

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.

J.S. McCarthy Company
Augusta, Maine
1993

parte order, the court may hold an expedited hearing pursuant to subsection (b).

(e) If an appointed conservator is not effectively performing that conservator's duties and the court finds that an emergency exists that requires the appointment of a temporary successor conservator in order to preserve and apply the property of the protected person for the protected person's benefit or the benefit of the protected person's dependents, it may appoint, with or without notice, a temporary successor conservator for the protected person for a specified period not to exceed 6 months.

(f) A temporary conservator has all the powers of a permanent conservator provided in this code, unless expressly limited by the court. A temporary successor conservator has the same powers as the previously appointed conservator, unless the court indicates otherwise in the letters of appointment. The authority of a previously appointed conservator is suspended as long as the temporary conservator has authority. A temporary conservator may be removed at any time. A temporary conservator shall account to the court at the termination of the temporary conservatorship.

Sec. 8. 22 MRSA §3481, sub-§2, as enacted by PL 1981, c. 527, §2, is amended to read:

2. Consent refused. When a private guardian or conservator of an incapacitated adult who consents to the receipt of protective services refuses to allow those services to be provided to the incapacitated adult, the department may petition the Probate Court for removal of the guardian pursuant to Title 18-A, section 5-307, or for removal of the conservator pursuant to Title 18-A, section 5-415. When a caretaker or guardian of an incapacitated adult who consents to the receipt of protective services refuses to allow those services to be provided to the incapacitated adult, the department may petition the Probate Court for temporary guardianship pursuant pursuant to Title 18-A, section ~~5-310~~ 5-310-A or for a protective arrangement pursuant to Title 18-A, section 5-409.

Sec. 9. 22 MRSA §3483, sub-§1, as enacted by PL 1981, c. 527, §2, is amended to read:

1. Action. When the court has exercised the power of a guardian or has appointed the department temporary guardian pursuant to Title 18-A, section ~~5-310~~ 5-310-A, and the ward or a caretaker refuses to relinquish care and custody to the court or to the department, then at the request of the department, a law enforcement officer may take any necessary and reasonable action to obtain physical custody of the ward for the department. Necessary and reasonable action may include entering public or private property

with a warrant based on probable cause to believe that the ward is there.

See title page for effective date.

CHAPTER 653

H.P. 1476 - L.D. 2004

An Act to Revise the Salaries of Certain County Officers

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, it has become necessary to revise the salaries of certain county officials; and

Whereas, it is desired to have these revisions retroactive to January 1, 1994; 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. 30-A MRSA §2, sub-§1, as amended by PL 1993, c. 349, §63 and repealed and replaced by c. 408, §1, is repealed.

Sec. 2. 30-A MRSA §2, sub-§1-B is enacted to read:

1-B. County officers' salaries. Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 702 are not required to obtain legislative approval of the salaries of county officers under this section. The county commissioners, treasurers, sheriffs, judges of probate, registers of probate and registers of deeds in those counties whose budgets require legislative approval under section 702 are entitled to receive in weekly, biweekly or monthly

payments annual salaries from the county treasury as follows:

	<u>1993</u>	<u>1994</u>			
<u>A. Androscoggin County:</u>			<u>(3) Sheriff</u>	<u>32,944</u>	<u>37,000</u>
<u>(1) Commis-</u>			<u>(4) Judge of</u>		
<u>sioners</u>			<u>Probate</u>	<u>21,754</u>	<u>22,729</u>
<u>(a) Chair</u>	<u>\$6,346</u>	<u>\$6,536</u>	<u>(5) Register of</u>		
<u>(b) Mem-</u>			<u>Probate</u>	<u>22,290</u>	<u>23,299</u>
<u>bers</u>	<u>5,432</u>	<u>5,595</u>	<u>(6) Register of</u>		
<u>(2) Treasurer</u>	<u>20,396</u>	<u>21,007</u>	<u>Deeds</u>	<u>20,386</u>	<u>21,500</u>
<u>(3) Sheriff</u>	<u>27,141</u>	<u>30,955</u>	<u>E. Piscataquis</u>		
<u>(4) Judge of</u>			<u>County:</u>		
<u>Probate</u>	<u>12,319</u>	<u>12,689</u>	<u>(1) Commis-</u>		
<u>(5) Register of</u>			<u>sioners</u>		
<u>Probate</u>	<u>10,400</u>	<u>10,712</u>	<u>(a) Chair</u>	<u>\$6,090</u>	<u>\$6,090</u>
<u>(6) Register of</u>			<u>(b) Mem-</u>		
<u>Deeds</u>	<u>23,782</u>	<u>27,495</u>	<u>bers</u>	<u>5,250</u>	<u>5,250</u>
<u>C. Kennebec County:</u>			<u>(2) Treasurer</u>	<u>6,930</u>	<u>6,930</u>
<u>(1) Commis-</u>			<u>(3) Sheriff</u>	<u>29,400</u>	<u>29,400</u>
<u>sioners</u>			<u>(4) Judge of</u>		
<u>(a) Chair</u>	<u>\$7,152</u>	<u>\$7,152</u>	<u>Probate</u>	<u>14,516</u>	<u>14,516</u>
<u>(b) Mem-</u>			<u>(5) Register of</u>		
<u>bers</u>	<u>6,744</u>	<u>6,744</u>	<u>Probate</u>	<u>17,102</u>	<u>17,102</u>
<u>(2) Treasurer</u>	<u>9,177</u>	<u>9,452</u>	<u>(6) Register of</u>		
<u>(3) Sheriff</u>	<u>33,200</u>	<u>34,196</u>	<u>Deeds</u>	<u>18,900</u>	<u>18,900</u>
<u>(4) Judge of</u>			<u>F. Somerset County:</u>		
<u>Probate</u>	<u>17,000</u>	<u>17,510</u>	<u>(1) Commis-</u>		
<u>(5) Register of</u>			<u>sioners</u>		
<u>Probate</u>	<u>22,360</u>	<u>23,030</u>	<u>(a) Chair</u>	<u>\$5,302</u>	<u>\$5,461</u>
<u>(6) Register of</u>			<u>(b) Mem-</u>		
<u>Deeds</u>	<u>23,400</u>	<u>24,102</u>	<u>bers</u>	<u>4,560</u>	<u>4,697</u>
<u>D. Penobscot County:</u>			<u>(2) Treasurer</u>	<u>11,284</u>	<u>11,623</u>
<u>(1) Commis-</u>			<u>(3) Sheriff</u>	<u>32,410</u>	<u>33,382</u>
<u>sioners</u>			<u>(4) Judge of</u>		
<u>(a) Chair</u>	<u>\$8,128</u>	<u>\$8,496</u>	<u>Probate</u>	<u>18,244</u>	<u>18,791</u>
<u>(b) Mem-</u>			<u>(5) Register of</u>		
<u>bers</u>	<u>7,759</u>	<u>8,109</u>	<u>Probate</u>	<u>19,253</u>	<u>19,831</u>
<u>(2) Treasurer</u>	<u>3,536</u>	<u>3,848</u>	<u>(6) Register of</u>		
			<u>Deeds</u>	<u>19,778</u>	<u>20,371</u>
			<u>N. York County:</u>		
			<u>(1) Commis-</u>		
			<u>sioners</u>		
			<u>(a) Chair</u>	<u>\$4,957</u>	<u>\$5,056</u>

<u>(b) Mem-</u> <u>bers</u>	<u>4,957</u>	<u>5,056</u>
<u>(2) Treasurer</u>	<u>5,724</u>	<u>5,838</u>
<u>(3) Sheriff</u>	<u>31,110</u>	<u>31,110</u>
<u>(4) Judge of</u> <u>Probate</u>	<u>13,770</u>	<u>14,320</u>
<u>(5) Register of</u> <u>Probate</u>	<u>22,032</u>	<u>22,583</u>
<u>(6) Register of</u> <u>Deeds</u>	<u>22,032</u>	<u>22,583</u>

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved and applies retroactively to January 1, 1994.

Effective April 8, 1994.

CHAPTER 654

S.P. 471 - L.D. 1463

An Act to Permit Collection of Public Assistance Overpayments by Administrative Process

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

Sec. 1. 22 MRSA c. 1055-A is enacted to read:

CHAPTER 1055-A

COLLECTION OF OVERPAYMENTS

§3811. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Assistance unit. "Assistance unit" means the individuals whose need the department considers when determining whether an applicant or recipient is eligible for program benefits.

2. Obligor. "Obligor" means an individual who receives an overpayment or an adult individual who is a member of an assistance unit that receives an overpayment.

3. Overpayment. "Overpayment" means program benefits that an individual or assistance unit receives that exceed the amount of program benefits for which the individual or assistance unit is eligible when the department or a court has determined that

the benefits were received as a result of an intentional program violation. "Overpayment" includes any overpayment made before or after the effective date of this subsection.

4. Program benefits. "Program benefits" means money payments or food coupons issued by the department pursuant to an application for benefits made by an individual to either Aid to Families with Dependent Children established in chapter 1053 or the food stamp program established in chapter 851.

§3812. Notice to recipient

A notice of overpayment issued by a payor of program benefits must inform the recipient of the collection remedies available under this chapter.

§3813. Notice to repay

1. Repayment. The department may serve a notice to repay upon an individual or other member of an assistance unit that received an overpayment that has not been recouped, repaid or otherwise recovered by the department if the individual or other member of the assistance unit no longer receives benefits from the benefit program that issued the overpayment.

2. Notice. A notice to repay must state the following:

A. The name of the obligor;

B. The amount of the overpayment, when the overpayment was made and when it was established;

C. The name of the benefit program that issued the overpayment;

D. The amount of the overpayment that has not been recouped, repaid or otherwise recovered by the department;

E. That the obligor may contact the department to execute an assignment of earnings or enter into an agreement to repay the overpayment that has not been recouped, repaid or otherwise recovered by the department;

F. That if the amount of the overpayment that has not been recouped, repaid or otherwise recovered by the department is not repaid within 21 days, the department may collect the amount owed by income withholding, may file liens against the obligor's real and personal property for the amount owed and may report the obligor to a consumer credit reporting agency; and

G. That the obligor has the right to request a hearing within 21 days of service of the notice and that if the obligor requests a hearing, col-