

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

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~~hardship, as determined by the department, on the dependents of the client. Any payments made for the support of the dependents that is required by the Department of Human Services is not available for restitution payments.~~

A-1. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the facility where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care.

B. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this chapter. The facility receiving the prisoner or juvenile ~~must~~ shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

C. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Human Services may not be used for restitution payments.

See title page for effective date.

CHAPTER 198

H.P. 840 - L.D. 1171

An Act to Correct a Fishing Zone Definition Error

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

Sec. 1. 12 MRSA §6749-N, sub-§1, as enacted by PL 1993, c. 740, §3, is amended to read:

1. Zone 1. Zone 1, from April 1st to August 15th. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker ~~W2~~ BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel

marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then running southerly to the TB1 whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

See title page for effective date.

CHAPTER 199

S.P. 109 - L.D. 285

An Act Concerning Placement of Modular Homes

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

Sec. 1. 30-A MRSA §4358, sub-§2, ¶E, as enacted by PL 1993, c. 299, §1, is amended to read:

E. Notwithstanding any other provision of law, any modular home that meets ~~the provisions of the municipality's building code or, in the absence of a municipal building code, the Building Officials and Code Administrators National Code (1990), 11th edition, as published by the Building Officials and Code Administrators International, Incorporated and as subsequently revised and amended,~~ construction standards for state-certified manufactured homes adopted pursuant to Title 10, section 9042 must be allowed in all zones where other single-family homes are allowed.

See title page for effective date.

CHAPTER 200

S.P. 448 - L.D. 1221

An Act to Establish Responsibility for the Investigation of the Use of Deadly Force by Law Enforcement 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.

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

Sec. 1. 5 MRSA §200-A, as amended by PL 1991, c. 841, §3, is further amended by adding at the end a new paragraph to read:

The Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who, while acting in the performance of that law enforcement officer's duties, uses deadly force, as defined in Title 17-A, section 2, subsection 8. Any law enforcement agency whose officer uses deadly force shall notify, as soon as practicable, the Attorney General of the event.

See title page for effective date.

CHAPTER 201

H.P. 891 - L.D. 1244

An Act to Require County and State Inmates to Pay a Health Care Fee

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

Sec. 1. 30-A MRSA §1561, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1561. Medical care and expenses

Any person incarcerated in a county jail has a right to adequate professional medical care, which does not include medical treatment requested by the prisoner that the facility's treating physician determines unnecessary. The county commissioners may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this section and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in subsection 1, every prisoner may be charged a medical or dental services fee for each medical or dental visit and a fee for each prescription, medication or prosthetic device. The facility shall collect the fee. All money received by a county jail under this section is retained by the jail to offset the costs of medical and dental services fees and fees for prescriptions, medication or prosthetic devices.

1. Exemption from fees. A prisoner is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the prisoner:

A. Receives treatment initiated by county jail staff;

B. Is a juvenile;

C. Is pregnant;

D. Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a prisoner who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the prisoner's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;

E. Is an inpatient at a state-funded mental health or mental retardation facility;

F. Is undergoing follow-up treatment;

G. Receives emergency treatment as determined by the county jail's medical or dental staff; or

H. Has less than \$15 in the prisoner's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

2. Civil action for recovery of expenses.

Notwithstanding the other provisions of this section, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a prisoner incarcerated in a facility. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the prisoner may have in real property;

B. Joint ownership, if any, that the prisoner may have in any assets, earnings or other sources of income; and

C. The income, assets, earnings or other property, both real and personal, owned by the prisoner's spouse or family.

Sec. 2. 34-A MRSA §3031, sub-§2, as amended by PL 1991, c. 314, §35, is repealed and the following enacted in its place:

2. Medical care. Adequate professional medical care, which does not include medical treatment requested by the client that the facility's treating physician determines unnecessary. The commissioner may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this subsection and a fee not to exceed \$5