

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

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

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NON-EMERGENCY LAWS IS

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Augusta, Maine
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

ber of a support team for foster parents, if that team has been reviewed and approved by the department;

Sec. 4. 22 MRSA §4008, sub-§3-A is enacted to read:

3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential.

Sec. 5. 22 MRSA §4021, sub-§1, ¶A, as enacted by PL 1979, c. 733, §18, is amended to read:

A. Issue subpoenas requiring persons to disclose or provide to the department information or records in their possession ~~which~~ that are necessary and relevant to an investigation of a report of suspected abuse or neglect ~~or~~, to a subsequent child protection proceeding or to a panel appointed by the department to review child deaths and serious injuries.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department; and

See title page for effective date.

CHAPTER 295

H.P. 945 - L.D. 1274

An Act to Maintain Confidentiality of Medical Information Reported to the Department of Human Services

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

Sec. 1. 22 MRSA §42, sub-§5 is enacted to read:

5. Confidentiality of records containing certain medical information. Department records that contain personally identifying medical information that are created or obtained in connection with the department's public health activities or programs are confidential. These records include, but are not limited to, information on genetic, communicable, occupational or environ-

mental disease entities, and information gathered from public health nurse activities, or any program for which the department collects personally identifying medical information.

The department's confidential records may not be open to public inspection, are not public records for purposes of Title 1, chapter 13, subchapter I and may not be examined in any judicial, executive, legislative or other proceeding as to the existence or content of any individual's records obtained by the department.

Exceptions to this subsection include release of medical and epidemiologic information in such a manner that an individual can not be identified; disclosures that are necessary to carry out the provisions of chapter 250; disclosures made upon written authorization by the subject of the record; and disclosures that are specifically provided for by statute or by departmental rule.

See title page for effective date.

CHAPTER 296

H.P. 936 - L.D. 1259

An Act to Amend the Natural Resources Protection Laws

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

Whereas, the Department of Environmental Protection has on file dredge spoils test results; and

Whereas, this Act eliminates the requirement that an applicant wait one year after filing the results of these tests before an applicant may apply for a dredge spoils permit; and

Whereas, applicants will be able to apply for a permit immediately; 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. 38 MRSA §480-B, sub-§10, as amended by PL 1991, c. 693, §1, is further amended to read:

10. Significant wildlife habitat. "Significant wildlife habitat" means the following areas to the extent that they have been mapped by the Department of Inland

Fisheries and Wildlife or ~~entered into the state geographic information system pursuant to section 546-B~~ are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

Sec. 2. 38 MRSA §480-D, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §72, is further amended to read:

3. Harm to habitats; fisheries. The activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

In determining whether there is unreasonable harm to significant wildlife habitat, the department may consider proposed mitigation if that mitigation does not diminish in the vicinity of the proposed activity the overall value of significant wildlife habitat and species utilization of the habitat and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity. For purposes of this subsection, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

- A. Avoiding an impact altogether by not taking a certain action or parts of an action;
- B. Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;
- C. Rectifying an impact by repairing, rehabilitating or restoring the affected environment;
- D. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or
- E. Compensating for an impact by replacing the affected significant wildlife habitat.

Sec. 3. 38 MRSA §480-E, sub-§3, ¶A, as enacted by PL 1989, c. 656, §4, is amended to read:

A. The applicant has collected and tested the dredge spoils in accordance with a protocol approved by the commissioner. ~~The collection, testing and forwarding of the results of the tests to the commissioner must occur within one year before the submission of a completed application.~~

Sec. 4. 38 MRSA §480-Q, sub-§11, as amended by PL 1991, c. 240, §2, is further amended to read:

11. Soil evaluation. Borings taken to evaluate soil conditions in or adjacent to a great pond, river, stream or brook, coastal wetland, freshwater wetland or sand dune are exempt from the provisions of this article provided that no area of wetland vegetation is destroyed or permanently removed; ~~and~~

Sec. 5. 38 MRSA §480-Q, sub-§12, ¶E, as enacted by PL 1991, c. 240, §3, is amended to read:

E. A notice of intent to maintain, repair or reconstruct the access way and the description of the work to be completed are submitted to the commissioner and to the municipal reviewing authority at least 20 days before the work is performed; ~~and~~

Sec. 6. 38 MRSA §480-Q, sub-§13 is enacted to read:

13. Subsurface wastewater disposal systems. Installation, removal or repair of a subsurface wastewater disposal system, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services under Title 22, section 42, subsection 3.

Sec. 7. Effective date. Section 6 of this Act takes effect on March 1, 1994.

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

Effective June 9, 1993, unless otherwise indicated.

CHAPTER 297

H.P. 1057 - L.D. 1409

An Act to Amend Certain Motor Vehicle Laws

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

Whereas, Maine's participation in the International Registration Plan is required by the Federal Government; and