

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

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19 MRSA §752, sub-§11, as enacted by PL 1983, c. 813, §5, is repealed and the following enacted in its place: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

Optional: I direct my attending physician to withhold or withdraw artificially administered nutrition and hydration ~~which~~ that only prolongs the process of dying.

Signature

NOTE: This optional provision must be signed to be effective.

Signed this day of,

Signature

Address

Date of birth or social security number

The declarant voluntarily signed this writing in my presence.

Witness

Address

Witness

Address

NOTE: Maine law provides that artificially administered nutrition and hydration does not constitute a life-sustaining treatment that may be withheld or withdrawn pursuant to a living will declaration unless the declarant elects otherwise in the declaration itself.

(c) A declaration that designates another individual to make decisions governing the withholding or withdrawal of 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 appoint or, if ~~he or she~~ my appointee is not reasonably available or is unwilling to serve,, to make decisions on my behalf regarding withholding or withdrawal of such treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain, pursuant to the Uniform Rights of the Terminally Ill Act of this State.

Optional: If the individual(s) I have so appointed is not reasonably available or is unwilling to serve, 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.

Signature

NOTE: This optional provision must be signed to be effective.

Optional: I direct my attending physician to withhold or withdraw artificially administered nutrition and hydration ~~which~~ that only prolongs the process of dying.

Signature

NOTE: This optional provision must be signed to be effective.

Signed this day of,

Signature

Address

Date of birth or social security number

The declarant voluntarily signed this writing in my presence.

Witness

Address

Witness

Address

Name and address of designees.

Name

Address

NOTE: Maine law provides that artificially administered nutrition and hydration does not constitute a life-sustaining treatment that may be withheld or withdrawn pursuant to a living will declaration unless the declarant elects otherwise in the declaration itself.

(d) The designation of a judicially appointed guardian or an attorney-in-fact appointed under a medical power of attorney pursuant to Part 5, constitutes for purposes of this Part a declaration designating another pursuant to subsection (a).

(e) A physician or other health-care provider who is furnished a copy of the declaration shall make it a part of the declarant's medical record and, if unwilling to comply with the declaration, promptly so advise the declarant and any individual designated to act for the declarant. This subsection does not affect the duty of a

physician or other ~~health-care~~ health-care provider under section 5-708.

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

Effective May 28, 1991.

CHAPTER 192

H.P. 589 - L.D. 840

An Act to Provide Greater Public Input into Public Lands Management

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

Sec. 1. 12 MRSA §586, sub-§2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

2. Expenditures from fund. Expenditures from the fund are subject to legislative approval in the same manner as appropriations from the General Fund. No money may be expended without allocation by the Legislature. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs must approve the allocations. In addition, the joint standing committee of the Legislature having jurisdiction over natural resource matters must review allocations for the bureau's dedicated funds and any revenues of the bureau from permits, leases, fees and sales. The joint standing committee of the Legislature having jurisdiction over natural resource matters must submit a written report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before March 1st of each year.

Sec. 2. Review formation of advisory committee. The Director of the Bureau of Public Lands shall review and analyze the formation of an advisory committee for the Bureau of Public Lands. The director shall submit recommendations and any necessary implementing legislation to the Joint Standing Committee on Energy and Natural Resources by March 1, 1992.

See title page for effective date.

CHAPTER 193

H.P. 866 - L.D. 1246

An Act to Promote Volunteer Emergency Medical Services through Changes to the Unemployment Laws

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1987, c. 769, Pt. A, §106, is further amended by amending subparagraph (21), division (i) to read:

(i) Prior to January 1, 1978, service performed in the employ of a school ~~which~~ that is not an institution of higher education; after December 31, 1977, service performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if ~~such~~ that service is performed by an individual in the exercise of duties:

- (i) As an elected official;
- (ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision ~~thereof~~ of a state;
- (iii) As a member of the State National Guard or Air National Guard;
- (iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency or medical emergency; or
- (v) In a position ~~which~~ that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;

Sec. 2. 26 MRSA §1043, sub-§17, ¶A, as amended by PL 1979, c. 515, §5, is further amended to read:

A. An individual, including corporate officers, ~~shall be deemed is considered~~ "totally unemployed" in any week with respect to which ~~no~~ wages are not payable to ~~him~~ the individual and during which ~~he performs no~~ the individual does not perform services, except that remuneration payable or received as holiday pay ~~shall~~ is not be deemed considered wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received as a volunteer ~~fireman~~ firefighter or a volunteer emergency medical services person, ~~shall~~ are not be deemed considered wages for the purpose of this subsection.

Sec. 3. 26 MRSA §1191, sub-§3, as repealed and replaced by PL 1987, c. 636, §1, is amended to read:

3. Weekly benefit for partial unemployment. Each eligible individual who is partially unemployed in any week ~~shall~~ must be paid a partial benefit for that week. The partial benefit ~~shall be~~ is equal to the weekly benefit amount less the individual's weekly earnings in excess of