

# 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.

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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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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.

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## 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.

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## 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

parent, guardian or a person or agency having legal custody of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor or social worker.

See title page for effective date.

## CHAPTER 397

S.P. 552 - L.D. 1555

### An Act to Save Medicaid Funds by Expanding the Ability of the Department of Human Services to Recover Funds from Other Payors

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

**Sec. 1.** 18-A MRSA §3-805, sub-§(a), ¶(4), as enacted by PL 1979, c. 540, §1, is amended to read:

(4) Reasonable Medicaid benefits recoverable under Title 22, section 14, subsection 2-G and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him the decedent;

**Sec. 2.** 22 MRSA §14, sub-§2-G is enacted to read:

**2-G. Claims against estates of certain Medicaid recipients.** The Department of Human Services shall have a claim against the estate of a Medicaid recipient where, subsequent to the death of the recipient:

**A.** Property or other assets are discovered which existed and were owned by the recipient during the period when Medicaid benefits were paid to the recipient; and

**B.** Disclosure of that property or assets at the time benefits were being paid would have rendered the recipient ineligible to receive the benefits.

The amount of Medicaid benefits paid and recoverable under this section shall be a claim against the estate of the deceased recipient pursuant to the Probate Code, Title 18-A, Article III, Part 8.

See title page for effective date.

## CHAPTER 398

H.P. 1073 - L.D. 1495

### An Act to Continue Recodification of the Railroad Laws

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

**Sec. 1.** 23 MRSA c. 301, sub-c. V, as amended, is repealed.

**Sec. 2.** 23 MRSA c. 307, sub-c. III, as amended, is repealed.

**Sec. 3.** 23 MRSA §3454, as amended by PL 1971, c. 593, §22, is repealed.

**Sec. 4.** 23 MRSA §4207, as amended by PL 1987, c. 534, Pt. B, §§13 and 23, is repealed.

**Sec. 5.** 23 MRSA §4207-A, as enacted by PL 1979, c. 650, is repealed.

**Sec. 6.** 23 MRSA c. 410, sub-cc. II and III, as amended, are repealed.

**Sec. 7.** 23 MRSA c. 615, as enacted by PL 1987, c. 748; c. 792, §2; and c. 794, §1, is repealed and the following enacted in its place:

## CHAPTER 615

### STATE RAILROAD PRESERVATION ACT

#### SUBCHAPTER I

#### RAILROAD PRESERVATION, ASSISTANCE AND ACQUISITION

##### §7101. Short title

This subchapter shall be known and may be cited as the "State Railroad Preservation and Assistance Act."

##### §7102. Findings of fact

The Legislature makes a finding of fact that a viable and efficient rail transportation system is necessary to the economic well-being of the State.

The Legislature makes a further finding of fact that the State must take active steps to protect and promote rail transportation in order to further the general welfare.

##### §7103. Railroad Preservation and Assistance Fund

**1. Fund created.** There is created the "Railroad Preservation and Assistance Fund" which shall receive revenue derived from the tax levied pursuant to Title 36, chapter 361, except that no more than \$150,000 from this revenue shall be deposited in the fund in any fiscal year. The fund shall also be eligible to receive grants from other sources. The Treasurer of State shall receive and deposit all revenue to the fund in a separate account to be known as the Railroad Preservation and Assistance Fund.

**2. Legislative approval of budget.** Expenditures from the Railroad Preservation and Assistance Fund are subject to legislative approval in the same manner as appropriations from the General Fund.

**3. Use of funds.** Subject to the Civil Service Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the Department