

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

Sec. O-3. 5 MRSA §933, sub-§1, ¶I is enacted to read:

I. Assistant to the Commissioner for Resource Management.

PART P

Sec. P-1. PL 1991, c. 622, Pt. A, §1, under the caption "FINANCE, DEPARTMENT OF," in that part relating to "State Contingency Account - Finance" is repealed.

Sec. P-2. Acceptance of health insurance premium dividends and surplus funds. Notwithstanding the Maine Revised Statutes, Title 5, sections 285 to 286 or any other provision of law, the State Controller is authorized to accept \$1,606,708 of health insurance premium dividends currently on deposit with Blue Cross and Blue Shield of Maine. These dividends and surplus funds include the General Fund and ancillary portions of the 1991 premium dividend, adverse selection surcharge and the 1992 premium dividend. This money must be deposited to the General Fund as undedicated revenue by June 30, 1992.

PART Q

Sec. Q-1. PL 1991, c. 622, Pt. II, §1, next-to-the-last sentence is amended to read:

This section does not apply to nonrepresented faculty department chairs of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and full-time faculty of the University of Maine School of Law.

Sec. Q-2. PL 1991, c. 622, Pt. II, §2, next-to-the-last sentence is amended to read:

This section does not apply to nonrepresented faculty department chairs of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and full-time faculty of the University of Maine School of Law.

PART R

Sec. R-1. Supplemental appropriations from General Fund. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1991-92

SECRETARY OF STATE, DEPARTMENT OF THE

Elections and Commissions

All Other \$119,000

Provides funds for the expenses associated with the November 1991 referendum.

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

Effective March 13, 1992, unless otherwise indicated.

CHAPTER 672

H.P. 1025 - L.D. 1498

An Act to Promote Child Safety

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

Sec. 1. 17-A MRSA §554, sub-§1, as amended by PL 1975, c. 740, §71, is repealed and the following enacted in its place:

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child under 16 years of age to enter or remain in a house of prostitution;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, firearms or ammunition; or

C. Otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection.

Sec. 2. 17-A MRSA §554, sub-§2, as amended by PL 1989, c. 445, §7, is further amended to read:

2. It is an affirmative defense to prosecution under this section that:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a child under the 16 years of age of ~~16~~ who furnished such the child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's home and presence; or

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, fos-

ter parent or guardian who furnished a child under 16 years of age an air rifle, a firearm or ammunition for use in a supervised manner.

See title page for effective date.

CHAPTER 673

H.P. 1222 - L.D. 1780

An Act to Provide More Effective Recovery of Child Support

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

Whereas, under current law, the Department of Human Services has no authority to distribute support payments to ensure a fair share to each family of children, a key issue currently pending before the Federal Court in Maine; and

Whereas, under current law, the Department of Human Services does not have authority to administratively order responsible parents in nonwelfare cases to pay for past necessary expenses and out-of-pocket medical costs, therefore limiting the effectiveness of the expedited paternity process enacted last year; and

Whereas, under current law, a responsible parent's past debt due the Department of Human Services for public assistance paid is the amount of public assistance paid, even if the responsible parent's past earning capacity could not provide that level of support; and

Whereas, quicker and more efficient processing of all child support cases is especially important in times when the State is reducing resources available to families, thus making the securing of child support for those families even more crucial; and

Whereas, the more efficient processing of these cases will enable the State to monitor state compliance with federal audit standards; and

Whereas, the changes will result in a net increase in revenue by increasing the reimbursement for state aid to families with dependent children payments; 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:

Sec. 1. 19 MRSA §280-C is enacted to read:

§280-C. Presumption of legitimacy not applicable

1. Presumption not applicable. The presumption of legitimacy provided in the Maine Rules of Evidence, Rule 302 does not apply if:

A. The experts conclude that reliable blood or tissue tests show that the presumed father is not the biological parent of the child; or

B. The experts conclude that reliable blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher.

Sec. 2. 19 MRSA §314, sub-§1, ¶D, as enacted by PL 1989, c. 834, Pt. A, is repealed and the following enacted in its place:

D. If a party fails to comply with this subsection, the court may, in its discretion:

(1) Impose economic sanctions; or

(2) Presume for the purpose of determining a current support obligation that the party has an earning capacity equal to the average weekly wage of a worker within this State as determined by the most recent Department of Labor statistics. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the noncomplying party earns a greater or lesser actual income.

Sec. 3. 19 MRSA §405, sub-§§1 and 2, as amended by PL 1971, c. 393, §14, are further amended to read:

1. Recognizance. To require the obligor to furnish recognizance in the form of a cash deposit or bond of ~~such~~ a character and in ~~such an~~ amount as the court ~~may deem~~ determines proper to ~~assure~~ ensure payment of any amount required to be paid by the obligor;

2. Payments. To require the obligor to make payments at specified intervals to the clerk of the court and to report personally to ~~such~~ the clerk at such times as may be ~~deemed~~ determined necessary;

Sec. 4. 19 MRSA §405, sub-§3, as amended by PL 1985, c. 652, §15, is further amended to read:

3. Violations. To punish under the power of contempt the obligor who violates any order of the court, or to issue any order pursuant to chapter 14-A. When the obligor is committed to jail for contempt, as provided, the county having jurisdiction of the process shall bear