

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.

J.S. McCarthy Company
Augusta, Maine
1991

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23 MRSA §3028, as amended by PL 1989, c. 395, is repealed and the following enacted in its place: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