

# 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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**Sec. 2. 7 MRSA §231, sub-§1**, as enacted by PL 1987, c. 805, §2, is amended to read:

**1. Members; terms.** The Commission on Biotechnology and Genetic Engineering, as established in Title 5, section ~~12004~~ 12004-I, subsection ~~40~~ 20-A, shall be composed of ~~9~~ 11 members, including 3 ex officio members and 8 members appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agriculture and confirmation by the Legislature. To provide the knowledge and experience necessary for carrying out the duties of the commission, one person shall be appointed who has practical experience and knowledge in agricultural procedures, one who has practical experience and knowledge in environmental and conservation issues, a health care professional, a representative from the forest products industry, ~~the Director of the Maine Agricultural Experiment Station~~, a representative from the marine fisheries industry, a person appointed to represent the general public, one practicing scientist who shall be a representative of industry and one practicing scientist who shall be a representative of the academic community. The terms shall be for 4 years, except that, of the initial appointees, ~~3~~ 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and 2 shall serve a one-year term. Any vacancy shall be filled by an appointment for the remainder of the unexpired term. The 3 ex officio members are: the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee; the Director of the Maine Agricultural Experiment Station; and the Executive Director of the Maine Science and Technology Commission.

**Sec. 3. PL 1987, c. 805, §§3, 4 and 5** are amended to read:

**Sec. 3. Appointment; convening of commission.** ~~Appointment~~ Nominations for appointment of the members to of the commission shall be made by ~~July 1, 1988~~ July 15, 1989. The Governor shall call the commission together for its first meeting no later than August 15, ~~1988~~ 1989.

**Sec. 4. Work plan.** By January 15, ~~1989~~ 1990, the commission shall issue a plan to the Joint Standing Committee on Agriculture in which a work plan, time schedule, and staffing and budget requirements for performing the duties outlined in the Maine Revised Statutes, Title 7, section 233 are provided.

**Sec. 5. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Bureau of Agricultural Production**

All Other

\$4,000

Provides funding for 6 meetings of the ~~9-member~~ 11-member Commission on Biotechnology and Genetic Engineering and for departmental staffing. These funds shall not lapse until June 30, 1990.

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

Effective June 27, 1989.

**CHAPTER 487**

**S.P. 1122 - L.D. 1554**

**An Act to Revise the Communicable Disease Law**

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

**Sec. 1. 5 MRSA §19203, sub-§8**, as repealed and replaced by PL 1987, c. 811, §3, is amended to read:

**8. Bureau of Health.** To the Bureau of Health, which may disclose results to other persons only if that disclosure is necessary to carry out its duties as provided in Title 22, sections 3, 7 and 42 and ~~chapter~~ chapters 250 and 251;

**Sec. 2. 22 MRSA §252**, as amended by PL 1979, c. 127, §141, is further amended to read:

**§252. Penalties**

Whoever willfully violates any provision of ~~sections~~ section 451, 454 ~~to 456 and 460 to, 456, 461 or 462~~, or of ~~said~~ regulations rules adopted pursuant to those sections and ~~bylaws~~, or neglects or refuses to obey any order or direction of any local health officer authorized by ~~said~~ those provisions, the penalty for which is not specifically provided, or willfully interferes with any person or thing to prevent the execution of ~~said~~ those sections or of ~~said~~ regulations and ~~bylaws~~ shall be ~~punished by a fine of not more than \$50 or by imprisonment for not more than 6 months, or by both the rules, is guilty of a Class E crime.~~ The District Court shall have jurisdiction, ~~original and concurrent with the Superior Court~~, of all offenses under ~~said~~ these sections.

**Sec. 3. 22 MRSA §451**, as amended by PL 1981, c. 703, Pt. A, §7, is further amended by inserting at the end a new paragraph to read:

Health officers may be employed to devote a part or all of their time to the duties of the office. The offices of the local health officer and town or school physician shall be combined when, in the opinion of the municipal officers, the health needs of the people would be better served.

**Sec. 4. 22 MRSA §454, 2nd and 3rd ¶¶**, as repealed and replaced by PL 1987, c. 600, are amended to read:

~~The local health officer shall guard against the introduction of contagious and infectious diseases by the exercise of proper and vigilant medical inspection and control of all persons and things, which either come within the limits of the health officer's jurisdiction from infected places or which, for any cause, are likely to communicate contagion. The local health officer shall report promptly to the Commissioner of Human Services, or his the commissioner's designee, facts which relate to infectious and epidemic communicable diseases occurring within the limits of the health officer's jurisdiction, and shall report to the commissioner, or his the commissioner's designee, every case of such infectious or contagious communicable disease as the rules of the department require. Those diseases which the rules of the department may require to be reported shall be known, under the terms of this Title, as notifiable diseases. Those diseases which, under the rules of the department, may necessitate quarantine or isolation may be known as quarantinable diseases.~~

The local health officer shall receive and evaluate complaints made by any of the inhabitants concerning nuisances ~~dangerous to life and health~~ posing a potential public health threat within the limits of the health officer's jurisdiction. With the consent of the owner, agent or occupant, the local health officer may enter upon or within any place or premises where nuisances or conditions ~~dangerous to life and health~~ posing a public health threat are known or believed to exist, and personally, or by appointed agents, inspect and examine the same. If entry is refused, the municipal health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection. When the local health officer has reasonable cause to suspect the presence of a notifiable communicable disease, ~~he the local health officer~~ shall consult with the commissioner, or his a designee. The health officer shall then order the suppression and removal of nuisances and conditions ~~detrimental to life and health~~ posing a public health threat found to exist within the limits of the health officer's jurisdiction. For purposes of this section, "public health threat" means any condition or behavior which can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

**Sec. 5. 22 MRSA §§455 and 457** are repealed.

**Sec. 6. 22 MRSA §459, first ¶**, as amended by PL 1981, c. 470, Pt. A, §61, is further amended to read:

The local health officer of each municipality ~~shall annually on a day or days specified by him during the month of March, or more often if he deems it prudent, provide for the free vaccination with cowpox of all inhabitants within his jurisdiction; and shall may provide for free inoculation vaccinations with suitable material, as defined by the Department of Human Services, against diphtheria, whooping cough, tetanus and poliomyelitis of all children under 16 years of age at a time specified by him. Vaccinations and inoculations shall be done under the care of skilled, practicing physicians~~

and under ~~such~~ those circumstances and restrictions as the health officer may adopt therefor, not contrary to law or in violation of any regulations of the department.

**Sec. 7. 22 MRSA §459, 3rd ¶** is amended to read:

The municipal officers of municipalities ~~shall~~ may approve; and ~~the municipalities~~ shall pay any reasonable bills or charges incident to the foregoing when approved by the local health officer.

**Sec. 8. 22 MRSA §460** is repealed.

**Sec. 9. 22 MRSA §461** is amended to read:

**§461. Notice to owner to clean premises; expenses on refusal**

The local health officer, when satisfied upon due examination, that a cellar, room, tenement or building in ~~his~~ the town, occupied as a dwelling place, has become, by reason of want of cleanliness or other cause, unfit for such purpose and a cause of sickness to the occupants or the public, may issue, in consultation with the department, a notice in writing to such occupants, or the owner or ~~his the owner's~~ the owner's agent, or any one of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the local health officer may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the local health officer may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling place until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied without putting the same in proper sanitary condition, ~~he the owner~~ shall forfeit not less than \$10 nor more than \$50 for each day that the premises remain unfit following written notification that the premises are unfit.

**Sec. 10. 22 MRSA §462** is amended to read:

**§462. Assistance if obstructed in duty**

Any health officer or other person employed by the local health officer may, when obstructed in the performance of ~~his the person's~~ his duty, call ~~to his~~ for assistance ~~any constable or other person he thinks fit, and every such constable or person so called upon shall render assistance from a law enforcement officer.~~

**Sec. 11. 22 MRSA Pt. 3, first 4 lines**, as amended, are repealed and the following enacted in their place:

### PART 3

## PUBLIC HEALTH

### CHAPTER 250

## CONTROL OF COMMUNICABLE DISEASES

**SUBCHAPTER I****DEFINITIONS; RULES; PENALTIES; INSPECTIONS;  
GENERAL AUTHORITY****§801. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commissioner.** “Commissioner” means the Commissioner of Human Services.

**2. Communicable disease.** “Communicable disease” means an illness or condition due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host.

**3. Contact notification program.** “Contact notification program” means a program coordinated by the department to encourage any person infected with a communicable disease to identify others who may be at risk as a result of contact with the infected person; or to permit the department to notify those persons who may be at risk to inform them of the risk if the infected person refuses to cooperate.

**4. Department.** “Department” means the Department of Human Services.

**5. Infected person.** “Infected person” means a person who is diagnosed as having a communicable disease or who, after appropriate medical evaluation or testing, is determined to harbor an infectious agent.

**6. Municipal health officer.** “Municipal health officer” means a person who is a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce this chapter.

**7. Notifiable disease.** “Notifiable disease” means any communicable disease or occupational disease the occurrence or suspected occurrence of which is required to be reported to the department pursuant to sections 821 to 825 or section 1493.

**8. Occupational disease.** “Occupational disease” shall have the meaning set forth in section 1491.

**9. Property.** “Property” means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.

**10. Public health threat.** “Public health threat” means any condition or behavior which can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

A. A condition poses a public health threat if an infectious agent is present in the environment under circumstances which would place persons at signifi-

cant risk of becoming infected with a communicable disease.

B. Behavior by an infected person poses a public health threat if:

(1) The infected person engages in behavior that has been demonstrated epidemiologically to create a significant risk of transmission of a communicable disease;

(2) The infected person’s past behavior indicates a serious and present danger that the infected person will engage in behavior that creates a significant risk of transmission of a communicable disease to another;

(3) The infected person fails or refuses to cooperate with a departmental contact notification program; or

(4) The infected person fails or refuses to comply with any part of either a cease and desist order or a court order issued to the infected person to prevent transmission of a communicable disease to another.

C. Behavior described in paragraph B, subparagraphs (1) and (2), shall not be considered a public health threat if the infected person demonstrates that any other person placed at significant risk of becoming infected with a communicable disease was informed of the risk and consented to it.

**§802. Authority of department**

**1. Authority.** To carry out this chapter, the department may:

A. Designate and classify communicable and occupational diseases;

B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of communicable diseases, occupational diseases and the potential for epidemics;

C. Investigate cases, epidemics and occurrences of communicable and occupational diseases; and

D. Establish procedures for the control, detection, prevention and treatment of communicable and occupational diseases, including public immunization and contact notification programs.

**2. Health emergency.** In the event of an actual or threatened epidemic or outbreak of a communicable or occupational disease, the department may declare that a health emergency exists and may adopt emergency rules for the protection of the public health relating to:

A. Procedures for the isolation and placement of infected persons for purposes of care and treatment or infection control;

B. Procedures for the disinfection, seizure or destruction of contaminated property; and

C. The establishment of temporary facilities for the care and treatment of infected persons which shall be subject to the supervision and regulations of the department and to the limitations set forth in section 807.

**3. Rules.** The department may promulgate rules to carry out its duties as specified in this section. Rules shall be adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

**4. Immunization required.** Except as otherwise provided under this subchapter, each hospital in the State and any other health facility in the State designated by the department, shall require for all employees born after 1956, either proof of immunization or serologic evidence of immunity against Rubeola measles and Rubella, or German measles. Employees currently working in the hospital or designated health facility must meet these standards within 180 days of the effective date of this subsection. The personnel records of each employee born after 1956 shall include a copy of the documentation of the vaccine history, showing month, day and year or the serologic history of immunity. For purposes of this subsection, "employee" means a person who performs a service for wages or other remuneration for a hospital or designated health facility under a contract of hire, written or oral, expressed or implied. Immunization required by this subsection does not apply to any employee who:

A. Provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable; or

B. States in writing a sincere religious belief which is contrary to the immunization requirement of this subsection.

### **§803. Inspection**

If the department has reasonable grounds to believe that there exists, on public or private property, any communicable disease which presents a public health threat, a duly authorized agent of the department may enter any place, building, vessel, aircraft or common carrier with the permission of the owner, agent or occupant where the communicable disease is reasonably believed to exist and may inspect and examine the same. If entry is refused, that agent shall apply for an inspection warrant from the District Court pursuant to Title 4, section 179, prior to conducting the inspection.

### **§804. Penalties**

**1. Rules enforced.** All agents of the department, municipal health officers, sheriffs, state and local law en-

forcement officers and other officials designated by the department shall enforce the rules of the department made pursuant to section 802 to the extent that enforcement is authorized in those rules.

**2. Refusal to obey rules.** Any person who neglects, violates or refuses to obey the rules or who willfully obstructs or hinders the execution of the rules, may be ordered by the department, in writing, to cease and desist. This order shall not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act, Title 5, chapter 375. In the case of any person who refuses to obey a cease and desist order issued to enforce the rules adopted pursuant to section 802, the department may bring an action in District Court to obtain an injunction enforcing the cease and desist order or to request a civil fine not to exceed \$500, or both. Alternatively, the department may seek relief pursuant to section 810 or 812. The District Court shall have jurisdiction to determine the validity of the cease and desist order whenever an action for injunctive relief or civil penalty is brought before it under this subsection.

### **§805. Court orders**

Upon complaint made to any judge of the District Court, the judge may issue any order enforcing a subpoena, warrant or prior order necessary for the proper enforcement of this chapter and of the rules promulgated pursuant to this chapter.

### **§806. Exclusion from school**

**1. Dismissal.** In the event of an actual or threatened outbreak of a communicable disease, the department may order that any or all persons attending or working in any school or day care facility be excluded until the department determines that a public health threat no longer exists.

**2. Exclusion.** The department may exclude any infected person from attending or working in a school or day care facility if that infected person poses a public health threat. An individual excluded pursuant to this subsection shall be permitted to return to the school or day care facility after the department, in consultation with the physician responsible for the individual's care, determines that return is permissible and will not pose a threat to the public health. The department shall notify the superintendent or day care facility administrator of that determination.

## **SUBCHAPTER II**

### **CONTROL MEASURES**

#### **§807. Control of communicable diseases**

The department may establish procedures for agents of the department to use in the detection, contacting, education, counseling and treatment of individuals having or reasonably believed to have a communicable disease. The procedures shall be adopted in accordance with the requirements of this chapter and with the rules adopted under section 802.

For purposes of carrying out this chapter, the department may designate facilities for the confinement and treatment of infected persons posing a public health threat. The department may designate any such facility in any hospital or other public or private institution, other than a jail or correctional facility. Designated institutions must have necessary clinic, hospital or confinement facilities as may be required by the department. The department may enter into arrangements for the conduct of these facilities with public officials or persons, associations or corporations in charge of or maintaining and operating these institutions.

### **§808. Investigations**

**1. Investigative team.** The department shall establish an investigative team and procedures for the detection and treatment of individuals known or reasonably believed to pose a public health threat, as defined in section 801. Team members designated by the department shall have access to medical and laboratory records relevant to the investigation of the public health threat, according to the procedure set forth in subsection 2. Team members shall also have access to medical and laboratory records in the possession of the department when relevant to the investigation of the public health threat. Team members designated by the department shall follow the procedures developed by the department for detection and treatment pursuant to this subsection.

**2. Subpoenas.** After notice to the subject of the information or records, the department, with the approval of the Attorney General, may issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are relevant to an investigation of a report of a public health threat. Approval of the Attorney General may be given when there is clear evidence of substantial public health need for the information sought. The department may apply to the District Court to enforce a subpoena. A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department.

### **§809. Examination**

If, based on epidemiologic evidence or medical evaluation, the department finds probable cause to believe that an individual has a communicable disease and that the individual is unwilling to submit to a physical examination, which may include x-ray studies or other diagnostic studies, as requested by the department, or that the individual refuses to make the results of that examination available to the department, the department may petition the District Court of the district in which the individual resides or is found for an order directing that examination, or the release of the results, under conditions to prevent the conveyance of the disease or infectious agent to other individuals. The petition shall be accompanied by an affidavit or affidavits based upon the investigation of the department supporting the allegations in the petition.

If, following a hearing as provided in section 811, the District Court finds by a preponderance of the evidence that

there is probable cause to believe that an individual has a communicable disease, and that the individual has willfully refused the department's request, the District Court shall order the examination of the individual.

### **§810. Emergency temporary custody**

Upon the department's submission of an affidavit showing by clear and convincing evidence that the person or property which is the subject of the petition requires immediate custody in order to avoid a clear and immediate public health threat, a judge of the District Court or justice of the Superior Court may grant temporary custody of the subject of the petition to the department and may order specific emergency care, treatment or evaluation.

**1. Orders; ex parte proceedings.** Orders under this section may be issued in an ex parte proceeding upon an affidavit which sets forth specific facts of the reasons that prior notice cannot or should not be given, upon which facts the order is sought. An ex parte order may not include orders for emergency care, treatment or evaluation unless the court finds by clear and convincing evidence that such care, treatment or evaluation is immediately necessary. An ex parte order must be served on the subject of the petition immediately upon apprehension.

**2. Hearing within time certain.** Unless waived in writing by the individual, after opportunity to consult with an attorney, a hearing shall be held within 72 hours of apprehension, exclusive of Saturdays, Sundays and legal holidays, to determine whether the individual shall remain in the department's custody.

**3. Notice of hearing.** Notice of the hearing must be served upon the individual held under this section at least 24 hours before the hearing and the notice must specify: the time, date and place of the hearing; the grounds and underlying fact upon which the emergency hold is sought; the individual's right to appear at the hearing and to present and cross-examine witnesses; and the individual's right to counsel pursuant to section 811.

**4. Duration.** In no event may the emergency hold continue longer than 5 days following the hearing, unless a petition for court ordered commitment is filed under section 812, subsection 1, paragraph F; if a petition is filed, the limitations imposed by the court under this subsection may continue until a hearing on the petition for commitment is held; that hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays.

### **§811. Court procedures**

**1. Subject of petition.** As used in this section or in section 810, "subject of the petition" means the person or the property upon which a public health measure is sought to be imposed pursuant to section 812.

**2. Filing of petition.** Proceedings for imposing a public health measure shall be initiated by the department filing a petition in the District Court for the district in which



the subject of the petition is located. The petition shall name as the respondent the person who is the subject of the petition or the person who possesses the property which is the subject of the petition. The petition shall contain a summary statement of the facts which the petitioner believes constitute the grounds for granting relief pursuant to this chapter.

3. Receipt of petition. Upon the receipt of a petition filed pursuant to this section or section 809, the District Court shall fix a date of hearing. Pending hearing on the petition, the court may make such orders as it deems necessary to protect other individuals from the dangers of infection.

4. Notice of hearing; waiver. Notice of the petition and the time and place of the hearing as well as the opportunity to be represented by counsel as set forth in subsection 6, paragraph C shall be served personally, not less than 3 days before the hearing, on the subject of the petition. The subject of the petition may waive notice of hearing, after opportunity to consult with an attorney, and upon filing of the waiver in writing, the District Court may hear the petition immediately. The hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays, unless waived in writing by the subject of the petition.

5. Notice to facility. Whenever a petition requests that an individual be ordered to be tested in or committed to a hospital, notice of the petition and the time and place of the hearing shall be sent to the hospital which is to be requested to provide the proposed care and treatment. No hospital may be required to provide care and treatment to or to admit the individual named in the petition without the consent of the hospital.

6. Hearings. Hearings under this chapter shall be governed by the Maine Rules of Civil Procedure and the Maine Rules of Evidence.

A. The subject of the petition, the petitioner and all other persons to whom notice is required to be sent shall be afforded an opportunity to appear at the hearing to testify and to present and cross-examine witnesses.

B. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness.

C. The subject of the petition shall be afforded an opportunity to be represented by counsel and, if the subject is indigent and requests counsel, the court shall appoint counsel.

D. An electronic recording shall be made of the proceedings and all hearings under this section. The record and all notes, exhibits and other evidence shall be confidential.

E. The hearing shall be confidential and no report of the proceedings may be released to the public,

except by permission of the subject of the petition or the subject's counsel and with approval of the presiding District Court judge, except that the court may order a public hearing on the request of the subject of the petition or the subject's counsel.

7. Equitable relief. The District Court shall have original jurisdiction to grant equitable relief in proceedings brought pursuant to this chapter.

## §812. Public health measures

1. Court order. If, based upon clear and convincing evidence, the court finds that a public health threat exists, the court shall issue the requested order for treatment or such other order as may direct the least restrictive measures necessary to effectively protect the public health. These measures include, but are not limited to:

A. Participation in an education program designated or developed in accordance with rules adopted pursuant to section 802 or 807;

B. Participation in a counseling program designated or developed in accordance with rules adopted pursuant to section 802 or 807;

C. Participation in a treatment program designated or developed in accordance with rules adopted pursuant to section 802 or 807;

D. Appearance before designated health officials for purposes of monitoring measures set out in paragraph A, B or C;

E. Part or full-time supervision or monitoring for a period and under conditions set by the court;

F. Commitment to a facility that will provide appropriate diagnosis, care, treatment or isolation of the individual without undue risk to the public health, for a period not to exceed 30 days and under conditions set by the court;

G. Undergoing a comprehensive medical assessment by the State Forensic Service. The court, in selecting the examination site, shall consider proximity to the court, availability of an examiner and the need to protect the public health. No person may be presented for examination under this subsection without arrangements for examination having first been made by the court, clerk of the court or the petitioner with the State Forensic Service. The opinion of the State Forensic Service shall be reported to the court forthwith following the examination.

The court shall order the individual to be further examined by a psychiatrist, neurologist and any additional expert if, based on the report of the State Forensic Service, it appears that:

(1) The individual suffers from a mental disease or defect which causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; or

(2) Further observation or examination is required.

If, based on the examinations, the Department of Mental Health and Mental Retardation determines that admission to an appropriate institution for the mentally ill or mentally retarded is necessary, it shall petition for involuntary hospitalization pursuant to Title 34-B, chapter 3. If the District Court orders the involuntary hospitalization of the individual pursuant to Title 34-B, chapter 3, the petition brought pursuant to section 811 shall be dismissed without prejudice. If it is determined that admission to an appropriate institution for the mentally ill or the mentally retarded is not necessary, the head of the institution where the examinations have taken place shall notify the commissioner or the commissioner's designee, prior to discharging the respondent.

In no event may the period of examination pursuant to this subsection exceed 60 days without further order by the court, which may extend commitment for further observation or examination for an additional 60 days, provided that the court finds facts sufficient to show that the individual suffers from a mental disease or defect which causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; and

H. Compliance with any combination of measures outlined in paragraphs A to G, or other measures considered just by the court.

2. Time limits. Orders issued pursuant to subsection 1, paragraphs A to E shall not exceed 180 days without further review as provided by section 813, subsection 1. If commitment pursuant to subsection 1, paragraph F, is sought by the department beyond the original 30 days, the department shall file a motion for review pursuant to section 813, subsection 2.

3. Appeals. Orders issued pursuant to this chapter may be appealed to the Superior Court.

A. The order of the District Court shall remain in effect pending appeal, unless stayed by the Superior Court.

B. The Supreme Judicial Court shall, by rule, provide for expedited appellate review of cases appealed under this chapter.

### §813. Review

1. Treatment orders. If the department determines that it is necessary to continue a treatment order issued pursuant to section 812, subsection 1, paragraphs A to E, it

shall petition the District Court which ordered the disposition for review of the original order. The court shall hold a hearing in accordance with section 811 and if the court finds that a public health threat would continue in the absence of a public health measure, it shall make additional orders that it deems necessary, provided that no treatment order exceeds 180 days in duration without further review by the court.

2. Commitment orders. If the department determines that it is necessary to continue a commitment order issued pursuant to section 812, subsection 1, paragraph F, beyond the original 30 days, it shall petition the District Court which ordered the disposition for review of the original order. The court shall hold a hearing in accordance with section 811 and if the court finds that a public health threat would continue in the absence of a public health measure and that commitment is the least restrictive measure necessary to effectively protect the public health, it shall make such additional orders as it deems necessary, provided that no order of commitment exceeds 90 days without further review by the court.

The committed patient may request the appointment of a medical review board. Upon motion of the patient, the committing court shall appoint a medical review board to determine whether the patient's medical status permits termination of the commitment. The medical review board shall consist of 3 physicians appointed by the court who shall have training and experience in the treatment of the communicable disease. Upon the request of the patient, the court shall appoint as one member of the board a physician who has training and experience in the treatment of communicable diseases who is selected by the patient. Upon receipt of the findings of the medical review board and any other evidence, the court, after a hearing pursuant to this subsection, may continue or terminate the commitment.

### §814. Court orders; additional requirements

If commitment or a supervised living arrangement is ordered, the court shall require the head of the institutional facility or the person in charge of supervision to submit:

1. Plan of treatment. A plan of treatment within 10 days of the commencement of the commitment or supervision; and

2. Written report. A written report, with a copy to both the department and the individual, at least 20 days, but not more than 25 days, from the start of the commitment or supervision, setting forth the following:

A. The types of support or therapy groups, if any, which the individual is attending and how often the individual attends;

B. The type of care or treatment the individual is receiving and what future care is necessary;

C. Whether the individual has been cured or made noninfectious or otherwise has ceased to pose a threat to public health;

D. Whether continued supervision or commitment is necessary; and

E. Any other information the court considers necessary.

### §815. Privileged or confidential communications

1. Privileges abrogated. Subject to the limitations imposed by United States Code, Title 42, Sections 290dd-3 and 290ee-3, the physician-patient and psychotherapist-patient privileges under the Maine Rules of Evidence and those confidential communications described under Title 5, section 19203, Title 24-A, section 4224, Title 32, section 7005 and Title 34-B, section 1207, are abrogated to the extent necessary to permit reporting to the Bureau of Health any incidents of notifiable disease; cooperating with the Bureau of Health or an intervention team appointed by the Bureau of Health in investigating a case of a notifiable disease or suspected epidemic, or taking preventive action in such a case; or giving evidence in a proceeding pursuant to this chapter. Information released to the bureau pursuant to this section shall be kept confidential and may not be disclosed by the bureau except as provided in section 824 and Title 5, section 19203, subsection 8.

2. Limitation. Statements made to a licensed mental health or medical professional in the course of counseling, diagnosis, therapy, treatment or evaluation when the privilege is abrogated under this section may not be used against the client in a criminal proceeding.

### §816. Immunity

1. For private institutions. Any private institution, its employees or agents shall be immune from civil liability to the extent provided in Title 14, chapter 741, as if that institution were a state agency and its employees and agents were state employees, for any acts taken to provide for the confinement or restraint of a person committed pursuant to this chapter or for participating in reporting under this chapter.

2. Reporting and proceedings. Any person participating in reporting under this chapter or participating in a related communicable disease investigation or proceeding, including, but not limited to, any person serving on or assisting a multidisciplinary intervention team or other investigating or treatment team, is immune from civil liability for the act of reporting or participating in the investigation or proceeding in good faith. Good faith does not include instances when a false report is made and the reporting person knows or should know the report is false.

3. For public institutions or employees. Immunity for public institutions and employees shall be governed by Title 14, chapter 741.

### §817. Discharge

An individual committed to a hospital or institution pursuant to section 812 may be discharged whenever the physician responsible for that individual's treatment and the

department determine that the individual may be discharged without danger to other individuals. The department shall immediately report the discharge, with a full statement of the reasons for the discharge, to the court which ordered the commitment.

If an individual committed to a hospital pursuant to section 812 leaves the hospital prior to discharge in accordance with this section, the hospital shall immediately report this to the department. An arrest warrant shall issue upon application by the department to the District Court.

### §818. Liability for expenses

1. Financial liability; individual. An individual is financially liable for any care provided pursuant to this subchapter to the individual to the extent that the individual has public or private insurance or otherwise has the ability to pay for that care. An individual shall not be denied the care because of inability to pay for that care.

2. Liability. The State shall pay, on certification by the commissioner, the expenses for care of an individual receiving care under this chapter who is not a resident of a municipality in this State.

3. Subrogation. The State shall be subrogated to the rights of recovery which the individual may have against a liable 3rd party for the cost of care provided for the individual under this subchapter to the extent that the State has spent money for that care.

### §819. Exercise of rights

Any individual subject to a court order issued pursuant to section 812, paragraph F or G shall have the rights set forth in Title 34-B, section 3803, unless the exercise of any of those rights poses a threat to the health or safety of other individuals. Any restriction imposed upon the exercise of an individual's rights as stated in Title 34-B, section 3803, and the reasons for that restriction, shall be made a part of the clinical record of that individual.

## SUBCHAPTER III

### REPORTING REQUIREMENTS

#### §821. Authority of department

The department shall adopt rules pursuant to section 802 and establish procedures to carry out the rules to provide a uniform system of reporting, recording and collecting information and maintaining confidentiality concerning communicable diseases. The department may designate any communicable disease as a notifiable disease. Any notifiable disease shall be reported to the department in accordance with this subchapter and the rules established by the department.

#### §822. Reporting

Whenever any physician knows or has reason to believe that any person whom the physician examines or

cares for has or is afflicted with any communicable disease designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports shall be in the form and content prescribed by the department and the department shall provide forms for making required reports.

#### **§823. Time requirements**

The reporting of a notifiable disease shall be made by telephone to the department immediately upon determination that a person has that disease and shall be followed by a written report mailed to the department within 48 hours.

#### **§824. Confidentiality**

Any person who receives information pursuant to this chapter shall treat as confidential the names of individuals having or suspected of having a notifiable communicable disease, as well as any other information that may identify those individuals. This information may be released to the department for adult or child protection purposes in accordance with chapters 958-A and 1071, or to other public health officials, agents or agencies or to officials of a school where a child is enrolled, for public health purposes, but that release of information must be made in accordance with Title 5, chapter 501, where applicable. In a public health emergency, as declared by the state health officer, the information may also be released to private health care providers and agencies for the purpose of preventing further disease transmission. All information submitted pursuant to this chapter that does not name or otherwise identify individuals having or suspected of having a notifiable communicable disease may be made available to the public.

Any person receiving a disclosure of identifying information pursuant to this chapter may not further disclose this information without the consent of the infected person.

#### **§825. Penalties**

Any person who knowingly and willfully fails to comply with reporting requirements for notifiable diseases commits a civil violation for which a forfeiture of not more than \$250 may be adjudged. A person who knowingly or recklessly makes a false report under section 822 or who knowingly violates section 824, is civilly liable for actual damages suffered by a person reported upon and for punitive damages and commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

### **CHAPTER 251**

#### **COMMUNICABLE DISEASES**

**Sec. 12. 22 MRSA c. 251, sub-c. I-A,** as amended, is repealed.

**Sec. 13. 22 MRSA §§1091 to 1093** are repealed.

**Sec. 14. 22 MRSA §1094,** as amended by PL 1977, c. 304, §§3 and 4, is repealed.

**Sec. 15. 22 MRSA §1095,** as repealed and replaced by PL 1977, c. 304, §5, is repealed.

**Sec. 16. 34-B MRSA §1212, sub-§2, ¶¶A and B,** as enacted by PL 1985, c. 796, §7, are amended to read:

A. To perform examinations of the mental condition of a defendant with reference to competency to stand trial and criminal responsibility under Title 15, section 101; ~~and~~

B. To perform examinations of the mental condition of persons committed to the custody of the commissioner under Title 15, section 103, for the purposes specified in Title 15, section 104-A.; ~~and~~

**Sec. 17. 34-B MRSA §1212, sub-§2, ¶C** is enacted to read:

C. To perform examinations of the mental condition of persons pursuant to Title 22, chapter 250.

See title page for effective date.

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## **CHAPTER 488**

**S.P. 485 - L.D. 1327**

### **An Act to Amend the Liquor Laws Relating to Wine Tasting**

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

**28-A MRSA §1205** is enacted to read:

#### **§1205. Taste testing of wine**

**1. Taste testing on off-premise retail licensee's premises.** Subject to the conditions in subsection 2, the commission may authorize an off-premise retail licensee, 50% or more of whose gross income is derived from the sale of wine or malt liquor, to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

**2. Conditions on taste-testing activities.** The following conditions apply to taste-testing activities under this section:

A. No wine may be served to persons who have not yet attained the age of 21 years;

B. No person may be served more than a total of 5 ounces of wine;

C. No person may be charged a fee for any wine served as part of a taste-testing activity;