

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

Sec. 2. 26 MRSA §849, as enacted by PL 1987, c. 661, is repealed.

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

Effective March 23, 1990.

CHAPTER 738

H.P. 1377 - L.D. 1908

An Act to Amend the Law Governing Family Medical Leave

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

Whereas, the law permitting employees to take family medical leave from employment will be repealed on July 1, 1990, unless it is amended before that date to remove the sunset clause; and

Whereas, the family medical leave law has proven its value to the State's employers and employees and should be retained; 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Sec. 1. 26 MRSA §701, as repealed and replaced by PL 1975, c. 701, §11, is amended to read:

§701. Posting of notice of hours of labor

Every employer shall post and keep posted in a place accessible for ~~his~~ the employer's employees, a printed notice stating the labor laws regulating the employment of minors, time of payment of wages, safety and health of employees, family medical leave and such other laws as may be applicable. The Bureau of Labor Standards shall furnish the printed form of this notice ~~shall be furnished by the Bureau of Labor.~~

Sec. 2. 26 MRSA §849, as enacted by PL 1987, c. 661, is repealed.

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

Effective March 23, 1990.

CHAPTER 739

S.P. 902 - L.D. 2296

An Act Addressing Consecutive Terms of Imprisonment Involving Probation

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

Sec. 1. 17-A MRSA §1202, sub-§4 is enacted to read:

4. Any justice, in order to comply with section 1256, subsection 8, may terminate a period of probation that would delay commencement of a consecutive unsuspended term of imprisonment. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

Sec. 2. 17-A MRSA §1256, sub-§§8 and 9 are enacted to read:

8. No court may impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 5 and 9 of this section and section 1202, subsection 4, would be to have the person released from physical confinement to be on probation for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

9. Any justice imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the person has not yet commenced, in order to comply with subsection 8, may rearrange the order in which the sentences are to be served. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

See title page for effective date.

CHAPTER 740

H.P. 1535 - L.D. 2120

An Act to Amend the Operating-under-the-influence Laws

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

29 MRSA §1312, sub-§11, 1D, as enacted by PL 1987, c. 791, §17, is amended to read:

D. Notwithstanding any other provision of this section, each operator of a motor vehicle involved in a motor vehicle accident ~~which results in the death of any person~~ shall submit to and complete a test to determine that person's blood-alcohol level by analysis of ~~such~~ the person's blood or breath, if

there is probable cause to believe that a death has occurred or will occur as a result of the accident. The investigating law enforcement officer shall cause a test to be administered as soon as practicable following the accident. A law enforcement officer may determine which type of test shall be administered and shall report any failure of a person to submit to or complete a test at the officer's request to the Secretary of State by written statement under oath. The result of a test taken pursuant to this paragraph is not admissible at trial unless if the court, after reviewing all the evidence regardless of whether the evidence was gathered prior to, during or after the administration of the test, is satisfied that probable cause exists, independent of such the test result, to believe that the operator was under the influence of intoxicating liquor or drugs or had an excessive blood-alcohol level.

The Secretary of State shall suspend, for a period of one year, the license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license, pursuant to section 2241, subsection 1, paragraph N, of any person who fails to submit to or complete a test. The scope of any hearing the Secretary of State holds pursuant to section 2241 shall must include whether there was probable cause to believe that the person was the operator of a motor vehicle involved in a motor vehicle fatality accident, whether there was probable cause to believe that the accident resulted or would result in a fatality and whether that person failed to submit to or complete a test to determine the blood-alcohol level. If the person shows, after hearing, that he the person was not under the influence of intoxicating liquor or drugs or that he the person did not negligently cause the death accident, then any suspension shall must be removed immediately.

See title page for effective date.

CHAPTER 741

S.P. 823 - L.D. 2099

An Act to Clarify the Maine Juvenile Code

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

Sec. 1. 15 MRSA §3102, as enacted by PL 1977, c. 520, §1, is amended to read:

§3102. Venue

Proceedings in cases brought under the provisions of section 3101 shall must be commenced in accordance with Rules 18, Rule 21 and 22 of the Maine District Court Rules of Criminal Procedure.

Sec. 2. 15 MRSA §3103, sub-§2, as amended by PL 1979, c. 681, §38, is further amended to read:

2. Dispositional powers. All of the dispositional powers of the Juvenile Court provided in section 3314 shall apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to the Maine Youth Center or other detention may be imposed for conduct described in subsection 1, paragraphs B ~~and~~, C and C-1.

Sec. 3. 15 MRSA §3203-A, sub-§1, ¶B-1, as enacted by PL 1987, c. 398, §5, is amended to read:

B-1. When, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile ~~who satisfies the requirements of subsection 4, paragraph D~~ from imminently inflicting bodily harm to others or to himself the juvenile, the officer may refer the juvenile for temporary, emergency detention to a facility approved pursuant to subsection 7, prior to notifying a juvenile caseworker or the Department of the Attorney General, as applicable. Such a facility may detain the juvenile on an emergency basis for up to 2 hours, provided that the law enforcement officer ~~from the facility~~ immediately notifies the juvenile caseworker or the Department of the Attorney General and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile caseworker or the Department of the Attorney General shall order the conditional or unconditional release of a juvenile or shall effect a detention placement within 2 hours following a temporary, emergency detention. It shall be the responsibility of the law enforcement officer to remain at the facility until the juvenile caseworker or the Department of the Attorney General has released the juvenile or has authorized detention.

Sec. 4. 15 MRSA §3203-A, sub-§3, as enacted by PL 1985, c. 439, §9, is amended to read:

3. Law enforcement officer's report. An officer who notifies a juvenile caseworker pursuant to subsection 1, paragraph A or B shall file a brief written report with the juvenile caseworker, stating the juvenile's name, date of birth and address; the name and address of the juvenile's legal custodian; and the facts which led to the referral notification, including the offense which the juvenile is alleged to have committed. The report shall contain sufficient information to establish the jurisdiction of the Juvenile Court.

A report of a notification pursuant to subsection 1, paragraph A, must be filed within 24 hours of the ~~referral notification~~, excluding nonjudicial days. A report of a notification pursuant to subsection 1, paragraph B, must be filed within 24 hours of the ~~referral notification~~.

The date on which the report is received by the juvenile caseworker is the date of referral to the juvenile caseworker for an intake assessment.