

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

LEGISLATURE

**Committee to Study
Organizational and Tax Issues
in Public Schools**

Personal Services	\$4,125
All Other	54,250

Provides funds to the Committee to Study Organizational and Tax Issues in Public Schools for the per diem and expenses of members, to contract for professional services and for miscellaneous committee expenses.

Legislature

All Other	50,000
-----------	--------

Provides for the appropriation of funds to contract with the University of Maine System for research on education issues related to public schools, kindergarten to grade 12 and establishment of an education data base to track long-term developments in education. The University of Maine System shall contribute a like amount from available resources.

LEGISLATURE

TOTAL	\$108,375
--------------	-----------

TOTAL APPROPRIATIONS	\$58,375
-----------------------------	----------

See title page for effective date.

CHAPTER 685

H.P. 1083 - L.D. 1449

**An Act to Make Statutory Changes to
Implement the Recommendations of**

**the Legislature's Total Quality
Management Committee**

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

PART A

Sec. A-1. 3 MRSA §151, as amended by PL 1991, c. 842, §§1 to 3, is repealed.

Sec. A-2. 3 MRSA §151-A, as enacted by PL 1979, c. 1, is repealed.

Sec. A-3. 3 MRSA §152, as enacted by PL 1975, c. 771, §11, is repealed.

Sec. A-4. 3 MRSA §§153 to 159 are enacted to read:

§153. Scope

The nomination and confirmation of all judicial officers whose confirmation by the Legislature is required by the Constitution of Maine and the nomination and confirmation of all other officers whose confirmation by the Legislature is required by law are governed by the provisions of this chapter.

§154. Nominations

The Governor shall, within 20 days after the convening of each legislative session, provide to each joint standing committee of the Legislature a list of all positions for which legislative confirmation is required that are within each committee's jurisdiction and that are vacant or have terms expiring before the convening of the next regular session of the Legislature. The chairs of each joint standing committee and the Governor, or their designees, shall negotiate in good faith to establish a schedule for nominations and consideration of nominations during the session.

When nominating a person to a position for which confirmation is required, the Governor shall post the nomination and simultaneously deliver to both the President of the Senate and the Speaker of the House of Representatives notification of the name of the nominee, the office to which that person is nominated and an information packet, which must include the background information and questionnaire provided to the Office of the Governor by the nominee and may include other information the Governor determines appropriate. The date of the posting and notice is referred to in this chapter as the "posting date."

When the nomination is received, the President of the Senate and the Speaker of the House of Representatives shall provide notice of the nomination and copies of accompanying materials to the chairs of the

appropriate joint standing committee, to the Legislative Information Office and to the partisan staff assistants designated by the majority and minority parties of the Legislature. The Legislative Information Office shall establish an official file for each nominee, which is subject to the provisions of section 159. The file must include the information submitted by the Governor pursuant to this section.

The Governor may withdraw a nomination at any time before the Senate votes pursuant to section 158 by sending a written notice of withdrawal to the President of the Senate.

Notwithstanding the other provisions of this chapter, if the Governor posts a nomination within 30 days preceding the statutory date of adjournment, a legislative committee to whom a nominee is to be referred for confirmation review may, by 2/3 vote, request the President of the Senate and the Speaker of the House of Representatives to delay this review in order to complete the committee's legislative work. If the President of the Senate and the Speaker of the House of Representatives approve the request, the time periods for legislative action under this chapter begin on the date the Legislature adjourns.

§155. Preliminary procedures

The chairs of the appropriate joint standing committee shall:

1. Schedule prehearing conference. Schedule a prehearing conference in cooperation with the Legislative Information Office. The prehearing conference must be held within 21 days of the posting date;

2. Request reports. Request background reports from the partisan staff assistants; and

3. Inform nominee. Advise the nominee of the date of the prehearing conference and the deadline for completion of a questionnaire from the committee and submission of supplemental materials by the nominee. The deadline is 15 days from the posting date unless the 15th day is not a business day, in which case the deadline is the next business day.

§156. Prehearing conference

The appropriate joint standing committee shall hold a prehearing conference for each nominee, unless the committee decides otherwise. If the committee determines that it is necessary to avoid damage to the reputation of the nominee or that there are issues that should be discussed privately, the prehearing conference may go into executive session using the procedures specified in Title 1, section 405, and only the committee members and the partisan staff assistants may attend. All materials prepared for

or reviewed in the conference are not subject to the provisions of Title 1, chapter 13 except as provided in section 159. The prehearing conference is governed by the Joint Rules of the Legislature and by the committee's rules of procedure, except that a quorum of 7 committee members must be present for votes in the prehearing conference. Votes may not be taken in executive session.

The committee shall set a public hearing date.

The committee may ask the partisan staff assistants to prepare additional background information for a public hearing. The chairs shall notify the nominee of all actions taken and decisions made at the prehearing conference.

§157. Public hearings

The public hearing must be held within 30 days of the posting date except for nominations for judicial officers, for which the public hearing must be held within 35 days of the posting date. The Legislative Information Office shall advertise all public hearings at least 7 days before the public hearing in both the state paper and in a newspaper of general circulation in the area in which the nominee resides. The advertisement must contain the name of the nominee, the position for which the nomination has been made, a summary of the duties of the position, the time, place and date of the public hearing and a statement that written comments relevant to the qualifications of the nominee, together with supporting materials, may be filed with the Legislative Information Office by 9 a.m. on the hearing date.

Additional background information developed by the partisan assistants must be filed with the Legislative Information Office by 9 a.m. on the hearing date.

For the purposes of reviewing nominations pursuant to this chapter, the appropriate joint standing committee may administer oaths and take testimony under oath. Notwithstanding the provisions of section 165, subsection 7, the Legislature or, when the Legislature is not in session, the Legislative Council may grant to the joint standing committee reviewing a nomination any of the powers under section 165, subsection 7.

The committee may take testimony under oath and shall consider the materials on file with the Legislative Information Office. The committee may meet in executive session if new information is raised at the public hearing that, if known earlier, would have been subject to discussion at the prehearing conference.

The committee shall vote on the nomination within 35 days of the posting date, except that for

nominations for judicial officers the committee shall vote within 40 days. A vote may not be taken sooner than 15 minutes after the close of the public hearing unless all members of the committee who are present agree. Upon a motion to confirm, properly made and seconded, the committee shall recommend confirmation or denial by a majority vote of the members present and voting at the time the vote is taken. The committee vote is by yeas and nays. Notwithstanding any other rule or provision of law, a member must be present to vote and the vote may not be modified except upon a proper motion for reconsideration.

A tie vote of the committee is deemed a recommendation for denial. The committee chairs shall promptly notify the President of the Senate of the committee's recommendation and the results of the vote, listing the yeas and nays.

§158. Confirmation vote

The Senate shall vote by yeas and nays to accept or reject the recommendation of the appropriate joint standing committee. The Senate shall vote on the committee's recommendation within 45 days of the posting date, except that for judicial officers the vote must be held within 50 days of the posting date. The committee's recommendation becomes final unless it is overridden by a vote of 2/3 of the Senators present and voting.

§159. Confidentiality of records

Records filed with the Legislative Information Office pursuant to this chapter are public records upon filing and are subject to public review pursuant to Title 1, chapter 13.

All documents prepared for or reviewed in the prehearing conference become public records pursuant to Title 1, chapter 13 at the conclusion of the conference unless 2/3 of the committee votes to seal one or more documents. If a document is sealed, it is exempt from public disclosure.

At the close of each legislative session, the Legislative Information Office shall review each official file, removing each sealed document and replacing it with an information sheet generally identifying the sealed document and noting its removal. The Legislative Information Office shall forward the file to the State Archives. The sealed documents must be destroyed.

PART B

Sec. B-1. 12 MRSA §5011, as amended by PL 1989, c. 878, Pt. B, §11, is further amended to read:

§5011. Department; commissioner

There is created and established the Department of Conservation to preserve, protect and enhance the land resources of the State of Maine; to encourage the wise use of the scenic, mineral and forest resources of the State of Maine; and to ensure that coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses is effectively accomplished; and to provide for the effective management of public lands in the State of Maine. The Department of Conservation ~~shall consist~~ consists of a Commissioner of Conservation, ~~hereafter referred to~~ in this Part ~~called as the~~ "commissioner," appointed by the Governor and ~~who shall be~~ subject to review by the ~~Joint Standing Committee on Natural Resources joint standing committee~~ of the Legislature having jurisdiction over energy and natural resources matters and to confirmation by the Legislature, to serve at the pleasure of the Governor; and the following entities as ~~heretofore~~ previously created and or established are incorporated into the Department of Conservation:

1. **Forestry.** Forestry Department;
2. **Parks and recreation.** Parks and Recreation Department;
3. **Forest authority.** Maine Forest Authority;
4. **Mining bureau.** Maine Mining Bureau;
6. **Allagash waterway.** Allagash Wilderness Waterway; and
7. **Land use regulation commission.** Maine Land Use Regulation Commission.

Sec. B-2. 22 MRSA §1, 2nd ¶, as amended by PL 1975, c. 771, §207, is further amended to read:

The department ~~shall be~~ is under the control and supervision of the Commissioner of Human Services, ~~hereinafter referred to~~ in this Title ~~called as the~~ "commissioner," who ~~shall be~~ is appointed by the Governor, subject to review by the ~~Joint Standing Committee on Health and Institutional Services joint standing committee~~ of the Legislature having jurisdiction over human resources matters and to confirmation by the Legislature, and ~~shall serve~~ serves at the pleasure of the Governor.

Sec. B-3. 22 MRSA §1655, as enacted by PL 1979, c. 415, §1, is amended to read:

§1655. Report

The department shall make an annual report to the ~~Joint Standing Committee on Health and Institutional Services joint standing committee~~ of the Legis-

lature having jurisdiction over human resources matters of its findings and recommendations concerning the effectiveness, impact and benefits derived from the special programs as provided for in this chapter. This report ~~shall~~ must be delivered on or before ~~the first day of~~ February 1st and ~~shall~~ must contain evaluations of these special programs and recommendations in final draft form of any legislation ~~deemed~~ determined necessary and proper.

Sec. B-4. 22 MRSA §8106, as enacted by PL 1981, c. 260, §6, is repealed.

Sec. B-5. 32 MRSA §1100-H, as amended by PL 1981, c. 440, §23, is repealed.

See title page for effective date.

CHAPTER 686

S.P. 309 - L.D. 942

An Act to Amend the Adoption Laws

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

Sec. 1. 18-A MRSA §2-109, sub-§(1), as enacted by 1979, c. 540, §1, is amended to read:

(1) An adopted person is the child of an adopting parent and not of the natural parents except that an adopted child ~~will also inherit~~ inherits from the natural parents and their respective kin if the adoption decree so provides, and except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and either natural parent. If a natural parent wishes an adopted child to inherit from the natural parents and their respective kin, the adoption decree must provide for that status;

Sec. 2. 18-A MRSA §5-206, as enacted by PL 1979, c. 540, §1, is amended to read:

§5-206. Court appointment of guardian of minor; qualifications; priority of minor's nominee

The court may appoint as guardian any person whose appointment ~~would be~~ is in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor. The court may not appoint a guardian for a minor child who will be removed from this State for the purpose of adoption.

Sec. 3. 19 MRSA cc. 9 and 10, as amended, are repealed.

Sec. 4. 19 MRSA §1002, sub-§1, as enacted by PL 1991, c. 414, is amended to read:

1. Grandparent. "Grandparent" is the biological or adoptive parent of the child's biological ~~parent~~ or ~~the child's~~ adoptive parent. "Grandparent" does not include the biological or adoptive parent of a child's biological or adoptive parent who consented to adoption under section ~~532~~ 1122 or whose parental rights have been terminated pursuant to section ~~533-A~~ 1114 or Title 22, chapter 1071, subchapter VI.

Sec. 5. 19 MRSA c. 21 is enacted to read:

CHAPTER 21

ADOPTION

SUBCHAPTER I

GENERAL PROVISIONS

§1101. Short title

This chapter may be known and cited as the "Adoption Act."

§1102. Definitions

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

1. Adoptee. "Adoptee" means the person who will be or who has been adopted, regardless of whether the person is a child or an adult.

2. Adoption services. "Adoption services" means services related to adoptions including but not limited to adoptive home studies, search services and adoption counseling services.

3. Adult. "Adult" means a person who is 18 years of age or older.

4. Birth parent. "Birth parent" means a person who is the biological parent of a child.

A. "Birth father" means the male birth parent of a child.

B. "Birth mother" means the female birth parent of a child.

5. Child. "Child" means a person who is under 18 years of age.

6. Consent. "Consent" means a voluntary agreement to an adoption by a specific petitioner, executed by a parent or custodian of the adoptee.