

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

§556. Special motion to dismiss

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. The court shall advance the special motion so that it may be heard and determined with as little delay as possible. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The Attorney General on the Attorney General's behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed may intervene to defend or otherwise support the moving party on the special motion.

All discovery proceedings are stayed upon the filing of the special motion under this section, except that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery remains in effect until notice of entry of the order ruling on the special motion.

The special motion to dismiss may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper.

If the court grants a special motion to dismiss, the court may award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. This section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, "a party's exercise of its right of petition" means any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement

falling within constitutional protection of the right to petition government.

Sec. 2. Application. The provisions of this Act apply to all claims, counterclaims and cross claims that are not fully adjudicated on, or subsequent to, the effective date of this Act. A party may file a special motion to dismiss a claim, counterclaim or cross claim in existence on the effective date of this Act within 60 days of the effective date of this Act.

See title page for effective date.

CHAPTER 414
S.P. 247 - L.D. 644
**An Act to Expand Eligibility for
Benefits under the Adoption
Assistance Program**

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

Whereas, the Adoption Assistance Program was expanded to apply to finalized adoptions in specific situations, effective August 1, 1994, but that portion of the law has been interpreted to apply to only those adoptions finalized on or after August 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. 19 MRSA §1142, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

§1142. Adoption assistance

1. Application. Applications for the Adoption Assistance Program may be submitted by the following persons:

A. Foster parents interested in adopting an eligible child in their care;

B. Other persons interested in adopting an eligible child; and

C. Adoptive parents who were not informed of the program or of facts relevant to the child's eligibility when they adopted a child who was at

the time of adoption eligible for participation in the program.

2. Standards. All applicants for the Adoption Assistance Program must meet department standards for adoption except for financial eligibility.

3. Assistance. Assistance may be provided for special needs only and may be varied based on the special needs of the child. Assistance may be provided for a period of time based on the special needs of the child.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children - Foster Care		
All Other	\$15,221	\$30,442
Provides funds for the increased state share of Adoption Assistance Program costs.		
Child Welfare Services		
All Other	10,368	20,736
Provides funds for the Adoption Assistance Program.		
Purchased Social Services		
All Other	(25,589)	(46,619)
Deappropriates funds as a result of a reduction in funding for family outreach counseling in fiscal year 1995-96 and the elimination of funding for family outreach counseling in fiscal year 1996-97 in order to provide funds for the Adoption Assistance Program.		
Social Services - Regional		
All Other		(4,559)
Deappropriates funds due to a reduction in general operating expenses in order to provide funds for		

the Adoption Assistance Program.

DEPARTMENT OF HUMAN SERVICES	_____	_____
TOTAL	-\$0-	-\$0-

Sec. 3. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children - Foster Care		
All Other	\$26,251	\$52,502
Allocates funds representing the federal share of the increased funding for the Adoption Assistance Program.		

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

Effective July 3, 1995.

CHAPTER 415

S.P. 167 - L.D. 428

An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature

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

Sec. 1. 12 MRSA §7001, sub-§7, as enacted by PL 1979, c. 420, §1, is amended to read:

7. Endangered species. "Endangered species" means any species of fish or wildlife ~~which~~ that has been determined by the Secretary of the Interior of the United States pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, ~~or the commissioner pursuant to this chapter~~ to be in danger of extinction throughout all or a significant portion of its range or listed under section 7753, subsection 3.

Sec. 2. 12 MRSA §7753, as enacted by PL 1979, c. 420, §1, is amended to read: