

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
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PUBLIC LAWS
OF THE
STATE OF MAINE

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to indictment by grand jury and ~~his~~ the defendant's right to appearance and trial in the Superior Court and has indicated ~~his~~ the defendant's intention to enter a plea of guilty to the charges pending against ~~him~~ the defendant. When exercising such jurisdiction, the District Court shall possess all of the powers of the Superior Court. That jurisdiction shall be exercised in the manner which the Supreme Judicial Court shall by rule provide. Any person sentenced under this section shall be entitled to the rights provided by Title 15, chapter 306.

Sec. 3. 14 MRSA §6502 is amended to read:

§6502. Form

Persons entitled as provided in section 6501, and those in possession or having a right of entry for a term of years, as tenants in common, may commence an action for partition in the Superior Court or District Court held in the county where such estate is by a complaint, clearly describing it and stating whether it is a fee simple, for life or for years, and the proportion claimed by them, the names of the other tenants in common and their places of residence, if known, and whether any or all of them are unknown.

See title page for effective date.

CHAPTER 393

H.P. 1214 - L.D. 1686

An Act to Authorize a Probation Officer to Bring an Ex Parte Motion to Change the Conditions of Probation

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

17-A MRSA §1202, sub-§2, as enacted by PL 1975, c. 499, §1, is amended to read:

2. During the period of probation specified in the sentence made pursuant to subsection 1, and upon application of a person on probation, ~~his~~ the person's probation officer, or upon its own motion, the court may, after a hearing upon notice to the probation officer and the person on probation, modify the requirements imposed, add further requirements authorized by section 1204, or relieve the person on probation of any requirement that, in its opinion, imposes on the person an unreasonable burden ~~on him~~.

Notwithstanding this subsection, the court may grant, ex parte, a motion brought by the probation officer to add further requirements if the requirements are immediately necessary to protect the safety of an individual or the public and if all reasonable efforts have been made to give written or oral notice to the person on probation. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court shall

hold a hearing on the added requirements, is given to the person on probation.

See title page for effective date.

CHAPTER 394

H.P. 1161 - L.D. 1615

An Act Regarding the Handicap Parking Privilege to Veterans with Disabled Veterans License Plates

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

Sec. 1. 29 MRSA §252-A, as repealed and replaced by PL 1987, c. 769, Pt. A, §115, is amended to read:

§252-A. Disabled veterans; special free license plates

The Secretary of State on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any 100% disabled veteran when that application is accompanied by certification from the United States Veterans Administration as to the veteran's disability and receipt of 100% service-connected benefits and that the veteran is permanently confined to a wheelchair or restricted to the use of crutches or braces or otherwise handicapped in such a way that mobility is seriously restricted. A handicap placard shall be issued in addition to the disabled veteran registration plate and upon payment of a \$1 fee.

These special designating plates shall bear the letters VET which indicate that the vehicle is owned by a disabled veteran.

Sec. 2. 30-A MRSA §3009, sub-§1, ¶D, 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. A, §28 and Pt. C, §§8 and 10, is further amended to read:

D. The following provisions apply to the establishment and policing of parking spaces for handicapped persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V. The municipality shall post a sign adjacent to and visible from each handicapped parking space established by the municipality. The sign shall display the international symbol for accessibility.

(2) Owners of private off-street parking shall arrange for private enforcement or shall enter into agreements with local or county law enforcement agencies to enforce handicapped parking restrictions. Under these

agreements, unauthorized vehicles will be ticketed. An owner of private off-street parking who fails to arrange for private enforcement or to enter into an agreement with a law enforcement agency commits a civil violation for which a forfeiture of not less than \$50 may be adjudged.

Under these agreements, public law enforcement officials may ensure that parking spaces designated for the handicapped are used appropriately by handicapped persons, whether the designated handicapped parking spaces are located on public lots or on private lots open to the public. Handicapped parking restrictions in private lots may also be enforced by county or municipal volunteer parking enforcement specialists as provided in sections 471 and 472.

Where service facilities are established on the Maine Turnpike and on the interstate highway system in the State, the State Police shall enforce any handicapped parking restrictions at those facilities.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a handicapped parking space and which does not bear a special registration plate or placard issued under Title 29, ~~sections~~ section 252, 252-A ~~and~~ or 252-C, or a similar plate issued by another state, shall be cited for a forfeiture of not less than \$50. "Clearly marked" includes painted signs on pavement and vertical standing signs which are visible in existing weather conditions.

See title page for effective date.

CHAPTER 395

H.P. 1138 - L.D. 1581

An Act to Limit Municipalities' Responsibility to Reopen an Abandoned Road

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

23 MRSA §3028, as amended by PL 1979, c. 629, is further amended to read:

§3028. Abandonment of public ways

It shall be prima facie evidence that a town or county way ~~established prior to January 1, 1946, and~~ not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years ~~next prior to January 1, 1976,~~ has been discontinued by abandonment. A presumption of abandonment may be

rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as if it were a public way. A proceeding to discontinue a town or county way shall not prevent or estop a municipality from asserting a presumption of abandonment. No municipality or its officials shall be liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section shall be relegated to the same status as it would have had after a discontinuance pursuant to section 3026, except that this status shall be at all times subject to an affirmative vote of the legislative body of the municipality within which the way lies making that way an easement for recreational use. A presumption of abandonment is not rebutted by evidence which shows isolated acts of maintenance, unless other evidence exists which shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

See title page for effective date.

CHAPTER 396

H.P. 1135 - L.D. 1578

An Act Concerning School Social Workers

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

Sec. 1. 20-A MRSA §4008, sub-§1, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. "Client" means a person who has actively sought or is in the process of seeking professional help from a school counselor or school social worker.

Sec. 2. 20-A MRSA §4008, sub-§1, ¶C is enacted to read:

C. "School social worker" means a person who is employed as a school social worker in a school setting and who:

(1) Is licensed as a social worker by the State Board of Social Worker Licensure; or

(2) Possesses a bachelor's degree and has been granted a conditional license from the State Board of Social Worker Licensure.

Sec. 3. 20-A MRSA §4008, sub-§2, as amended by PL 1983, c. 485, §21, is further amended to read:

2. Privileged communication. A school counselor or school social worker may not be required, except as provided by this section, to divulge or release information gathered during a counseling relation with a client or with the