

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

**Sec. 11. 5 MRSA §18505**, as amended by PL 1991, c. 887, §13, is further amended to read:

**§18505. Computation of benefit**

Until July 1, ~~1994~~ 1996, when a member qualified under section 18504 retires, the member is entitled to receive a disability retirement benefit equal to 59% of the member's average final compensation.

**Sec. 12. 5 MRSA §18528**, as amended by PL 1991, c. 887, §16, is further amended to read:

**§18528. Computation of benefit**

Until July 1, ~~1994~~ 1996, when a member qualified under section 18524 retires, after approval for disability retirement by the executive director in accordance with section 18525, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation.

**Sec. 13. 5 MRSA §18542, sub-§§2 and 3**, as enacted by PL 1991, c. 887, §19, are amended to read:

**2. Ordinary disability allowance.** In the case of ordinary disability under such a plan, the disability retirement allowance must be calculated as provided under the plan except that until July 1, ~~1994~~ 1996 the amount of the retirement allowance may not exceed 59% of the member's average final compensation at the time of disability retirement; and

**3. Occupational disability allowance.** In the case of occupational disability under such a plan, the disability retirement allowance is, until July 1, ~~1994~~ 1996, equal to 59% of the member's average final compensation at the time of disability retirement.

**Sec. 14. 5 MRSA §18605, sub-§3** is enacted to read:

**3. Cost-of-living adjustments.** Benefits under this article are subject to adjustment as provided in section 17806.

**Sec. 15. Study and report.** The Maine State Retirement System shall study and analyze the experience of the disability plans amended to meet the requirements of the federal Older Workers Benefit Protection Act. The retirement system shall submit by January 15, 1996 a report to the Governor, the joint standing committee of the Legislature having jurisdiction over aging, retirement and veterans matters, the members of the Legislative Council and the Executive Director of the Legislative Council. The report must compare actual experience under the plans with actuarial assumptions regarding elections and costs of benefits under the new options elected. The report must also identify possible options for

compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

**Sec. 16. Retroactivity.** That part of this Act that amends the Maine Revised Statutes, Title 5, section 17001, subsection 13, paragraph C applies retroactively to July 1, 1993.

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

Effective April 5, 1994

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**CHAPTER 596**

**H.P. 1322 - L.D. 1784**

**An Act to Amend the Laws Regarding Protective Custody**

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

**Sec. 1. 34-B MRSA §3862, sub-§1**, as enacted by PL 1983, c. 459, §7, is amended to read:

**1. Law enforcement officer's power.** If a law enforcement officer has reasonable grounds to believe, based upon ~~his personal observation~~ probable cause, that a person may be mentally ill and that due to ~~his~~ that condition he the person presents a threat of imminent and substantial physical harm to ~~himself~~ that person or to other persons, ~~he~~ the law enforcement officer:

A. May take the person into protective custody; and

B. If the officer does take the person into protective custody, shall deliver the person ~~forth-~~ with immediately for examination by an available licensed physician or licensed clinical psychologist, as provided in section 3863.

This subsection is repealed October 1, 1995.

**Sec. 2. 34-B MRSA §3862, sub-§1-A** is enacted to read:

**1-A. Law enforcement officer's power.** If a law enforcement officer has reasonable grounds to believe, based upon personal observation, that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, the law enforcement officer:

A. May take the person into protective custody; and

B. If the officer does take the person into protective custody, shall deliver the person immediately for examination by an available licensed physician or licensed clinical psychologist, as provided in section 3863.

**Sec. 3. 34-B MRSA §3863, sub-§3,** as amended by PL 1987, c. 736, §53, is further amended to read:

**3. Judicial review.** The application and accompanying certificate ~~shall~~ **must** be reviewed by a Justice of the Superior Court, Judge of the District Court, Judge of Probate or a justice of the peace.

A. If the judge or justice finds the application and accompanying certificate to be regular and in accordance with the law, ~~he~~ the judge or justice shall endorse them.

B. ~~No~~ A person may ~~not~~ be held against ~~his~~ the person's will in the hospital under this section, whether informally admitted under section 3831 or sought to be involuntarily admitted under this section, unless the application and certificate have been endorsed by a judge or justice, except that a person for whom an examiner has executed the certificate under subsection 2 may be detained in a hospital for a reasonable period of time, not to exceed 18 hours, pending endorsement by a judge or justice, if:

(1) For a person informally admitted under section 3831, the chief administrative officer of the hospital undertakes to secure the endorsement ~~forthwith~~ immediately upon execution of the certificate by the examiner; and

(2) For a person sought to be involuntarily admitted under this section, the person or persons transporting ~~him~~ the person sought to be involuntarily admitted to the hospital undertake to secure the endorsement ~~forthwith~~ immediately upon execution of the certificate by the examiner.

C. Notwithstanding paragraph B, subparagraphs (1) and (2), a person sought to be admitted informally under section 3831 or involuntarily under this section may be held for evaluation and treatment at a hospital pending judicial endorsement of the application and certificate if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m. . This paragraph is repealed October 1, 1995.

**Sec. 4. Effective date.** Section 2 of this Act takes effect October 1, 1995.

See title page for effective date, unless otherwise indicated.

**CHAPTER 597**

**H.P. 1401 - L.D. 1910**

**An Act to Amend the Laws Governing Refuse Disposal Districts**

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

**Sec. 1. 38 MRSA §1724, sub-§1,** as amended by PL 1993, c. 11, §1, is further amended to read:

**1. Authorization.** All of the affairs of a disposal district must be managed by an appointed board of directors that consists of not less than 3 directors. The exact number of directors must be determined in accordance with section 1721. Each director is entitled to the number of votes that corresponds to the level of population in that director's municipality as set forth in the following table, unless an alternative method of apportioning votes is approved by a majority vote of the municipal officers representing each member of the disposal district prior to or at the time of formation.

Population	No. of Votes
0 - 1,000	1
1,001 - 2,500	2
2,501 - 5,000	3
5,001 - 10,000	4
10,001 - 15,000	5
15,001 - 25,000	6
25,001 - 35,000	7
35,001 - 50,000	8
50,001 - 65,000	9
65,001 and over	10

A director may not split votes. In the event a municipality has more than one director, directors from that municipality shall share equally the number of votes for that municipality. A determination of population must be made based upon the latest official Decennial Census of the United States by the United States