

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Sec. 1. 38 MRSA §1310-D, first ¶, as enacted by PL 1987, c. 517, §25, is repealed and the following enacted in its place:

The provisions of this article govern open-municipal solid waste landfills.

Sec. 2. 38 MRSA §1310-D, sub-§3, ¶A, as amended by PL 1991, c. 374, §4 and repealed and replaced by c. 519, §5, is repealed and the following enacted in its place:

A. Within 90 days of the receipt of a landfill evaluation, together with the recommendations for closure and, if any, remediation actions, the commissioner shall issue an order for closure and, if appropriate, remediation. This order must specify the use of compost or reclaimed soil materials for landfill cover to the maximum extent practical and consistent with sound environmental practices. Subject to sections 1310-F and 1310-G, a timetable for implementation and all pertinent cost-sharing must be included as part of the order.

Sec. 3. Islands; report by department. By January 1, 1993, the Department of Environmental Protection shall submit a report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters and to the Office of the Executive Director of the Legislative Council on the status of municipal solid waste management and disposal systems on any island that is seeking to continue operating its municipal solid waste landfill after December 31, 1992. The report must summarize the information submitted to the department by the islands seeking to operate landfills beyond that closure deadline and may include recommendations to the committee to extend the closure deadline for specific island landfills. The department may recommend extending an island landfill closure deadline beyond December 31, 1992 if:

1. Continued operation of the landfill does not pose an immediate hazard to the public health or the environment, including, but not limited to, a threat to a public or private water supply; and
2. The island has demonstrated progress in identifying and implementing solid waste management options, including source reduction, reuse of waste, recycling of waste, composting, volume reduction and disposal.

For the purposes of this section, the term "island" means an island with year-round residents that is not connected to the mainland by a bridge, causeway or other structure providing passage to the island and that is not part of a mainland municipality.

See title page for effective date.

CHAPTER 760

H.P. 1574 - L.D. 2221

An Act Pertaining to the Issuance of Orders in Domestic Abuse and Harassment Cases

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

Sec. 1. 5 MRSA §4651, sub-§1, as enacted by PL 1987, c. 515, §1, is amended to read:

1. Court. "Court" means any District Court or Superior Court.

Sec. 2. 5 MRSA §4652, as amended by PL 1987, c. 708, §2, is further amended to read:

§4652. Filing of petition; jurisdiction

Proceedings under this chapter ~~shall~~ must be filed, heard and determined in the District Court ~~or Superior Court~~ of the division ~~or county~~ in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid harassment, the plaintiff may bring an action in the division ~~or county~~ of the plaintiff's previous residence or new residence.

The District Court has jurisdiction over protection from harassment petitions. If a District Court judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to any other District Court judge or to any Superior Court justice who has the same authority as a District Court judge to grant or deny the temporary order.

Sec. 3. 5 MRSA §4654, sub-§3, ¶¶A and B, as enacted by PL 1987, c. 515, §1, are amended to read:

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for protection of a victim of harassment, a petition may be ~~filed before~~ presented to any Judge judge of the District Court or Justice of the Superior Court. Upon a meeting of the requirements of subsection 2, the court may enter any temporary orders, authorized under subsection 4, as ~~it deems~~ the court considers necessary to protect the plaintiff from harassment.

B. If a petition is filed presented under this subsection, the petition and any order issued pursuant to it ~~shall the petition must~~ be immediately certified to the clerk of the District Court ~~or Superior Court~~ having venue for filing. This certification to the court ~~shall have~~ has the effect of commencing proceedings and invoking the other provisions of this chapter.

Sec. 4. 19 MRSA §762, sub-§3, as enacted by PL 1979, c. 578, §5, is amended to read:

3. Court. "Court" means any ~~district or superior court~~ District Court.

Sec. 5. 19 MRSA §763, as amended by PL 1983, c. 583, §26, is further amended to read:

§763. Filing of complaint; jurisdiction

Proceedings under this chapter ~~shall~~ must be filed, heard and determined in the District Court ~~or Superior Court~~ of the division ~~or county~~ in which either the plaintiff or the defendant resides. If the plaintiff has left ~~his~~ the plaintiff's residence to avoid abuse, ~~he~~ the plaintiff may bring an action in the division ~~or county~~ of ~~his~~ the plaintiff's previous residence or ~~of his~~ of his new residence.

The District Court has jurisdiction over protection from abuse petitions. If a District Court judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to any other District Court judge or to any Superior Court justice who has the same authority as a District Court judge to grant or deny the temporary order.

Sec. 6. 19 MRSA §765, sub-§2, as amended by PL 1989, c. 862, §13, is further amended to read:

2. Temporary orders. The court may enter any temporary orders authorized under subsection 4 as it considers necessary to protect the plaintiff or minor child from abuse, on good cause shown in an ex parte proceeding, which the court shall hear and determine as expeditiously as practicable after the filing of a complaint. Immediate and present danger of abuse to the plaintiff or minor child constitutes good cause. Any order remains in effect pending a hearing pursuant to subsection 1. ~~If the complaint is filed initially in the Superior Court, the justice, after authorizing any temporary order under this section, may order that further proceedings be transferred to the District Court of the division in which either the plaintiff or the defendant resides.~~

Sec. 7. 19 MRSA §965, sub-§3, ¶A, as amended by PL 1985, c. 495, §13, is further amended to read:

A. When there is no judge available in the District Court having venue or the District Court court-house is closed and no other provision can be made for the shelter of an abused family or household member or minor child, a complaint may be filed before presented to any District Court Judge judge or Superior Court Justice. Upon a showing of good cause, as defined in subsection 2, the court may enter any temporary orders authorized under subsection 4 as it ~~deems~~ considers necessary to protect the plaintiff or minor child from abuse.

Sec. 8. 19 MRSA §965, sub-§3, ¶B, as repealed and replaced by PL 1981, c. 420, §5, is amended to read:

B. If a complaint is ~~filed~~ presented under this subsection, that complaint and any order issued pursuant to it ~~shall~~ must be forwarded immediately to the clerk of the District Court ~~or Superior Court~~ having venue for filing.

Sec. 9. 19 MRSA §965, sub-§4, ¶B, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;

Sec. 10. 19 MRSA §766, sub-§1, ¶A, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

A. Directing the defendant to refrain from the threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

Sec. 11. 19 MRSA §766, sub-§1, ¶G, as amended by PL 1989, c. 834, Pt. B, §12 and c. 862, §17, is repealed and the following enacted in its place:

G. Ordering the payment of temporary support for the dependent party, or any child in the dependent party's custody in accordance with chapter 7, subchapter I-A, or both, when there is a legal obligation to support that person, that child, or both;

See title page for effective date.

CHAPTER 761

H.P. 1459 - L.D. 2071

An Act to Amend the Laws Regarding Licensing of Gravel Pits

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

Sec. 1. 38 MRSA §489-A, sub-§1, ¶¶ C and D, as enacted by PL 1989, c. 207, §2, are amended to read:

C. Structures as described in section 482, subsection 6, paragraph A, ~~which that~~ occupy a total floor area of 100,000 square feet or more but less than 150,000 square feet of floor area; ~~or~~

D. Structures as described in section 482, subsection 6, paragraph B, ~~which that~~ occupy a ground