 - L.D. 105

An Act to Permit the Reopening of Certain Workers' Compensation Cases

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

Sec. 1. 39 MRSA §102, as amended by PL 1977, c. 709, §5, is repealed and the following enacted in its place:

§102. Reopening for mistake of fact or fraud

1. Agreements. Upon the petition of either party at any time, the commission may annul any agreement which has been approved by the commission if it finds that the agreement has been entered into through mistake of fact by the petitioner or through fraud. Except in the case of fraud on the part of the employee, an employee is not barred by any time limit from filing a petition to have the matters covered by the agreement determined in accordance with this Act as though the agreement had not been approved.

2. Compensation payment scheme. Notwithstanding section 51-B, subsection 7, a party may petition the commission within one year of initiation of the payment scheme, award or decree to reopen any case in which fraud on the part of the opposing party is alleged. If the commission finds that the petitioning party had exercised due diligence in investigating the initial claim and further finds that fraud occurred, the commission may reopen the case as to any issue which may have been affected by the fraudulent act and may terminate or modify an employer's obligation to make payment upon a finding that fraud on the part of a party affected the employer's obligation to make payment.

Except in the case of fraud on the part of the employee, an employee is not barred by any time limit from filing a petition to have any issues determined in accordance with this Act as though the payment scheme had not been initiated.

Sec. 2. Application. This Act applies only to injuries occurring on or after the effective date of this Act.

See title page for effective date.

CHAPTER 295

H.P. 1132 - L.D. 1575

An Act to Change the Listing Procedure on Town Warrants

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

30-A MRSA §5682, as enacted by PL 1989, c. 104, Pt. A, §49, is amended to read:

§5682. State funds

Effective July 1, 1990, each municipality shall accept funds provided by the Legislature only upon an affirmative vote of its legislative body. Those municipalities holding a town meeting shall include a separate article on the warrant for each category of state funding which shall read as follows: "Shall the town vote to accept (category of funding) as provided by the Maine State Legislature?" or shall include a single article containing a list of each category of state funding which shall read as follows: "Shall the town vote to accept the categories of funds listed below as provided by the Maine State Legislature?" The town shall indicate an estimate of the amount to be received for each category of state funding on the warrant, but it does not have to be part of the article. Those funds not accepted by any municipality shall remain with the State. This section applies to any town meeting held after January 1, 1990.

See title page for effective date.

CHAPTER 296

S.P. 465 - L.D. 1250

An Act Relating to Licensing of State Social Workers

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

Whereas, certain persons using the title "social worker" were required to make application for licensure by February 1, 1988; and

Whereas, through a misunderstanding those people did not realize that they were bound by this requirement; and

Whereas, those people are currently not able to call themselves social workers, a title which is necessary for the performance of their jobs; 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. 32 MRSA §7053-A, sub-§4, as enacted by PL 1985, c. 736, §12, is amended to read:

4. Licensed social worker. A licensed social worker may:

A. Engage in psychosocial evaluation, excluding the diagnosis and treatment of mental illness, and conduct basic data gathering of records and specific life issues of individuals, groups and families, assess this data and formulate and implement a plan to achieve specific goals related to specific life issues;

B. Serve as an advocate for clients or groups of clients for the purpose of achieving specific goals relating to specific life issues;

C. Refer clients to other professional services;

D. Plan, manage, direct or coordinate social services; and

E. Participate in training and education of social work students from an accredited institution and supervise other licensed social workers.

A licensed social worker shall not engage in the private practice of social work, diagnose mental illness and emotional disorders or provide psychotherapy. A licensed social worker with less than 2 years' experience must receive consultation from either a licensed master social worker, a licensed clinical social worker or a certified social worker-independent practice in a manner to be prescribed by the board on a group or individual basis 4 hours a month. Licensed social workers in health care facilities licensed by the Department of Human Services shall receive consultation on a quarterly basis in a manner prescribed by the department. The department staff giving consultation to intermediate care facilities must be on the master or clinical level by January 1, 1993.

Notwithstanding the provisions of this subsection, licensed social workers employed by the Department of Human Services shall receive consultation in a manner to be prescribed by the department.

State agencies employing social workers shall be responsible for providing supervision necessary for those social workers to maintain their licenses.

Sec. 2. 32 MRSA §7054-A, 5th ¶, as amended by PL 1987, c. 537, is repealed.

Sec. 3. 32 MRSA §7054-B is enacted to read:

§7054-B. State employees

Any person who is, and was as of February 1, 1988, employed by the State in a position in which representation is made to the public that the person is a social worker or in which the title of social worker is used may be licensed as a social worker by the board without meeting the qualifications of section 7053 and without examination. A person seeking to qualify under this section shall demonstrate to the board that the person did not submit an application under section 7054-A by February 1, 1988, due to a good faith failure to understand or know of the requirements of that section.

Sec. 4. Sunset. The Maine Revised Statutes, Title 32, section 7054-B is repealed on October 1, 1989.

Sec. 5. Retroactivity. Section 3 of the bill shall take effect retroactively to February 1, 1988.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that section 2 shall take effect on October 1, 1989.

Effective June 14, 1989, unless otherwise indicated.

CHAPTER 297

H.P. 883 - L.D. 1227

An Act to Amend the Maine Administrative Procedure Act

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

Sec. 1. 5 MRSA §8051, as enacted by PL 1977, c. 551, §3, is amended to read:

§8051. Adoption of rules of practice

In addition to other rule-making requirements imposed by ~~statute law~~, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by ~~statute law~~. Any agency rule of practice which imposes a time period or deadline for the filing of any submission or for the service of any paper shall provide that filing or service is complete:

1. Upon an agency. Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or

2. Upon a party. Upon a party, when the paper is mailed to the party or the party's attorney, upon in-hand