

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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J.S. McCarthy Company
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PUBLIC LAWS
OF THE
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8. **Personal care assistant.** "Personal care assistant" means an individual who has completed a training course of at least 40 hours, which includes, but is not limited to, instruction in basic personal care procedures, such as those listed in subsection 7, first aid and handling of emergencies; or an individual who meets competency requirements, as determined by the department or its designee. Nothing in Title 32, chapter 31, may be interpreted to require that a personal care assistant be licensed under that chapter or supervised by a person licensed under that chapter.

See title page for effective date.

CHAPTER 333

H.P. 804 - L.D. 1116

An Act to Increase the Penalty for Drug Crimes Committed while in Possession of a Firearm

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

Sec. 1. 17-A MRSA §1105, sub-§1, ¶A and B, as enacted by PL 1987, c. 535, §3, are amended to read:

A. In violation of section 1103, 1104 or 1106, ~~he~~ the person trafficks with or furnishes to a child, in fact, under 18 years of age a scheduled drug; ~~or~~

B. ~~He~~ The person violates section 1103, 1104 or 1106, and, at the time of the offense, ~~he~~ has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year, or under any law of the United States or of another state relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year. For purposes of this paragraph, a person shall have been convicted of an offense on the date the judgment of conviction was entered by the trial court; ~~or~~

Sec. 2. 17-A MRSA §1105, sub-§1, ¶C is enacted to read:

C. A person violates section 1103, 1104 or 1105, and, at the time of the offense, the person uses, carries, possesses or is armed with a firearm.

See title page for effective date.

CHAPTER 334

H.P. 795 - L.D. 1107

An Act to Clarify the Definitions of Cocaine and Heroin

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

Sec. 1. 17-A MRSA §1102, sub-§1, ¶F, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

F. Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers and salts of isomers; ecgonine, its derivatives, their salts, isomers and salts of isomers; or any compound, mixture or preparation of which contains any quantity of any of the substances referred to in this paragraph;

Sec. 2. 17-A MRSA §1102, sub-§1, ¶I, as enacted by PL 1975, c. 499, §1, is amended to read:

I. Unless listed or described in another schedule, all narcotic drugs, including, but not limited to, heroin (diacetylmorphine), methadone, pethidine, morphine and opium. As used in this chapter, "heroin" means any compound, mixture or preparation containing heroin.

Sec. 3. 17-A MRSA §1103, sub-§4, as amended by PL 1987, c. 535, §2, is repealed.

Sec. 4. 17-A MRSA §1106, sub-§4, as amended by PL 1987, c. 535, §5, is repealed.

See title page for effective date.

CHAPTER 335

S.P. 408 - L.D. 1074

An Act Relating to the Maine Commission on Mental Health

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

Whereas, there is an error and an oversight in the current law relating to the Maine Commission on Mental Health which affects the commission's ability to report on, respond to and make recommendations about needed reforms; and

Whereas, the commission has been charged with making an independent evaluation of the programs and services provided by the Department of Mental Health and Mental Retardation; and

Whereas, the current law does not provide the commission with adequate powers to sufficiently perform this task; 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. 34-B MRSA §1203, sub-§8 is enacted to read:

8. Establish standards of care. The commissioner shall, with the assistance of the Maine Commission on Mental Health, establish standards of care for patients at the Augusta Mental Health Institute and the Bangor Mental Health Institute.

Sec. 2. 34-B MRSA §1207, sub-§1, ¶E and F, as enacted by PL 1983, c. 459, §7, are further amended to read:

E. Nothing in this subsection precludes the disclosure of biographical or medical information concerning a client to commercial or governmental insurers, or to any other corporation, association or agency from which the department or a licensee of the department may receive reimbursement for the care and treatment, education, training or support of the client, if the recipient of the information uses it for no other purpose than to determine eligibility for reimbursement and, if eligibility exists, to make reimbursement; ~~and~~

F. Nothing in this subsection precludes the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that, in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; and

Sec. 3. 34-B MRSA §1207, sub-§1, ¶G is enacted to read:

G. Information shall be disclosed to the executive director and the members of the subcommittees on institutes and quality assurance of the Maine Commission on Mental Health for the purpose of carrying out the commission's statutory duties.

Sec. 4. 34-B MRSA §3901, sub-§§1 and 2, as enacted by PL 1987, c. 887, §8, are amended to read:

1. **Establishment.** In order to monitor and evaluate the efficacy and timely implementation of community and institutional reform programs designed to improve opportunities for persons with mental illness in the State, to promote and monitor advocacy programs for persons with mental

illness ~~and~~, to participate in the development of standards of care and to review, and assess and monitor the development and implementation of standards of care and treatment for persons with mental illness, there is established an independent commission to be known as the Maine Commission on Mental Health, hereinafter referred to in this chapter as the "commission."

2. **Membership.** The commission shall consist of ~~24~~ 23 members, including ~~11~~ 12 appointed by the Governor and ~~10~~ 11 jointly appointed by the President of the Senate and the Speaker of the House of Representatives. One of the members jointly appointed by the President of the Senate and the Speaker of the House of Representatives and one of the members appointed by the Governor shall be primary consumers of mental health services. One of the members jointly appointed by the President of the Senate and the Speaker of the House of Representatives and one of the members appointed by the Governor shall be secondary consumers of mental health services. In making these appointments to the commission, the Governor, the President of the Senate and the Speaker of the House of Representatives shall consider and appoint residents of the State who have a knowledge of problems facing persons with mental illness in the State and who provide leadership in programs or activities which are carried out to improve opportunities for persons with mental illness. The Governor shall select a person from among the gubernatorial first appointees to serve as ~~chairman~~ chair. Subsequent chairs shall be selected by majority vote of the members of the Maine Commission on Mental Health. The initial appointments to this commission shall be made within 30 days of the effective date of this subchapter.

Sec. 5. 34-B MRSA §3902, as enacted by PL 1987, c. 887, §8, is amended to read:

§3902. Powers and duties

The commission has the powers and duties to advise and consult with the Governor and the Legislature about improving care, treatment and programming for persons with mental illness in the State. The commission has the following powers and duties:

1. **Assistance to persons with mental illness.** To ~~recommend~~ develop a program of citizen advocates who are available, upon the request of a person with mental illness or that person's legal guardian, to assist in the treatment and program planning process with the patient, both in the institutes and in the community, and to otherwise act in a supportive role for individual persons with mental illness and to monitor the effectiveness of all ~~advocacy~~ programs for persons with mental illness;

2. **Standards.** To work in a collaborative fashion with the department ~~to review and comment on~~ in the development and implementation of standards of care and treatment of persons with mental illness and to review and comment on those standards and their implementation;

3. **Reform programs.** To monitor and evaluate the efficiency and timeliness of community and institutional

reform programs designed to improve opportunities for persons with mental illness;

4. **Recommendations concerning state mental health institutes.** To make recommendations to the ~~commissioner~~ commissioner on the management of the state mental health institutes. These recommendations shall include, but not be limited to, those prepared by the subcommittee on state mental health institute;

5. **Subcommittee on state mental health institutes.** To create a subcommittee from the membership of the commission ~~exclusively~~ to monitor and evaluate the state mental health institutes. The subcommittee shall ~~monitor and evaluate the development and implementation of standards of care and treatment at the state mental health institutes and inspect the institutes~~ assist in the development of standards of care and treatment for patients at the Augusta Mental Health Institute and the Bangor Mental Health Institute;

6. **Staff; compensation.** To appoint a full-time executive director who shall serve at the pleasure of the commission and who shall not be subject to the civil service laws or approval of the department, the Governor or the Legislature. The executive director is entitled to compensation in an amount to be determined by the commission within the same pay range authorized for the Executive Director of the Human Services Council. The executive director shall perform those duties as assigned by the commission. The commission may employ a secretary as it deems necessary. The commission may request department staff, as needed, to assist the commission in carrying out its functions and duties. The executive director may make recommendations to the commission;

7. **Meetings.** To conduct public hearings, conferences, workshops and other such meetings to obtain information about, discuss and publicize the needs of and solutions to problems of persons with mental illness in Maine;

8. **Advise.** To act in an advisory capacity to the commissioner in the development of the state mental health plan and in the appointment of a Director of the Bureau of Mental Health. The commission shall act in an advisory capacity to the commissioner, the Governor and the Legislature on mental health matters; ~~and~~

9. **State mental health plan.** To participate in the development of the state mental health plan required by section 3006-; and

10. **Prepare legislation.** To prepare legislation for submission to the Legislature to implement any of its recommendations.

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

Effective June 16, 1989.

CHAPTER 336

S.P. 402 - L.D. 1046

An Act to Reduce the Quantities of Cocaine and Heroin Necessary to Allow a Presumption of Trafficking

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

17-A MRSA §1103, sub-§3, as amended by PL 1987, c. 535, §1, is further amended to read:

3. A person shall be presumed to be unlawfully trafficking in scheduled drugs if ~~he~~ the person intentionally or knowingly possesses more than 2 pounds of marijuana, ~~28~~ 14 grams or more of cocaine or ~~28~~ 4 grams or more of heroin.

See title page for effective date.

CHAPTER 337

H.P. 953 - L.D. 1321

An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders

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

Sec. 1. 19 MRSA §214, sub-§9, as amended by PL 1989, c. 156, §1, is further amended to read:

9. **Support order.** The court may order either parent of a minor child to contribute reasonable and just sums as child support payable weekly, monthly or quarterly. Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation.

After January 1, 1990, the court may order either parent to provide child support beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever first occurs.

The court's order may include a requirement for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. ~~If medical, hospitalization or dental insurance coverage for his child is available to an obligated parent on a group basis through his employment or other affiliation, the court's order shall in-~~