

# 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**

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J.S. McCarthy Company  
Augusta, Maine  
1992

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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## CHAPTER 844

## H.P. 1664 - L.D. 2341

**An Act Regarding Advisory Boards and Occupational and Professional Licensing Boards**

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

**Whereas,** the consolidation of duplicative or overlapping boards and commissions will achieve cost savings; and

**Whereas,** the repeal of inactive or unnecessary boards and commissions will achieve cost savings; and

**Whereas,** the consolidation or repeal of duplicative or unnecessary boards and commissions does not limit public access to State Government; 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. 5 MRSA §12005-A,** as enacted by PL 1987, c. 786, §7, is amended to read:

**§12005-A. Report to Secretary of State**

Every board ~~established by listed in~~ this chapter ~~shall be~~ is required to appoint a clerk of the board who ~~shall be~~ is responsible for submitting reports to the Secretary of State as required by this chapter. This clerk shall submit an annual report to the Secretary of State on forms provided by the Secretary of State. This report ~~shall~~ must be submitted no later than December 15th of each calendar year and ~~shall~~ must include information required by this section and any other information deemed necessary by the Secretary of State to fulfill the purposes of this chapter. This information ~~shall~~ must include:

**1. Clerk of board.** The name, address and telephone number of the clerk of the board;

**2. Names and addresses of members.** The names and current addresses of each member of the board;

**3. Date of appointment and expiration.** The date of appointment of each member and the date of expiration of the term of each member;

**4. Dates and locations of all meetings.** The dates and locations of all meetings of the board during the calendar year for which the report is prepared.

A. In the event that a board reports no meetings for the calendar year of the report, the clerk shall indicate the last meeting of the board;

**5. Attendance at and length of meetings.** The number of members attending each meeting and the length of each meeting;

**6. Compensation.** The total per diem compensation, if any, received by the board for each meeting and the total received for the calendar year;

**7. Expenses.** The total expenses for which the board is reimbursed, if any, for each meeting and the total expenses for which all board members were reimbursed for the calendar year; and

**8. Vacancies.** The number of vacancies on the board on December 15th and the term of the vacancy.

The Secretary of State may not waive the requirements of this section.

**Sec. 2. 5 MRSA §12006,** as amended by PL 1987, c. 402, Pt. A, §62, is further amended to read:

**§12006. Penalty for failure to report**

Members of any board ~~which fail that fails~~ to report to the Secretary of State, as required by section ~~12005~~ 12005-A, ~~shall~~ are not be eligible to receive any daily rate or annual rate of compensation or any money for expenses incurred in the work of the board until the report to the Secretary of State is complete to the satisfaction of the Secretary of State. The Commissioner of Finance, the Secretary of State or the authorized person to pay compensation or expenses to members of the boards, ~~shall~~ may not pay any rate of compensation or expenses to any member of a board ~~which~~ that has failed to report to the Secretary of State.

**1. Notice of failure to report.** ~~The Commissioner of Finance~~ Secretary of State shall send notice by certified mail ~~on or before January 15th of each year~~ to any board that has failed to report pursuant to section ~~12005~~ 12005-A. ~~If the board fails to file the report within 30 days from the date the notice is sent, the board shall be deemed to be unwilling to disclose information vital to the public interest and necessary to determine whether the board serves the public health, safety or welfare.~~

A. ~~If the board fails to respond as provided in this subsection, the Commissioner of Finance shall immediately notify the joint standing committee of the Legislature having jurisdiction over the operations of State Government of the board's failure to comply with the provisions of this chapter.~~

~~B. If the board fails to report within 6 months from the reporting date specified in section 12005, the board shall be deemed unwilling to fulfill a public purpose and shall be abolished. The Commissioner of Finance shall notify the board in writing that its authority is repealed and the board is abolished. The commissioner shall notify the joint standing committee of the Legislature having jurisdiction over State Government that the board is abolished.~~

**2. Legislative repeal of inactive boards.** The Secretary of State shall submit legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before March 2nd in the first regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A during either of the prior 2 calendar years.

**Sec. 3. 5 MRSA §12009, sub-§2,** as enacted by PL 1987, c. 786, §8, is amended to read:

**2. Report of board activities.** The Secretary of State, by January 30th of each year, shall submit a report to the Governor and the joint standing committee of the Legislature having jurisdiction over state and local government. This report, at a minimum, ~~shall~~ **must** include the following information with respect to boards in the previous calendar year:

- A. The average meeting length of each board;
- B. The number of meetings of each board;
- C. The total compensation paid to each board;
- D. The total amount of expenses reimbursed to each board; and
- E. The average rate of attendance for each board.

This report must also include a list of all boards that have failed to report as required in section 12005-A and from whom the Secretary of State is seeking a report. This report must also include a list of boards that have sought an exemption from the reporting or other requirement of this chapter.

**Sec. 4. 5 MRSA §12011,** as enacted by PL 1983, c. 814, is amended to read:

**§12011. Duty of Secretary of State**

The Secretary of State shall compile and maintain a current list of all boards in State Government, including the name of the board, the names of its members, positions in State Government held by any member, any vacancies, the date of the board's last reported meeting, its most recent reported expenditures on members' com-

pensation and expenses and what other information he ~~deems~~ the Secretary of State determines necessary. The list compiled under this section must at a minimum include all of the boards listed in this chapter.

**Sec. 5. Boards not listed in the Maine Revised Statutes, Title 5.** The Revisor of Statutes and the Secretary of State shall review the Maine Revised Statutes to locate any statutory board for which there is not a reference in the Title 5 inventory of boards, sections 12004-A to 12004-L. These parties must submit legislation incorporating the appropriate references to the joint standing committee of the Legislature having jurisdiction over state government matters before January 15, 1993.

**Sec. 6. Review of nonstatutory boards.** On or before January 15, 1993, the Governor shall complete a review of all boards and commissions created by executive order or by informal action of state agency commissioners or other state officials for possible consolidation or elimination. In conducting this review, the Governor shall employ the criteria enumerated in this Act.

The Governor shall explore the possibility of developing joint ventures with private foundations for the establishment of independent advisory bodies that reflect a broad spectrum of expertise, interests and opinions, provide independent sources of advice and information for the executive and legislative branches and attract private funding for special research and public education programs. The Governor shall note in the report when such groups could fulfill functions now performed by state advisory boards and commissions.

The Governor shall report, in writing, on the results of this review to the joint standing committee of the Legislature having jurisdiction over state and local government matters on or before January 15, 1993.

**Sec. 7. Review of occupational and professional licensing boards.** The Commissioner of Professional and Financial Regulation shall conduct an assessment of the potential for consolidating or eliminating any of the occupational and professional regulatory boards within that department's jurisdiction including those listed in the Maine Revised Statutes, Title 5, section 12004-A. In conducting this assessment, the commissioner shall consider the criteria established under Title 5, section 12015, subsection 3 and any other factors the commissioner considers relevant. The commissioner shall submit any recommendations together with any necessary implementing legislation by January 15, 1993 to be reviewed and acted on by the appropriate joint standing committees of the Legislature.

**Sec. 8. Legislative review of statutory advisory boards.** The Secretary of State shall submit legislation calling for the repeal of those advisory boards and commissions listed in the Maine Revised Statutes, Title

5, sections 12004-I and 12004-J and any other advisory boards and commissions not listed in those sections whose responsibilities are comparable to the listed boards and commissions. The Secretary of State, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall group the repeal provisions for the advisory boards and commissions into separate pieces of legislation so as to allow review of each piece of legislation by the appropriate joint standing committee of the Legislature.

In considering legislation submitted by the Secretary of State under this Act, on direction of the Legislative Council, each joint standing committee of the Legislature shall consider the following questions in evaluating the advisory boards contained in that legislation:

A. Is the area of an agency's responsibility sufficiently important or controversial to require a formal advisory function through a statutorily created board as a matter of good government?

B. Is the independence of such an advisory board of sufficient importance to warrant the provision of independent staff to the board?

C. Is the board required by federal law?

D. If the board was intended as a source of expertise or public input during the start-up of a new program and the program is implemented, is the board still necessary?

E. Is it likely that an agency will obtain adequate public input and access to special expertise through other channels, thus obviating the need for the board? The flexibility of an informal group must be balanced with the possibility that agencies being advised may be disinclined or otherwise less likely to heed dissenting opinions coming from an informal group.

F. Does the board undertake actions or have responsibilities that duplicate those of an agency or that violate sound management principles?

G. Can one board assume the responsibilities and authority of one or more other boards that are duplicate or overlap its own?

H. Can qualified board members be recruited on a regular basis?

I. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings and level of member attendance must be considered.

J. Is the compensation policy established under the Maine Revised Statutes, Title 5, section 12003-A, subsection 2 being appropriately applied?

K. Should the board in question be formally established to ensure the procedural safeguards of the State's freedom of access laws regarding notice and public access to meetings and documents?

The joint standing committees shall obtain and review all reports issued by the joint standing committee of the Legislature having jurisdiction over audit and program review matters issued during the past 5 years that address the advisory boards under review and shall forward a copy of their findings and recommendations to the Legislative Council.

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

Effective April 9, 1992.

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## CHAPTER 845

S.P. 916 - L.D. 2353

### An Act to Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections

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

**Sec. 1. 17-A MRSA §755, sub-§1-B** is enacted to read:

1-B. A person is guilty of escape from supervised community confinement granted pursuant to Title 34-A, section 3036-A if without official permission that person intentionally fails to appear for work or school or for a meeting with that person's supervising officer or who intentionally fails to return to the correctional facility from which transfer was made upon the direction of the Commissioner of Corrections or who otherwise intentionally violates a curfew, residence, time or travel restriction.

**Sec. 2. 17-A MRSA §755, sub-§3-A,** as amended by PL 1985, c. 821, §2, is further amended to read:

**3-A.** Prosecution for escape or attempted escape from any institution included in subsection 3 ~~shall~~ **must** be in the county in which the institution is located. Prosecution for escape or attempted escape of a person who has been transferred from one institution to another ~~shall~~ **must** be in the county in which the institution the person was either transferred from or transferred to is located. Prosecution for an escape or attempted escape for failure to return to official custody following temporary leave granted for a specific purpose or a limited period ~~shall~~ **must** be in the county in which the institution from which the leave was granted is located or in any county to which