

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

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. PL 1989, c. 501, Pt. BB, §7, 4th sentence is repealed and the following enacted in its place:

The department shall perform assessments on all patients of the Augusta Mental Health Institute by June 30, 1991 and on all patients of the Bangor Mental Health Institute by December 30, 1991. To prevent the occurrence of multiple individual assessments, these assessments must be conducted according to the terms and conditions of the consent decree issued on August 2, 1990 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88.

Sec. 2. Retroactivity. This Act applies retroactively to July 1, 1989.

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

Effective May 6, 1991.

CHAPTER 74

H.P. 979 - L.D. 1422

An Act to Allow the Part-time Chaplain's Position at the Maine State Prison to Be a Job-sharing Position

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

Whereas, the current chaplain of the Maine State Prison may be leaving in June of this year; and

Whereas, the status of the positions should be established before a new chaplain fills the position; 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:

34-A MRSA §3236, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Appointment. The warden shall appoint suitable persons as chaplains. Notwithstanding Title 5, section 902, subsection 3, any part-time chaplain position at the Maine State Prison may be a job-sharing position.

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

Effective May 6, 1991.

CHAPTER 75

H.P. 72 - L.D. 100

An Act to Eliminate the Requirement of Mediation in Certain Domestic Cases

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

Sec. 1. 19 MRSA §214, sub-§4, as amended by PL 1985, c. 750, §3, is further amended to read:

4. Mediation. Prior Except as provided in subsection 4-A, prior to a contested hearing under this section where when there are minor children of the parties, the court shall refer the parties to mediation; except that, for good cause shown, the court, prior to referring the parties to mediation, may hear motions for temporary relief, pending final judgment on any issue or combination of issues for which good cause for temporary relief has been shown. Upon motion supported by affidavit, the court may, for extraordinary cause shown, waive the mediation requirement under this subsection. Any agreement reached by the parties through mediation on any issues ~~shall~~ **must** be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 2. 19 MRSA §214, sub-§4-A is enacted to read:

4-A. Waiver of mediation; questions of law. The court may hear motions to waive mediation in cases in which there are no facts at issue and all unresolved issues are questions of law.

Sec. 3. 19 MRSA §581, sub-§4, as amended by PL 1985, c. 750, §4, is further amended to read:

4. Mediation. Prior Except as provided in subsection 4-A, prior to a contested hearing under this section where when there are minor children of the parties, the court shall refer the parties to mediation; except that, for good cause shown, the court, prior to referring the parties to mediation, may hear motions for temporary relief, pending final judgment on any issue or combination of issues for which good cause for temporary relief has been shown. Upon motion supported by affidavit, the court may, for extraordinary cause shown, waive the mediation requirement under this subsection. Any agreement reached by the parties through mediation on any issues shall must be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 4. 19 MRSA §581, sub-§4-A is enacted to read:

4-A. Waiver of mediation; questions of law. The court may hear motions to waive mediation in cases in which there are no facts at issue and all unresolved issues are questions of law.

Sec. 5. 19 MRSA §752, sub-§4, as amended by PL 1985, c. 750, §5, is further amended to read:

4. Mediation. Prior Except as provided in subsection 4-A, prior to a contested hearing under this section where when there are minor children of the parties, the court shall refer the parties to mediation; except that, for good cause shown, the court, prior to referring the parties to mediation, may hear motions for temporary relief, pending final judgment on any issue or combination of issues for which good cause for temporary relief has been shown. Upon motion supported by affidavit, the court may, for extraordinary cause shown, waive the mediation requirement under this subsection. Any agreement reached by the parties through mediation on any issues shall must be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or any part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 6. 19 MRSA §752, sub-§4-A is enacted to read:

4-A. Waiver of mediation; questions of law. The court may hear motions to waive mediation in cases in which there are no facts at issue and all unresolved issues are questions of law.

See title page for effective date.

CHAPTER 76

S.P. 125 - L.D. 227

An Act to Provide Equity in the Natural Resources Protection Laws

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

12 MRSA §683, first ¶, as amended by PL 1989, c. 503, Pt. B, §55, is further amended to read:

The Maine Land Use Regulation Commission, as established by Title 5, section 12004-D, subsection 1, to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission shall consist consists of 7 public members, none of whom shall may be state employees, who shall must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over energy and natural resources and to confirmation by the Legislature, for staggered 4-year terms. Among the public members, there shall must be 4 who shall must be knowledgeable in at least one of each of the following areas: ~~Commerce~~ commerce and industry; fisheries and wildlife; forestry; and conservation. Of the potential appointees to the commission, the Governor shall actively seek and give consideration to persons residing in or near the unorganized areas of the State and ~~at to persons residing on unorganized coastal islands.~~ At least 2 members shall must be residents within the commission's jurisdiction.

See title page for effective date.

CHAPTER 77

H.P. 274 - L.D. 394

An Act to Amend the Charitable Solicitations Act

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

Sec. 1. 9 MRSA §5004, sub-§3, ¶J, as amended by PL 1979, c. 678, §4-A, is further amended to read: