

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. B-296. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1990-91
ENVIRONMENTAL PROTECTION, DEPARTMENT OF	
Board of Environmental Protection	
Positions	(1.0)
Personal Services	\$34,500
All Other	28,000
TOTAL	<u>\$62,500</u>

Provides for a Clerk Typist III position and general operating funds. This appropriation is intended to establish a separate General Fund account for the board.

Administration

Positions	(-1.0)
Personal Services	(\$34,500)
All Other	(28,000)
TOTAL	<u>(\$62,500)</u>

Provides for the transfer of a Clerk Typist III position and operating funds to the Board of Environmental Protection Account.

Department-wide

All Other	(\$5,224)
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Provides for the deappropriation of funds for anticipated certified mail savings and a reduction in rule-making expenses.

DEPARTMENT OF ENVIRONMENTAL PROTECTION	
TOTAL	<u>(\$5,224)</u>

Sec. B-297. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1990-91
ENVIRONMENTAL PROTECTION, DEPARTMENT OF	
Board of Environmental Protection Fund	
Positions	(1.0)

Personal Services	\$52,028
All Other	15,150
Capital Expenditures	9,500

Provides funds for an Executive Director, general operating expenses, additional per diem and rule-making expenses and computer equipment.

DEPARTMENT OF ENVIRONMENTAL PROTECTION	
TOTAL	<u>\$76,678</u>

See title page for effective date.

CHAPTER 891

H.P. 1682 - L.D. 2328

**An Act to Implement the Recommendations of
the Court Jurisdiction Study**

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

PART A

Sec. A-1. 4 MRSA §121 is enacted to read:

**§121. Justice or Active Retired Justice of Superior
Court assigned to sit in District Court or Admin-
istrative Court**

A Justice or an Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the District Court or the Administrative Court and when so directed the justice has authority and jurisdiction in the District Court or the Administrative Court as if the justice were a regular judge of that court; and whenever the Chief Justice of the Supreme Judicial Court so directs, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court or the Administrative Court is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Superior Court to sit in the District Court or the Administrative Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice.

Sec. A-2. 4 MRSA §153, first ¶ is amended to read:

The State is divided into ~~34~~ 30 judicial divisions, named and defined as follows, and with places for holding court ~~therein~~ in those divisions as follows:

Sec. A-3. 4 MRSA §153, sub-§7, as amended by PL 1983, c. 654, §1, is repealed.

Sec. A-4. 4 MRSA §153, sub-§24, as amended by PL 1983, c. 654, §1, is further amended to read:

24. Bath-Brunswick. Sagadahoc Bath-Brunswick consists of the entire County of Sagadahoc and the municipalities of Brunswick, Freeport and Harpswell in Cumberland County. The District Court for Sagadahoc Bath-Brunswick shall be held at Bath, West Bath or Brunswick, the exact site to be determined by the Chief Judge.

Sec. A-5. 4 MRSA §154, sub-§6, as amended by PL 1983, c. 654, §2, is further amended to read:

6. Sixth District. The 6th district consists of the divisions of ~~Eastern Cumberland (Brunswick, West Bath or Bath), Sagadahoc Bath-Brunswick~~ (Bath, West Bath or Brunswick), Lincoln (Wiscasset) and Knox (Rockland).

Sec. A-6. 4 MRSA §157-E is enacted to read:

§157-E. Judge or Active Retired Judge of District Court assigned to sit in Administrative Court

A Judge or an Active Retired Judge of the District Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the Administrative Court and when so directed the judge has authority and jurisdiction in the Administrative Court as if the judge were a regular judge of that court; and whenever the Chief Justice of the Supreme Judicial Court so directs, the judge may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the Administrative Court is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Judge or an Active Retired Judge of the District Court to sit in the Administrative Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that judge.

Sec. A-7. 4 MRSA §164, sub-§12, ¶D, as amended by PL 1977, c. 696, §22, is further amended to read:

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, ~~one~~ 2 or more previous traffic offenses subject to this subsection within a ~~12-month's~~ 12-month period shall not be permitted to appear before the violations clerk unless the court shall, by order, permit such appearance. Each waiver of hearing filed under this subsection shall recite on the oath or affirmation of the offender whether or not ~~he has been the offender~~ previously has been found guilty of or to have committed or has previously signed a plea of guilty to, or has been found to have committed or has signed a plea admitting, or admitting with an explanation one, 2 or more traffic offenses within

a ~~12-month's~~ 12-month period. Swearing falsely to any such statement shall be a civil violation for which a forfeiture not to exceed \$50 may be adjudged.

Sec. A-8. 4 MRSA §451, as amended by PL 1989, c. 503, Pt. B, §8, is further amended to read:

§451. Establishment

A Judicial Council, as established by Title 5, section 12004-I, subsection 51, shall make a continuous study of the organization, rules and methods of procedure and practice of the judicial system of the State, the work accomplished and the results produced by that system and its various parts. The council ~~shall~~ must be composed of the Chief Justice of the Supreme Judicial Court, who shall also serve as chair, the Attorney General, the Chief Justice of the Superior Court, the Chief Judge of the District Court, the chairs of the joint standing committee of the Legislature having jurisdiction over judiciary matters or their designees, and the Dean of the University of Maine System School of Law, each to serve ex officio, and an Active or Retired Justice of the Supreme Judicial Court, one Justice of the Superior Court, one Judge of the District Court, one Judge of a Probate Court, one clerk of the judicial courts, 2 members of the bar and 6 ~~laymen~~ members of the public, to be appointed by the Governor. The appointments by the Governor ~~shall be~~ are for such periods, not exceeding 4 years, as ~~he shall~~ determine the Governor determines.

Sec. A-9. 4 MRSA §453, as repealed and replaced by PL 1983, c. 812, §11, is amended to read:

§453. Expenses

Each member ~~shall be compensated~~ is entitled to compensation as provided in Title 5, chapter 379, out of any appropriation made for the purpose and approved by the Chief Justice. Legislative members are entitled to be compensated from the legislative budget. The council may appoint one of its members or some other suitable person to act as secretary for the council.

Sec. A-10. 29 MRSA §2184, sub-§1, as amended by PL 1987, c. 791, §25, is further amended to read:

1. Offense; penalty. ~~No~~ A person may ~~not~~ operate a motor vehicle on any public way in this State at a time when ~~his~~ that person's license or permit to operate, ~~his~~ his right to operate or ~~his~~ his right to apply for or obtain a license or permit has been suspended or revoked, except for a revocation as an habitual offender under chapter 18-A or former chapter 18, when that person:

A. Has received written notice of a suspension or revocation pursuant to section 1312-D, subsection 1, or section 2241-H or other written notice from the Secretary of State;

B. Has been orally informed of the suspension or revocation by a law enforcement officer who is

aware of the information as a result of records maintained by the Secretary of State, including those obtainable by telecommunications;

C. Has actual knowledge of ~~his~~ the suspension or revocation;

D. Is a person to whom written notice was sent by ordinary mail at the last known address shown by the records maintained by the Secretary of State; or

E. Has failed to appear in court pursuant to any notice or order specified in section 2301-A.

Violation of this section is a Class ~~D~~ E crime, provided that, notwithstanding Title 17-A, section 1301, the maximum fine ~~shall be~~ is \$2,500.

Sec. A-11. 29 MRSA §2184, sub-§1-A, as enacted by PL 1981, c. 679, §44, is amended to read:

1-A. Minimum mandatory sentences for certain suspensions. In the event the suspension was for a conviction for a violation of former section 1312, subsection 10 or section 1312-B or an adjudication for a violation of section 1312-C or for a failure to comply with the duty to submit for a blood-alcohol test under section 1312, subsection 2, the court shall impose a minimum fine of \$350, which ~~minimum shall~~ may not be suspended; a term of imprisonment which ~~shall~~ may be for not less than 7 consecutive days, which ~~minimum shall~~ and may not be suspended; and a mandatory suspension of license or permit or right to operate a motor vehicle, or right to apply for or obtain a license, for not less than one year nor more than 3 years consecutive to the original suspension; which ~~minimum period shall~~ may not be suspended. For all other suspensions, if the person has one or more prior convictions for violating this section within a 6-year period, the minimum fine is \$200 and may not be suspended. The requirements of Title 15, section 757, of a separate reading of the allegation and a separate trial ~~shall~~ do not apply to a proceeding under this subsection. The court shall give notice of the suspension and shall take physical custody of an operator's license or permit as provided in section 2241-H.

If the court fails to impose a suspension as provided in this subsection, the Secretary of State shall impose the minimum one-year suspension and may impose up to 3 years of suspension and give notice as provided in section 1312-D, subsection 1.

The minimum mandatory sentences of this subsection ~~shall apply~~ applies only to the original period of suspension imposed by the court or by the Secretary of State, or as extended by the Secretary of State pursuant to section 1312-D, subsection 1-A. The minimum mandatory sentences of this subsection ~~shall~~ do not apply to any extension of the original suspension, including an extension pursuant to section 1312-B, subsection 2, paragraph C, or section 1312-C, subsection 4, imposed for the purpose of compelling compliance with conditions for the restora-

tion of a license or right to operate, or to an extension pursuant to section 2241-D for failure to pay a reinstatement fee.

For the purposes of this subsection, a prior conviction has occurred within a 6-year period if the date of the docket entry by the clerk of a judgment of conviction is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.

Sec. A-12. Pilot project. The Chief Justice of the Superior Court and the Chief Judges of the District Court and the Administrative Court may establish a pilot project for the handling of cases arising under the Maine Revised Statutes, Title 19; child protective proceedings under Title 22; and any other matters the Chief Justice and the Chief Judges determine appropriate. The Chief Justice and Chief Judges shall jointly establish criteria for the assignment of cases.

The Chief Justice and Chief Judges shall periodically report to the Commission to Study the Future of Maine's Courts, as established by Part B of this Act, on the structure and effect of the pilot project, except that, if the commission does not meet, the Chief Justice and Chief Judges shall periodically report to the Joint Standing Committee on Judiciary. The Chief Justice and Chief Judges shall make a final report to the commission and the Joint Standing Committee on Judiciary by January 15, 1992.

PART B

Sec. B-1. Commission established. There is established the Commission to Study the Future of Maine's Courts.

Sec. B-2. Commission membership. The commission consists of the following members:

1. Three members appointed by the presidents of the respective court clerks associations to represent the Supreme, Superior and District Courts;
2. The President of the Probate Court Judges Association or a designee;
3. The President of the Registers of Probate Association or a designee;
4. Five Legislators, including 2 Senators, one of whom must be a member of the Joint Standing Committee on Judiciary, appointed by the President of the Senate; and 3 members of the House of Representatives, at least 2 of whom must be members of the Joint Standing Committee on Judiciary, appointed by the Speaker of the House of Representatives;
5. A representative of the Governor's office appointed by the Governor;
6. Four members of the public appointed by the Governor;

7. The President of the Maine State Bar Association or a designee;

8. The Chair of the Maine State Bar Association, Family Law Section, or a designee;

9. The Executive Director of Pine Tree Legal Assistance or a designee;

10. The President of the Maine Trial Lawyers Association or a designee;

11. The President of the Maine Prosecutors Association or a designee;

12. The Attorney General or a designee;

13. The Dean of the University of Maine School of Law or a designee; and

14. The State Court Administrator or a designee.

All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council and the State Court Administrator when the appointments have been made.

The Governor, the Chief Justice of the Supreme Judicial Court, the President of the Senate and the Speaker of the House of Representatives shall jointly appoint the chair of the commission no later than July 25, 1990. The chair may be appointed from among the members of the commission or from outside the membership.

The chair shall request the Chief Justice of the Supreme Judicial Court to appoint 5 advisory members, 4 of whom are Active Justices and Judges representing the Administrative, District, Superior and Supreme Courts and one of whom is an Active Retired Justice or Judge.

If the commission has received sufficient funds to begin its duties, the chair shall call the first meeting no later than November 15, 1990. If the commission has not received sufficient funds by November 15, 1990, the commission may not meet.

Sec. B-3. Compensation. To the extent that the commission has funds to pay per diem and expenses:

1. Legislative members are entitled to legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at commission meetings; and

2. All other members are not entitled to compensation, but may, except state employees, be reimbursed for reasonable expenses as provided in the Maine Revised Statutes, Title 5, section 12002-A, subsection 1.

Sec. B-4. Administrative and staff services. The commission may contract for administrative, professional and clerical services with available funds. The Administrative Office of the Courts, the Judicial Council and the Legislative Council may furnish clerical and other support services to the commission. The commission may request assistance with the preparation of any recommended legislation from the Legislative Council.

Sec. B-5. Duties. The commission shall study the future of the court system in the State and make recommendations as necessary to ensure that the judicial needs of citizens will be met in the 21st century. The commission shall examine, but not limit its examination to, the following issues:

1. Integration of the jurisdictions of the various court systems, including the feasibility, cost and method of creating a unified trial court system in this State;

2. Appellate review, including the feasibility of establishing or designating an intermediate appellate court along with discretionary review by the Supreme Judicial Court in selected or all cases;

3. Expansion of the availability and use of alternative dispute resolution mechanisms. This includes the consideration of ways to increase the use of referees under Rule 53 of the Maine Rules of Civil Procedure, including, but not limited to, rule changes, the education of lawyers and judges, mandatory use of referees, the development of guidelines for the use of referees and other ways to encourage the use of referees;

4. Parity among judicial salaries within the court system;

5. Further evolution of the Probate Court system, particularly the conflict-of-interest issue concerning part-time Probate Court judges, considering, as a possibility, establishing full-time judges of probate who travel a circuit;

6. Any recommendations of the Court Mediation Service on expanding mediation services;

7. An evaluation of any pilot project established by the Chief Justice of the Superior Court and the Chief Judges of the District Court and the Administrative Court; and

8. Any recommendations of the Maine Commission on Legal Needs.

Sec. B-6. Report to Legislature. The commission, by November 15, 1992, shall report to the Joint Standing Committee on Judiciary and the Office of the Executive Director of the Legislative Council the results of its findings and recommendations together with any necessary implementing legislation. The commission shall report to the Joint Standing Committee on Judiciary with respect to its funding from all sources and detailed

expenditures of the commission on November 15, 1991, and November 15, 1992.

Sec. B-7. Funding. The commission is authorized to seek and accept outside sources of funding to finance the study provided in this Part. The Administrative Office of the Courts shall administer any outside funds acquired for the conduct of the study. Expenditures may not be incurred that have an impact on the General Fund. Expenditures may not be incurred relative to this study unless the funding from outside sources has been received by the Administrative Office of the Courts.

Sec. B-8. Commencement and continuation of commission. The commencement and continuation of the commission through November 15, 1992, are contingent on the commission's successful solicitation of funds from sources other than the General Fund. The chair is authorized to solicit and receive funds on behalf of the commission before its first meeting.

See title page for effective date.

CHAPTER 892

H.P. 1396 - L.D. 1926

An Act to Create a Statewide Coordination Office for Suspected Child Abuse and Neglect Teams

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

Sec. 1. 5 MRSA §12004-I, sub-§36-A is enacted to read:

<u>36-A. Human Services</u>	<u>Maine Suspected Child Abuse and Neglect Council</u>	<u>Expenses Only</u>	<u>22 MRSA §4094</u>
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Sec. 2. 22 MRSA §4092, sub-§1-A is enacted to read:

1-A. Council. "Council" means the Maine Suspected Child Abuse and Neglect Council as authorized by section 4094.

Sec. 3. 22 MRSA §4094 is enacted to read:

§4094. Maine Suspected Child Abuse and Neglect Council

1. Council established. Pursuant to Title 5, section 12004-I, subsection 36-A, the Maine Suspected Child Abuse and Neglect Council is established to coordinate a statewide program for the identification and management of suspected child abuse and neglect cases through hospital-based committees that are authorized in this subchapter. The council is a body politic and a public instrumentality of the State.

2. Membership. The council shall be composed of 2 representatives from each of the hospital-based suspected child abuse and neglect committees in the State. Each hospital-based committee shall designate its 2 representatives who shall serve on the council at the pleasure of that committee.

3. Rule-making authority. The council may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to carry out its responsibilities.

4. Meetings. The council shall meet at least once a year. Special meetings shall be held as determined necessary by the council. The minutes of all proceedings of the council shall be a public record available and on file in the office of the council. Members of the council shall be compensated according to Title 5, chapter 379.

5. Financing. The council may accept contributions of any type from any source other than the General Fund to assist in carrying out its responsibilities and to make arrangements regarding the administration of these funds, if required as a condition precedent to the receipt of these funds, by the Federal Government or any other source.

6. Executive director; staff. The council may employ an executive director who shall be the principal administrative and executive employee of the council. The executive director may hire staff to carry out the responsibilities for the coordination of all affairs of the council including, but not limited to, the training and education of volunteers, health care professionals and the general public. The executive director is also responsible for advocacy on behalf of hospital-based suspected child abuse and neglect committees throughout the State. The executive director may obtain office space, goods and services as required to carry out these responsibilities.

7. Funding. Funding for implementation of this Act must come from any source except the General Fund and expenses shall only be authorized in the amount of funds that have been received by the council.

See title page for effective date.

CHAPTER 893

S.P. 769 - L.D. 1994

An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account

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

Whereas, it is necessary to provide support for state efforts to create jobs by assisting in meeting the