

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. 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

4-A, are governed by the time-limit requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children.

Sec. 5. 22 MRSA §4033, sub-§3, ¶B, as enacted by PL 1979, c. 733, §18, is amended to read:

B. Service in accordance with the ~~District Court~~ ~~Maine Rules of Civil Rules Procedure~~. Notwithstanding the ~~Maine Rules of Civil Rules Procedure~~, the court may waive service by publication of a preliminary protection order ~~shall be complete 5 days after a single publication for a party whose whereabouts are unknown if the department shows by affidavit that diligent efforts have been made to locate the party;~~ or

Sec. 6. 22 MRSA §4089, sub-§1, ¶E is enacted to read:

E. The child welfare services ombudsman, appointed in accordance with section 4087, shall serve as a permanent member.

See title page for effective date.

CHAPTER 820

S.P. 891 - L.D. 2267

An Act to Strengthen the Laws Regarding the Casual Disposal of Solid Waste

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

Whereas, the First Regular Session of the 114th Legislature enacted laws providing for a comprehensive solid waste management program; and

Whereas, some individuals engage in illegal "back roads" dumping which is in direct contrast to the comprehensive solid waste management goals; and

Whereas, current littering penalties for so-called "back roads" dumping do not reflect the severity of the violation; and

Whereas, the intent of this legislation is to strengthen existing litter control laws in an effort to encourage compliance with the solid waste management program; and

Whereas, effective enforcement by the Department of Environmental Protection will be enhanced by the addition of penalty options; 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. 15 MRSA §5821, sub-§4-A is enacted to read:

4-A. Conveyances used in violation of litter laws. All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 500 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264;

Sec. 2. 17 MRSA §2263, sub-§1-C is enacted to read:

1-C. Commercial purpose. "Commercial purpose" means for the purpose of economic gain.

Sec. 3. 17 MRSA §2263, sub-§4-A is enacted to read:

4-A. Commercial vehicle. "Commercial vehicle" means a vehicle owned or used by a business, corporation, association, partnership, or the sole proprietorship of any entity conducting business for a commercial purpose.

Sec. 4. 17 MRSA §2264, as amended by PL 1989, c. 97, §§1 and 2, is repealed and the following enacted in its place:

§2264. Littering prohibited

No person may throw, drop, deposit, discard, dump or otherwise dispose of litter in any manner or amount:

1. Public property. In or on any public highway, road, street, alley, public right-of-way or other public lands, except in containers, receptacles or on property that is designated for disposal of garbage and refuse by the State or its agencies or political subdivisions;

2. Waters. In any fresh water lake, river, stream, tidal or coastal water or on ice over the water. When any litter is thrown or discarded from a watercraft, both the operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, and the person actually disposing of the litter are in violation of this section. This subsection does not prohibit persons who fish, lobster or otherwise harvest from the water from returning to the water harvested products, bait and similar materials that naturally originate in the water;

3. Private property. In or on any private property, unless prior consent of the owner has been given and unless the litter is not a public nuisance or in violation of any state law or local rule;

4. Vehicle or trailer. From a trailer or vehicle that is constructed, loaded or uncovered in such a way that the load may drop, sift, leak or otherwise escape. This subsection applies to vehicles or trailers carrying trash,