

# MAINE STATE LEGISLATURE

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**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.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
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refundable under sections 17705, 17706, 18306 and 18307 ~~shall be~~ are available to satisfy any child support obligation ~~which that~~ is otherwise enforceable by execution, garnishment, attachment, assignment or other process: ; and

**Sec. 2. 5 MRSA §17054, sub-§3** is enacted to read:

**3. Recovery of overpayments by the retirement system.** Any amounts due the retirement system as the result of overpayment of benefits or an excess refund of contributions may be recovered from an individual's contributions or any benefits payable under this Part to the individual or the beneficiary of the individual. If the overpayment or excess refund of contributions resulted from an unintentional mistake by an employee of the retirement system, the retiree or the recipient of the benefit, no interest may be collected by the retirement system on the amount to be recovered. The executive director may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the executive director makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451.

See title page for effective date.

**CHAPTER 185**

**S.P. 361 - L.D. 963**

**An Act to Provide for the Payment of Late Fees by School Administrative Units and Participating Local Districts That Are Delinquent in Paying Contributions to the Maine State Retirement System**

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

**Sec. 1. 5 MRSA §17203, sub-§1, ¶B,** as enacted by PL 1989, c. 95, §3, is amended to read:

B. Amounts deducted from the compensation of teachers ~~shall must~~ be paid to the retirement system by the chief administrative officer of each school administrative unit monthly in accordance with rules of the board. Delinquent payments due under this paragraph:

(1) May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the school administrative unit, not to exceed regular interest by 5 or more percentage points;

(2) May be recovered by action in a court of competent jurisdiction against the school administrative unit; or

(3) May, at the request of the retirement system, be deducted from any other money payable to that school administrative unit.

**Sec. 2. 5 MRSA §18303, sub-§3, ¶¶A and B,** as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

A. May be recovered by action in a court of competent jurisdiction against the participating local district liable for the payments; or

B. May, at the request of the retirement system, be deducted from any other money payable to that participating local district by any department of the State; or

**Sec. 3. 5 MRSA §18303, sub-§3, ¶C** is enacted to read:

C. May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the school administrative unit, not to exceed regular interest by 5 or more percentage points.

See title page for effective date.

**CHAPTER 186**

**H.P. 503 - L.D. 697**

**An Act to Provide an Opportunity for Complainants to be Heard before the Board of Registration in Medicine**

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

**32 MRSA §3282-A, sub-§1,** as enacted by PL 1983, c. 378, §53, is amended to read:

1. **Disciplinary proceedings and sanctions.** The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the

licensee with adequate notice of the conference and of the issues to be discussed. The complainant may attend and may be accompanied by legal counsel and one other person. The conference ~~shall~~ must be conducted in executive session of the board, unless otherwise requested by the licensee. Before the board decides what action to take at the conference or as a result of the conference, the board shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent. The complainant, the licensee or either of their representatives shall maintain the confidentiality of the conference.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it ~~deems~~ determines appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations ~~shall~~ may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

See title page for effective date.

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## CHAPTER 187

H.P. 572 - L.D. 823

### An Act to Amend the Wrongful Death Laws

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

**18-A MRSA §2-804, sub-§(b)**, as amended by PL 1989, c. 340, is further amended to read:

(b) Every such action ~~shall~~ must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, ~~shall be~~ is for the exclusive benefit of the surviving spouse, if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them, if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106, if there is neither surviving spouse nor minor children. The jury may give such damages as it ~~shall deem~~ deems a fair and just compensation with reference to the pecuniary injuries resulting from such death to the persons for whose benefit the action is brought, and in addition thereto shall give such damages as will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition thereto may give damages not exceeding \$75,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim, to the persons for whose benefit the action is brought, and in addition thereto may give punitive damages not exceeding \$75,000, provided that the action ~~shall be~~ is commenced within 2 years after the decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in settlement ~~shall~~ must be distributed as provided in this subsection. No settlement on behalf of minor children ~~shall be~~ is valid unless approved by the court, as provided in Title 14, section 1605.

See title page for effective date.

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## CHAPTER 188

S.P. 559 - L.D. 1463

### An Act to Reconcile Dates Barring Claims in the Probate Code

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

**18-A MRSA §3-1006**, as amended by PL 1989, c. 661, §8, is further amended to read:

#### **§3-1006. Limitations on actions and proceedings against distributees**

Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of an heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or its value from