

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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**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**

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imprisonment on such terms and conditions as justice ~~may require~~ requires.

**Sec. B-15.** 22 MRSA §4036, sub-§1, ¶G, as amended by PL 1985, c. 739, §8, is further amended to read:

G. Payment by the parents of a reasonable amount of support for the child as determined or modified according to Title 19, chapter 7, subchapter I-A;

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

Effective April 17, 1990.

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## CHAPTER 835

H.P. 1633 - L.D. 2260

### An Act Requiring Prior Notification and Restricting Cancellation of Health Coverage for Persons With Organic Brain Disease

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

**Sec. 1.** 24 MRSA sub-c. IV is enacted to read:

#### SUBCHAPTER IV

#### NOTIFICATION

##### §2370. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules in accordance with the Maine Administrative Procedure Act, to provide for notification of the subscriber and another person, if designated by the subscriber, prior to cancellation of health care coverage for nonpayment of premiums, and to provide restrictions on cancellation of coverage when a subscriber suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

**Sec. 2.** 24-A MRSA §2707-A is enacted to read:

##### §2707-A. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules to provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

**Sec. 3.** 24-A MRSA §2849 is enacted to read:

##### §2849. Notification prior to cancellation

The superintendent shall, by January 1, 1991, adopt rules to provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance certificate for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease.

The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions.

The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

See title page for effective date.

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## CHAPTER 836

H.P. 1575 - L.D. 2182

### An Act to Regulate the Handling of Manure

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

**Sec. 1.** 7 MRSA §2, as amended by PL 1979, c. 731, §5, is further amended by adding at the end a new paragraph to read:

The commissioner shall review proposed laws and rules that affect agricultural activity for their impact on soil tillage and animal grazing practices and their impact on the storage and use of animal manures and chemical fertilizers. The commissioner shall analyze the qualitative and quantitative impacts of proposed laws and rules that affect agricultural activity and present the analysis in public testimony to the Legislature on the proposed laws and rules.

**Sec. 2.** 17 MRSA §2701-B is enacted to read:

##### §2701-B. Action against improper manure handling

The Commissioner of Agriculture, Food and Rural Resources shall investigate complaints of improper manure handling including, but not limited to, complaints of improper storage or spreading of manure. If the commissioner is able to identify the source or sources of the manure and has reason to believe that the manure is a nuisance and the nuisance is caused by the use of other than generally accepted manure handling practices, the commissioner shall:

1. Findings. Determine the changes needed in manure handling to comply with generally accepted manure handling practices;

2. Conformance. Require the person responsible to abide by the necessary changes determined in subsection 1 and determine if the changes have been made;

3. Report. Give the written findings of the initial investigation and any determination of compliance to the complainant and the person responsible; and

4. Procedure. An investigation or other action under this section may be taken only after notice and hearing and utilizing the requirements of Title 5, chapter 375, subchapter IV.

If the person responsible does not adopt generally accepted manure handling practices, the commissioner shall send a copy of the written report to the Department of Environmental Protection and refer the matter in writing to the Attorney General. The Attorney General may institute an action to abate a nuisance and the court may order the abatement with costs as provided under this chapter. If the commissioner, upon investigation, finds that the person responsible for the manure is following generally accepted manure handling practices, the commissioner shall advise the complainant and the person responsible in writing.

The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, for the interpretation and implementation of this section, including a definition of "generally accepted manure handling practices."

If the commissioner finds that improper manure handling may have affected water quality and the person responsible does not adopt generally accepted manure handling practices, the commissioner shall advise the Commissioner of Environmental Protection that a potential water quality violation exists and the Commissioner of Environmental Protection may respond as appropriate.

Sec. 3. 38 MRSA §342, sub-§8 is enacted to read:

8. Agricultural impacts. The commissioner shall notify and regularly inform the Commissioner of Agriculture, Food and Rural Resources on proposed legislation or rules that may affect agricultural activity.

See title page for effective date.

## CHAPTER 837

H.P. 1527 - L.D. 2112

### An Act Relating to the Protection and Advocacy Agency for Persons with Disabilities

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

**Whereas,** the United States Congress enacted the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 United States Code, Section 247a; and

**Whereas,** the United States Congress amended the Developmental Disabilities Assistance and Bill of Rights Act, 42 United States Code, Section 6000, in 1987; and

**Whereas,** these federal statutory changes are not reflected in Maine law although the State is receiving federal funds allotted pursuant to both federal acts; and

**Whereas,** in order for the State to ensure the continued performance of the duties for which it has requested and received federal funding, enabling legislation should be enacted and amended as necessary to conform to federal legislation; and

**Whereas,** people with mental illness who do not reside in a facility are without protection and advocacy services and cannot be assisted under the federal protection and advocacy laws; 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. 5 MRSA Pt. 24 is enacted to read:

#### PART 24

#### PROTECTION AND ADVOCACY AGENCIES

#### CHAPTER 511

#### PROTECTION AND ADVOCACY FOR PERSONS WITH DEVELOPMENTAL OR LEARNING DISABILITIES OR MENTAL ILLNESS

#### §19501. Policy

It is the policy of the State to ensure that the legal and human rights of all developmentally disabled persons and mentally ill individuals residing in the State are protected through the establishment of a protection and advocacy system pursuant to 42 United States Code, Section 6042 et seq. and Section 10801 et seq.

#### §19502. Designation

The Governor shall designate an agency, independent of any state or private agency that provides treatment, services or habilitation to persons with developmental disabilities or mental illness, to serve as the protection and advocacy agency for persons with disabilities. The agency shall also protect and advocate for the rights of persons with learning disabilities.