

# 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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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

\$25. Any amount 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, as a volunteer ~~emergency medical services person~~ or as elected members of the Legislature, ~~shall~~ is not be considered wages for the purpose of this subsection.

See title page for effective date.

## CHAPTER 194

H.P. 528 - L.D. 756

### An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes

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

22 MRSA §4063-A is enacted to read:

#### §4063-A. Medical and psychological examination

1. Physical examination required. The department shall ensure that a child ordered into its custody receives an appointment for a medical examination by a licensed physician or nurse practitioner within 10 working days after the department's custody of the child commences.

2. Psychological assessment. If the physician or nurse practitioner who performs a physical examination pursuant to subsection 1 determines that a psychological assessment of the child is appropriate, the department shall ensure that an appointment is obtained for such an assessment within 30 days of the physical examination.

See title page for effective date.

## CHAPTER 195

H.P. 275 - L.D. 395

### An Act to Clarify Ownership of Public Ways

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

23 MRSA §3028, as amended by PL 1989, c. 395, is repealed and the following enacted in its place:

#### §3028. Abandonment of public ways

1. Presumption of abandonment. It is prima facie evidence that a town or county way not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years has been discontinued by abandonment. A presumption

of abandonment may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as if it were a public way. A proceeding to discontinue a town or county way may not prevent or estop a municipality from asserting a presumption of abandonment. A municipality or its officials are not liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section is relegated to the same status as it would have had after a discontinuance pursuant to section 3026, except that this status is at all times subject to an affirmative vote of the legislative body of the municipality within which the way lies making that way an easement for recreational use. A presumption of abandonment is not rebutted by evidence that shows isolated acts of maintenance, unless other evidence exists that shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

2. Status of town way or public easement. The determination of the municipal officers regarding the status of a town way or public easement is binding on all persons until a final determination of that status has been made by a court, unless otherwise ordered by a court during the pendency of litigation to determine the status.

3. Removal of obstructions. If the municipal officers have determined under subsection 2 that the way is a town way or public easement and a court has not ordered otherwise, the municipality or an abutter on the way, acting with the written permission of the municipal officers, may remove any gates, bars or other obstructions in the way.

See title page for effective date.

## CHAPTER 196

H.P. 903 - L.D. 1300

### An Act Relating to the Employment of School Board Members

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

20-A MRSA §1002, sub-§3, as amended by PL 1983, c. 806, §11, is further amended to read:

3. Appointment to civil office and other employment. ~~No~~ A school board member may not, during the term for which the member ~~has been elected~~ serves on the board and for one year ~~thereafter~~ after the member ceases to serve on the board, be appointed to any civil office of profit or employment position, which ~~shall have~~ has been