

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

B. Noncompliance of the bottle club with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club or other such conditions caused by persons patronizing or employed by the bottle club that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the bottle club to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law at or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club;

E. A violation of any provision of this Title;

F. In the case of corporate applicants, ineligibility or disqualification under section 601 of any officer, director or stockholder of the corporation; and

G. Location of the bottle club at an amusement area, beach or other area designed primarily for use by minors.

4. Appeal to commission. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the commission. The commission shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the commission may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the commission may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed is denial of the application, the commission may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a commission decision under this section may appeal the decision to the Superior Court.

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

Effective April 10, 1990.

CHAPTER 817

H.P. 1741 - L.D. 2405

An Act Regarding Importation of Liquor

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

Sec. 1. 28-A MRSA §2075, sub-§2-A is enacted to read:

2-A. Evidence. The possession of more than 8 quarts of spirits in one or more containers that are not labeled in accordance with Title 32, section 1865, is prima facie evidence of a violation of this section.

Sec. 2. 28-A MRSA §2077, sub-§2-A is enacted to read:

2-A. Evidence. The possession of more than 6 gallons of malt liquor or 8 quarts of wine in one or more containers that are not labeled in accordance with Title 32, section 1865, is prima facie evidence of a violation of this section.

Sec. 3. 32 MRSA §1865, sub-§2, as amended by PL 1989, c. 427, §2, is further amended to read:

2. Brand name. Glass beverage containers having a refund value of not less than 5¢ and having a brand name permanently marked thereon, shall not be required to comply with the provisions of subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

Sec. 4. Applicability. Section 2 of this Act as it applies to wine, defined in the Maine Revised Statutes, Title 28-A, section 2, is effective September 1, 1990.

See title page for effective date, unless otherwise indicated.

CHAPTER 818

S.P. 818 - L.D. 2094

An Act to Amend Vital Statistics Provisions Pertaining to Adoptions

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

Sec. 1. 19 MRSA §532-A, as amended by PL 1979, c. 325, §2, is further amended by adding at the end a new paragraph to read:

Before the parent or parents execute the surrender and release, the court shall ensure that they are informed of the existence of the adoption registry and the services available under Title 22, section 2706-A.

Sec. 2. 19 MRSA §533, as amended by PL 1981, c. 390, §§1 and 2, is further amended by adding at the end a new paragraph to read:

Before the adoption is decreed, the court shall ensure that the petitioners are informed of the existence of the adoption registry and the services available under Title 22, section 2706-A.

Sec. 3. 22 MRSA §2705, as amended by PL 1985, c. 611, §1, is further amended to read:

§2705. Amendment of vital statistics records

Except as provided by this Title, a certificate or record filed under chapters 701 to 707 may be altered or amended only in accordance with such regulations as the department may adopt to protect the integrity of vital statistics records.

1. Amended certificate. A certificate ~~which that~~ has been altered or amended after its filing ~~shall~~ must be marked "amended," and the date on which the certificate or record was amended and a summary description of the evidence submitted in support of the correction ~~shall~~ must be endorsed on the record or permanently attached to it. Any certified copies of certificates or records amended under this section ~~shall~~ must be marked "amended." Notwithstanding this subsection, administrative correction of clerical errors within one year after the date of filing ~~shall~~ does not cause the certificate or record to be considered altered or amended.

2. Incomplete certificates. Incomplete certificates and records may be completed from a supplementary form within one year after the date of filing without being considered altered or amended.

3. Amendment by department. ~~Where the department is the custodian of a certificate or record of birth, marriage, death or fetal death filed under chapters 701 to 707, the~~ The department shall have has the exclusive power to amend, alter or complete ~~said~~ any certificate or record of birth, marriage, death or fetal death filed under chapters 701 to 707.

~~Where~~ When a certificate or record of birth, marriage, death or fetal death has been altered, amended or completed by the department, the department shall transmit a corrected copy to the clerk of any municipality in which a certified copy or original certificate has been recorded under chapters 701 to 707.

4. Amendment by the Office of the Chief Medical Examiner. Completions or amendments to certificates of death in medical examiner cases, as defined in section 3025, ~~shall~~ must be as provided in section 2842, subsection 4.

5. Amendment following adoption or legitimation. Amendment of a certificate following adoption or legitimation is governed by section 2765, subsection 2-A.

Sec. 4. 22 MRSA §2706-A, sub-§2, as enacted by PL 1979, c. 384, is repealed and the following enacted in its place:

2. Registration. This subsection governs participation in the adoption registry.

A. The following persons may register their names and addresses with the state registrar and request contact:

(1) A person who is 18 years of age or older and:

(a) Who was adopted;

(b) Whose adoption was annulled;

(c) Whose adoptive parents surrendered and released parental rights to that person or had their parental rights terminated; or

(d) Who was freed for adoption but was never subsequently adopted;

(2) An adoptive parent if:

(a) The adopted person is under 18 years of age;

(b) The adopted person is deceased; or

(c) The adopted person is at least 18 years of age and is determined by a court to be incapacitated; and

(3) The legal custodian or guardian of:

(a) A person whose adoption was annulled, who was surrendered and released by that person's adoptive parents or whose adoptive parents' parental rights were terminated;

(b) An adopted person under 18 years of age who:

(i) Has been removed from the custody or guardianship of that person's adoptive parents by order of a court; or

(ii) Was freed for adoption but was never subsequently adopted; or

(c) An adopted person who is at least 18 years of age and has been determined by a court to be incapacitated.

B. The following persons may register their names and addresses with the state registrar and request contact with an adopted person or a person freed for adoption as specified in paragraph A:

(1) A biological parent of an adopted person or of a person freed for adoption but not subsequently adopted;

(2) The legal custodian or guardian of a person under 18 years of age whose full sibling or half-sibling is an adopted person or a person freed for adoption;

(3) If a biological parent of an adopted person or a person freed for adoption is deceased, a biological mother, legal father, grandparent, sibling, half-sibling, aunt, uncle or first cousin of the deceased biological parent; and

(4) A biological sibling or half-sibling, who is at least 18 years of age, of an adopted person or a person freed for adoption.

C. At the time of registration, each registrant shall indicate with which of the persons specified in paragraphs A and B contact is desired.

D. A registrant may withdraw from the adoption registry at any time by submitting a written request to the state registrar.

E. When an adopted person reaches 18 years of age and has not been determined by a court to be incapacitated, the state registrar, after mailing notice to the registrant, shall delete from the adoption registry any prior registration under paragraph A, subparagraph (2), division (a), or subparagraph (3), division (b).

Sec. 5. 22 MRSA §2706-A, sub-§3, as enacted by PL 1979, c. 384, is repealed and the following enacted in its place:

3. Certification of identity and relationship. The state registrar shall require each person registering or requesting contact to provide certification of the registrant's identity and relationship to the person with whom contact is desired and any additional information that is necessary to ensure accurate identification of the registrant and assist in identifying the other party.

Sec. 6. 22 MRSA §2706-A, sub-§3-A is enacted to read:

3-A. Providing information about available counseling. The state registrar shall provide information about sources of counseling to any person registering or requesting contact.

Sec. 7. 22 MRSA §2706-A, sub-§5, as amended by PL 1985, c. 673, is further amended to read:

5. Request for contact. When the state registrar has a request requests for contact from both a biological parent and that parent's adopted child or the child's adoptive parent, he a person specified in subsection 2, paragraph A, and a person specified in subsection 2, paragraph B, that are related to the same adoption and both persons indicated at the time of registration that contact with the other person was desired, the state registrar shall notify each party of the name and address of the other party and of sources of counseling. If a biological parent, an adoptive parent or an adopted person registered under this section has made a request for contact and the party being sought died in Maine the State, the state registrar may shall disclose to the requesting party the fact that the biological parent, adoptive parent or the adopted person has died.

Sec. 8. 22 MRSA §2765, sub-§1, ¶A is amended to read:

A. A certificate of adoption as provided in Title 19, section 533, or a certified copy of the decree of adoption along with the information necessary to identify the original certificate and establish the new certificate of birth; except that a new certificate shall may not be established if so requested by the adopting parents or the adopted person if the adopted person is at least 18 years of age;

Sec. 9. 22 MRSA §2765, sub-§2 is repealed.

Sec. 10. 22 MRSA §2765, sub-§2-A is enacted to read:

2-A. Certificate after adoption or legitimation. This subsection governs birth certificates after adoption or legitimation.

A. When a new birth certificate is established after adoption pursuant to subsection 1, paragraph A, the actual place and date of birth, the name of the child and the names and personal data of the adoptive parents at the time of the decree of adoption must be entered on the new birth certificate.

(1) At the request of an adopted person who is at least 18 years of age or of the adoptive parents of an adopted child under 18 years of age, the new certificate must carry a notation that it has been amended, all items that have been revised pursuant to the adoption decree must be identified, and the notation "court action" and the date of the adoption decree must be shown on the new certificate.

(2) If the birth certificate has been annotated pursuant to subparagraph (1), the annotation may be deleted in accordance with department regulations at the request of an adopted person who is at least 18 years of age or of the adoptive parents of an adopted child under 18 years of age.

B. When a new certificate is established after legitimation pursuant to subsection 1, paragraph B, the actual place and date of birth, the name of the child and the names and personal data of both parents at the time of birth must be shown. Notwithstanding section 2705, the new certificate may not be marked "amended." The new certificate must be filed with all other birth certificates and is not subject to the provisions of section 2706, subsection 1, or section 2761, subsection 4.

C. When a new certificate of birth is established following adoption or legitimation, it must be substituted for the original certificate of birth. After that substitution, the original certificate of birth and the evidence of adoption or legitimation are not subject to inspection except upon order of the Probate Court or the Superior Court.

See title page for effective date.

CHAPTER 819

H.P. 1611 - L.D. 2227

An Act to Amend the Child and Family Services and Child Protection Act

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

Sec. 1. 22 MRSA §4010-A, sub-§1, as enacted by PL 1989, c. 223, is amended to read:

1. Policy development. Every public or private agency or program that is administered, licensed or funded by the Department of Human Services and, the Department of Mental Health and Mental Retardation or the Department of Corrections and hires staff or selects volunteers and provides care or services for children shall develop a written policy regarding child abuse and neglect.

The policy shall include:

- A. A description of how the program and children shall be managed to prevent abuse or neglect;
- B. The reporting of suspected abuse or neglect or other violations to the appropriate designated authorities;
- C. The agency's course of action if allegations of abuse or neglect are made against the agency or its staff; and
- D. The agency's grievance procedures for staff, and for children and their parents or guardians regarding alleged abuse or neglect.

Sec. 2. 22 MRSA §4011, sub-§1, as amended by PL 1989, c. 270, §6, is further amended to read:

1. Reasonable cause to suspect. When, while acting in a professional capacity, an adult who is a medical or osteopathic physician, resident, intern, emergency medical services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant, chiropractor, podiatrist, registered or licensed practical nurse, teacher, guidance counselor, school official, social worker, court appointed special advocate or guardian ad litem for the child, homemaker, home health aide, medical or social service worker, psychologist, child care personnel, mental health professional, law enforcement official, state fire inspector, municipal code enforcement official or municipal fire inspector or chair of a professional licensing board that has jurisdiction over mandated reporters knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, that person shall immediately report or cause a report to be made to the department.

A. Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person shall immediately notify either the person in charge of the institution, agency or facility, or a designated agent, who shall then cause a report to be made. The staff may also make a report directly to the department.

B. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

D. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person shall immediately report or cause a report to be made to the appropriate district attorney's office.

Sec. 3. 22 MRSA §4023, sub-§4, ¶A, as amended by PL 1989, c. 270, §9, is further amended to read:

A. Prior to or on initiating short-term emergency services, the department or agency shall take reasonable steps to notify a custodian that the child will receive or is receiving the services. Notwithstanding this subsection, ~~until October 1, 1990~~, shelters for homeless children, as defined in section 8101, subsection 4-A, are governed by the parental notification requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children.

Sec. 4. 22 MRSA §4023, sub-§5, as amended by PL 1989, c. 270, §10, is further amended to read:

5. Time limit. Short-term emergency services shall not exceed 72 hours from the time of the department's assumption of responsibility for the child. Notwithstanding this subsection, ~~until October 1, 1990~~, shelters for homeless children, as defined in section 8101, subsection