

# 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**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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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

any distributee is forever barred at the later of 3 years after the decedent's death or one year after the time of its distribution, but all claims of creditors of the decedent are barred ~~one year~~ 9 months after the decedent's death. This section does not bar an action to recover property or value received as the result of fraud.

See title page for effective date.

## CHAPTER 189

H.P. 794 - L.D. 1140

### An Act Relating to Name Changes During Divorce Proceedings

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

**19 MRSA §752, sub-§11**, as enacted by PL 1983, c. 813, §5, is repealed and the following enacted in its place:

**11. Name change.** Upon the request of either spouse to change that person's own name, the court, when entering judgment for divorce or annulment:

A. Shall change the name of that spouse to any former name requested; or

B. May change the name of that spouse to any other name requested.

See title page for effective date.

## CHAPTER 190

H.P. 951 - L.D. 1378

### An Act to Change the Geographic Representation of the Maine Potato Board

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

**36 MRSA §4602, sub-§3, ¶F**, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

F. District 6: Amity, Cary Plantation, Crystal, Dyer Brooks, Hammond Plantation, Hersey, Hodgdon, Houlton, Island Falls, Linneas, Littleton, Ludlow, New Limerick ~~and~~ Merrill, Monticello, Oakfield and Smyrna; and

See title page for effective date.

## CHAPTER 191

H.P. 77 - L.D. 105

### An Act to Include the Testator's Birth Date in Statutory Living Wills

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

**Whereas**, having the date of birth or social security number of an individual included in a living will can eliminate any confusion caused by instances when more than one patient in a hospital has the same name; 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:

**18-A MRSA §5-702**, as enacted by PL 1989, c. 830, §1, is amended to read:

#### §5-702. Declaration relating to use of life-sustaining treatment

(a) An individual of sound mind and 18 or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declarant may designate another individual of sound mind and 18 or more years of age to make decisions governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant, or another at the declarant's direction, and witnessed by 2 individuals.

(b) A declaration directing a physician to withhold or withdraw life-sustaining treatment may, but need not, be in the following form:

#### DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make or communicate decisions regarding my medical treatment, I direct my attending physician, pursuant to the Uniform Rights of the Terminally Ill Act of this State, to withhold or withdraw such treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.