

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

business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute;

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding;

C. Records, working papers and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the biennium in which the proposal or report is prepared;

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; and

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Vocational-Technical Institute System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; and

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities.

See title page for effective date.

CHAPTER 359

S.P. 370 - L.D. 994

An Act Related to State Preemption of Firearms Regulation

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

25 MRSA c. 252-A is enacted to read:

CHAPTER 252-A

FIREARMS REGULATION

§2011. State preemption

1. Preemption. The State intends to occupy and preempt the entire field of legislation concerning the regulation of firearms, components, ammunition and supplies. Except as provided in subsection 3, any existing or future order, ordinance, rule or regulation in this field of any political subdivision of the State is void.

2. Regulation restricted. Except as provided in subsection 3, no political subdivision of the State, including, but not limited to, municipalities, counties, townships and village corporations, may adopt any order, ordinance, rule or regulation concerning the sale, purchase, purchase delay, transfer, ownership, use, possession, bearing, transportation, licensing, permitting, registration, taxation or any other matter pertaining to firearms, components, ammunition or supplies.

3. Exception. This section does not prohibit an order, ordinance, rule or regulation of any political subdivision which, with the exception of appropriate civil penalty provisions, conforms exactly with any applicable provision of state law or which regulates the discharge of firearms within a jurisdiction.

See title page for effective date.

CHAPTER 360

H.P. 980 - L.D. 1358

An Act to Amend the Law Concerning Taxing of Costs in Civil Actions

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

14 MRSA §1502-D, as reallocated by PL 1985, c. 737, Pt. A, §36, is amended to read:

§1502-D. Taxing of costs; hearing

The clerk shall set costs under section 1502-B and interest under section 1602 to the extent they appear from

the record. ~~The prevailing party or his~~ the prevailing party's attorney shall ~~may~~ submit a bill of costs for all other costs or interest to the court not later than 10 days after entry of judgment and serve copies on all parties who have appeared and may be required to pay these costs. Any party required to pay all or any part of these costs, except a party who is defaulted and has not appeared, may, within 10 days after the date of service, challenge any items of cost or interest and request review by the court. The prevailing party shall, within 10 days after ~~such~~ a challenge, submit to the court any vouchers or other records verifying any challenged items of cost or interest. Either side may request oral argument and submit affidavits and briefs. ~~Any~~ An evidentiary hearing on the reasonableness of costs or interest will be held only when the judge determines that there exists a substantial need for the hearing and the amount of challenged costs or interest are substantial. If the presiding judge determines that the imposition of costs will cause a significant financial hardship to any party, ~~he~~ the judge may waive all or part of the costs with respect to that ~~part~~ party.

See title page for effective date.

CHAPTER 361

S.P. 398 - L.D. 1042

An Act to Clarify the Law Governing Prelitigation Screening Panels

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

Whereas, a question has arisen regarding the appropriate standard of proof to be utilized before prelitigation screening panels created by Public Law 1985, Chapter 804; and

Whereas, several other areas of ambiguity exist in the current law governing prelitigation screening panels; and

Whereas, these questions must be clarified in order to move ahead the numerous cases now pending before the panels; 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. 24 MRSA §2852, sub-§2, ¶B, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

B. Upon notification of the Chief Justice's choice of chairman chair, the clerk who received the notice of claim under section 2853 shall notify that person and

provide that person with the clerk's lists of health care practitioners, health care providers and attorneys created under subsection 1. The chairman chair shall choose from those lists 2 or 3 additional panel members as follows:

(1) The chairman chair shall choose one attorney;

(2) The chairman chair shall choose one health care practitioner. If possible, the chairman chair shall choose a practitioner who practices in the specialty or profession of the person accused of professional negligence; ~~and~~

(3) Where the claim involves more than one person accused of professional negligence the chairman chair may choose a 4th panel member who is a health care practitioner or health care provider. If possible, the chairman chair shall choose a practitioner or provider in the specialty or profession of a person accused.; and

(4) When agreed upon by all the parties, the list of available panel members may be enlarged in order to select a panel member who is agreed to by the parties but who is not on the clerk's list.

The Chief Justice of the Superior Court shall establish the compensation of the panel chairman chair. Other panel members shall serve without compensation or payment of expenses.

The clerk of the Superior Court in the judicial region in which the notice of claim is filed under section 2853 shall, with the consent of the Chief Justice of the Superior Court, provide clerical and other assistance to the panel chairman chair.

Sec. 2. 24 MRSA §2852, sub-§4, as enacted by PL 1985, c. 804, §§12 and 22, is repealed.

Sec. 3. 24 MRSA §2852, sub-§6, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

6. Discovery. The chairman chair, upon application of a party, may permit reasonable discovery. The chair may rule on requests regarding discovery, or may allow the parties to seek a ruling in the Superior Court under the provisions of section 2853, subsection 5.

Sec. 4. 24 MRSA §2853, sub-§1, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

1. Notice of claim; filing fee. Any person serving a notice of claim of professional negligence pursuant to section 2903 shall also serve a copy upon the clerk of the Superior Court in the judicial region county where a complaint based on the claim would be filed within 10 days of serving the notice of claim under section 2903, with ordinary