

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

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ONE HUNDRED AND SIXTEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 157

S.P. 287 - L.D. 857

**An Act Requiring School Suspension or Expulsion
in Cases Involving Dangerous or
Concealed Weapons**

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

Sec. 1. 20-A MRSA §1001, sub-§9, as amended
by PL 1989, c. 708, §1, is repealed and the following
enacted in its place:

9. Students expelled or suspended. Following a
proper investigation of a student’s behavior and due pro-
cess proceedings, if found necessary for the peace and
usefulness of the school, they shall expel any student:

A. Who is deliberately disobedient or deliberately
disorderly;

B. For infractions of violence;

C. Who possesses on school property a firearm as
defined in Title 17-A, section 2, subsection 12-A
without permission of a school official;

D. Who, with use of any other dangerous weapon
as defined in Title 17-A, section 2, subsection 9,
paragraph A, intentionally or knowingly causes in-
jury or accompanies use of a weapon with a threat
to cause injury; or

E. Who possesses, furnishes or trafficks in any
scheduled drug as defined in Title 17-A, chapter
45.

A student may be readmitted on satisfactory evidence
that the behavior that was the cause of the student being
expelled will not likely recur. The school board may
authorize the principal to suspend students up to a maxi-
mum of 10 days for infractions of school rules. In addi-
tion to other powers and duties under this subsection,
the school board may develop a policy requiring a stu-
dent who is in violation of school substance abuse or
possession rules to participate in substance abuse ser-
vices as provided in section 6606.

See title page for effective date.

CHAPTER 158

H.P. 565 - L.D. 762

**An Act to Improve Child Care Services
in the State**

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

Sec. 1. 5 MRSA §12004-I, sub-§35-B is en-
acted to read:

<u>35-B.</u>	<u>Child Care</u>	<u>Not</u>	<u>22 MRSA</u>
<u>Human</u>	<u>Advisory</u>	<u>Authorized</u>	<u>§3739</u>
<u>Services</u>	<u>Council</u>		

Sec. 2. 22 MRSA c. 1052-A is enacted to read:

CHAPTER 1052-A

CHILD CARE SERVICES

§3731. Definitions

As used in this chapter, unless the context other-
wise indicates or unless they are inconsistent with feder-
al law, the following terms have the following meanings.

1. Child care. “Child care” means a regular ser-
vice of care and protection provided for compensation
for any part of a day less than 24 hours to a child or
children under 16 years of age whose parents work out-
side the home, attend an educational program or are
otherwise unable to care for their children. “Child care”
also means administrative functions related to the deliv-
ery of child care services, including, but not limited to,
contract management, voucher administration, licensing,
training, technical assistance and referral.

2. Council. “Council” means the Child Care Ad-
visory Council established pursuant to Title 5, section
12004-I, subsection 35-B.

3. Office. “Office” means the Office of Child
Care Coordination established pursuant to section 3740.

4. Region. “Region” means a service delivery re-
gion established pursuant to section 6-A.

§3732. Principles of child care system

The department shall allocate resources available
under this chapter in a manner that promotes the follow-
ing principles.

1. Family self-sufficiency. A stable source of child
care is a critical ingredient to economic self-sufficiency.
Child care policies and programs must facilitate a smooth
transition into the work force for parents and a rich and
stable environment for children.

2. Investment in children. Child care is a critical
investment that affects a child’s readiness to learn.
High-quality child care programs recognize and imple-
ment good, early childhood practices, as articulated by
Head Start, the National Association for the Education
of Young Children and other early childhood organiza-
tions.

3. Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.

4. Accessibility. High-quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.

5. Affordability. High-quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.

6. Diversity. It is the goal of the State to strive wherever possible to provide child care in an integrated setting, where children with various needs and of various income levels and cultures are cared for together.

7. Efficient, coordinated administration. Child care programs must be coordinated to ensure the most effective use of federal and state funds.

8. Support for infrastructure. State child care agencies and policies must support the orderly development of a high-quality child care system.

§3733. Designated agency

To the extent permitted by federal law, the department shall coordinate and administer all available federal and state child care funds, including, but not limited to, those available under the federal Social Security Act, Title IV, Part A and Title XX; the federal Family Support Act of 1988; the federal Omnibus Budget Reconciliation Act of 1990, Section 5081; and the federal Child Care and Development Block Grant Act of 1990.

§3734. Use of federal funds

The department shall seek the advice of the council when applying or reapplying for federal funds under this chapter and when submitting state plans, amendments to state plans or waivers for federal approval. Whenever the department makes these submissions to the Federal Government, it shall notify the joint standing committee of the Legislature having jurisdiction over human resource matters and the Executive Director of the Legislative Council.

The following additional provisions apply to certain federal child care funds, as indicated.

1. Used to supplement state funds. Federal child care funds must be used to supplement and may not replace existing state and local child care funds.

2. Block grant funds encumbered. Within 6 months of receiving any payment under the federal Child Care

and Development Block Grant Program, the department shall expend or encumber 100% of the payment.

§3735. Child care for ASPIRE-JOBS participants

The department shall ensure that all persons referred for participation in the State's ASPIRE-JOBS program receive information regarding child care options from caseworkers who are knowledgeable about the range of child care subsidies available in this State and who can explain the relative advantages of each option. This may be done directly by the department or by the department's designee.

§3736. Eligibility

1. Single application form. By October 1, 1993, the department shall develop a universal application for all publicly funded child care programs for applicants who are seeking child care as their primary service. By January 1, 1994, the department shall require all caseworkers and contractors to use the form to determine eligibility for those applicants. Applicants submitting applications to more than one caseworker or contractor may submit photocopies.

2. Eligibility decision within 30 days. The department shall determine eligibility for child care programs administered under this chapter within 30 days of receiving an application. If a contractor determines eligibility, the department shall require that the contractor determine eligibility within 30 days of receiving an application.

§3737. Payments to providers

1. No payments to recipients. The department may not make cash payments to recipients for child care services provided under this chapter, except when those payments represent reimbursement for services already provided to the recipient.

2. Maintenance of existing options. The department shall ensure that child care funds are distributed through a range of mechanisms, including, but not limited to, vouchers to recipients and contracts to providers.

3. Quality differential. To the extent permitted by federal law, the department may pay a differential rate for child care services that meet nationally recognized quality standards, such as those standards required by the Head Start program or required for accreditation by the National Association for the Education of Young Children, and shall do so from the Child Care and Development Block Grant 25% Quality Set-aside funds or by other acceptable federal practices.

§3738. Resource development centers

The department shall fund at least the 10 resource development centers that existed on January 1, 1993 or

their successors. Resource development centers are responsible for the local coordination of application gathering and dissemination of information to the public.

This section is repealed on June 30, 1994.

§3739. Child Care Advisory Council

1. Purpose. The Child Care Advisory Council is established, in accordance with Title 5, section 12004-I, subsection 35-B, to advise the Legislature and the department regarding child care services in the State. The council shall encourage the development of child care policies that are coordinated among state agencies to promote quality, uniformity and efficiency of service.

2. Membership. The council has 25 members, appointed as follows:

A. One employee of the Bureau of Income Maintenance who is responsible for child care services, appointed by the commissioner;

B. Two employees of the Bureau of Child and Family Services who are responsible for child care services, appointed by the commissioner;

C. One employee of the Department of Mental Health and Mental Retardation, Bureau of Children with Special Needs, appointed by the Commissioner of Mental Health and Mental Retardation;

D. One employee of the Department of Education, appointed by the Commissioner of Education;

E. One employee who coordinates the state Head Start program, appointed by the commissioner;

F. The State Fire Marshal or the State Fire Marshal's designee;

G. One employee of the Office of Substance Abuse, appointed by the Director of the Office of Substance Abuse;

H. One employee of the Department of Economic and Community Development, appointed by the Commissioner of Economic and Community Development;

I. One member of the Senate, appointed by the President of the Senate;

J. Two members of the House of Representatives, at least one of whom must be from the minority party, appointed by the Speaker of the House of Representatives;

K. One parent or other consumer who receives a child care subsidy at the time of that parent's or consumer's appointment, appointed by the Governor;

L. One parent or other consumer of child care services who does not receive a child care subsidy, appointed by the Governor;

M. One business representative nominated by the Maine Chamber of Commerce and Industry, appointed by the Governor;

N. One center-based care representative nominated by the Maine Child Care Directors' Association, appointed by the Governor;

O. One Head Start provider nominated by the Maine Head Start Directors' Association, appointed by the Governor;

P. One family day-care provider nominated by the Maine Family Day Care Association, appointed by the Governor;

Q. One person representing Native Americans, appointed by the Governor;

R. One child care provider who does not receive public funds, appointed by the Governor;

S. One person associated with a local preschool handicapped project coordination site, appointed by the Governor;

T. One person nominated by the Coalition for Maine's Children, appointed by the Governor;

U. One person nominated by the Maine Association of Child Care Resource and Referral Agencies, appointed by the Governor;

V. One representative of women nominated by the Maine Women's Lobby, appointed by the Governor; and

W. One provider of child care for school-age children, appointed by the Governor.

Senators and members of the House of Representatives serve for the duration of the legislative terms that they are serving when appointed. Members from state departments serve at the pleasure of their appointing authorities. All other members serve 3-year terms and may continue to serve beyond their terms until their successors are appointed but may not be appointed to subsequent consecutive terms. If a vacancy occurs before a term has expired, the vacancy must be filled for the remainder of the unexpired term by the authority who made

the original appointment. If a member is absent for 2 consecutive meetings and has not been excused by the chair from either meeting, the council may remove the member by majority vote. If a nominating organization does not submit nominations within a reasonable period of time, the appointing authority may fill that organization's seat with a member of the public at large.

3. Meetings; chair. The commissioner shall call the first meeting of the council by October 15, 1993. At the first meeting, the council shall select by majority vote a chair from among its members to serve a term of one year. A chair may be reelected to subsequent terms. The chair shall call subsequent meetings. The council may meet as often as funding permits, but must meet at least 4 times per year.

4. Powers. The council must have access to all departmental records regarding child care programs administered under this chapter, except that the council may not have access to information that identifies individuals who receive assistance under this chapter.

5. Duties. The council shall:

A. Advise the department and the Legislature regarding the coordination of child care services in the State;

B. Advise the department regarding the preparation of any application, amendment, waiver request, plan or other document submitted by the department to the Federal Government regarding child care funding and recommend changes to the submission when appropriate;

C. Establish a subcommittee that includes licensing officials, public health and safety representatives, early childhood educators and others considered necessary by the council to review the current system of licensing and registration and recommend a uniform regulatory system for family day-care homes. In its first annual report, the council shall submit its recommendations, along with implementing legislation, if needed, to the joint standing committee of the Legislature having jurisdiction over human resource matters;

D. Examine the role and funding of resource development centers and submit recommendations regarding the number and role of the centers in the State. These recommendations must be made in the council's first or 2nd annual report;

E. Determine how the State can better use child care funds available under the federal Social Security Act, Title IV, Part A, particularly those funds available through the federal Transitional Child Care Program, and develop a proposal to use federal and state funds to supplement the earned in-

come disregard for families receiving aid to families with dependent children;

F. Explore ways in which child care services may be better integrated into a system of comprehensive services for children and families; and

G. Examine any other relevant child care issues and make recommendations as needed. The council may establish ad hoc subcommittees as needed.

6. Report. By January 15th, the council shall submit an annual report to the commissioner and the joint standing committee of the Legislature having jurisdiction over human resource matters. The report must describe the council's activities for the year regarding its duties specified in subsection 5 and must outline policy changes recommended by the council, along with necessary implementing legislation.

7. Staff. The office shall provide staff and office supplies to the council within the office's existing resources. The council may refuse these services and supplies and may accept and expend private funds to carry out its duties under this chapter.

§3740. Office of Child Care Coordination

1. Establishment. The Office of Child Care Coordination is established within the Bureau of Child and Family Services.

2. Powers and duties. The office has the following powers and duties:

A. Maintain an inventory of child care information;

B. Provide public education on becoming better consumers of child care;

C. Provide staffing assistance to the council;

D. Coordinate an ongoing review of all child care licensing rules;

E. Provide technical assistance to public and private sector employers, school systems and community groups concerning child care, flexible benefits and work schedules;

F. Coordinate the development of a training system for child care providers;

G. Develop incentives for employer involvement in child care; and

H. Promote cooperative relationships between public health organizations and child care programs.

Sec. 3. 22 MRSA §5311, as amended by PL 1989, c. 400, §§12 and 14, is repealed.

Sec. 4. 22 MRSA §8304, as amended by PL 1989, c. 502, Pt. A, §86, is repealed.

Sec. 5. 22 MRSA §8304-A is enacted to read:

§8304-A. Fire safety

1. Inspection required. As an ongoing condition of licensure or registration, the Office of the State Fire Marshal must provide annually to the department a written statement that the day-care facility complies with applicable fire safety rules adopted pursuant to Title 25, section 2452. The Commissioner of Public Safety shall adopt rules in accordance with the Maine Administrative Procedure Act to implement this subsection. The rules must provide for at least the following.

A. The State Fire Marshal shall issue a fire safety technician certificate to any person who successfully completes a training course established by the Office of the State Fire Marshal. A person who receives a fire safety technician certificate pursuant to this paragraph may perform fire safety inspections under this section.

B. In addition to ongoing certification requirements, inspection and certification are required under this section whenever a day-care facility changes or augments a heating system or makes major structural alterations to the facility.

2. Fees. The department shall establish and pay reasonable fees to the State Fire Marshal for services rendered under this section. Fees collected by the State Fire Marshal under this section must be deposited into a special revenue account to carry out the purposes of this section. A balance remaining in the account at the end of the fiscal year may not lapse but must be carried forward into subsequent fiscal years.

3. Inspectors. The Commissioner of Public Safety may appoint subject to the Civil Service Law employees needed to carry out the purposes of this section. A person appointed pursuant to this subsection is under the administrative and supervisory direction of the State Fire Marshal.

Sec. 6. 22 MRSA §8305, sub-§1, ¶D, as repealed and replaced by PL 1985, c. 358, §1, is repealed.

Sec. 7. 22 MRSA §8305, sub-§1, ¶D-1 is enacted to read:

D-1. The home has met the requirements of section 8304-A;

See title page for effective date.

CHAPTER 159

H.P. 462 - L.D. 599

An Act to Extend the Retirement Incentive Option for Two Years

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

Sec. 1. 5 MRSA §17858, as amended by PL 1991, c. 618, §3 and affected by §7, is further amended to read:

§17858. Retirement incentive option

Any state employee, as defined in section 17001, subsection 40, having reached normal retirement age who retires on or after October 30, 1991 and who is restored to service is not subject, for up to 3 years, to the earnings limitations set forth in section 17855. Any such person is entitled to all benefits that the person was entitled to at the time of termination by collective bargaining agreements or civil service laws and rules. The retired state employee's salary must be ~~80%~~ 70% of the employee's salary at the time of termination. The retired state employee is not a member of the retirement system and therefore may not accrue additional creditable service and is not entitled to any other benefits that accrue to an active member of the retirement system. For any state employee who has reached normal retirement age on or before October 30, 1991, the option established in this section must be selected by the state employee by January 31, 1992. For all other state employees for fiscal year years 1991-92, 1992-93 and 1993-94 only, the option established in this section must be selected by the state employee within 3 months of reaching normal retirement age. For any employee selecting this option after June 30, 1993, the portion of the employer contribution that goes to pay for the unfunded liability, retiree health care and administrative costs must be continued and based on the retired state employee's salary at the time of termination.

Sec. 2. Application. Notwithstanding the Maine Revised Statutes, Title 5, section 17858, a state employee who reached normal retirement age after June 30, 1992 and on or before the effective date of this Act is eligible to elect the retirement incentive option under Title 5, section 17858 within 3 months of the effective date of this Act.

See title page for effective date.
