

# 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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

**2. Penalty.** Unlawful dissemination of a DNA record is a Class E crime.

**Sec. 2. Report to Legislature.** The Commissioner of Public Safety shall collect and evaluate data regarding the DNA data bank and testing processes and report the findings and any recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice and to the Legislature no later than January 1997 or one year after the program is fully operational, whichever is earlier. The report must include information about implementation of DNA testing standards and procedures, the number of tests being performed, federal funding resources utilized, the Maine State Police Crime Laboratory's capabilities and any other relevant information.

See title page for effective date.

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## CHAPTER 458

S.P. 571 - L.D. 1545

### An Act to Update and Clarify the Corporate Laws

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

**Sec. 1. 11 MRSA §9-407, sub-§2,** as amended by PL 1993, c. 616, §3, is further amended to read:

(2) Upon the written request of any person, the filing officer shall issue ~~a certificate of information~~ an information request report, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for ~~certification~~ an information request report is ~~\$10~~ \$5, plus 50¢ for each page of the ~~certificate after the first page report~~. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release for a fee of \$2, plus 50¢ for each page of the copy after the first page.

Notwithstanding this subsection, if the filing officer is a municipal clerk or a register of deeds, issuance of the certificate of information is discretionary.

Upon reasonable request and within the existing ability of the office of the Secretary of State to respond, the filing officer shall furnish to any

municipal clerk, without charge and for municipal purposes only, a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release.

The uniform fee for certification is \$5 for a short-form certificate and \$10 for a specially worded certificate.

**Sec. 2. 13-A MRSA §301, sub-§5,** as amended by PL 1981, c. 544, §2, is further amended to read:

5. Any corporation may grant to any domestic corporation or any foreign corporation authorized to transact business in this State, or to any person, by executing and filing with the Secretary of State, as provided in sections 104 and 106, proof of a resolution of its board of directors making such grant, the exclusive right thereafter to authorize the use of a name similar to that of the granting corporation by any other corporation or corporations, or person for use as a name or as a trade mark or service mark as defined in Title 10, chapter 301-A. Any such resolution ~~shall be is~~ revocable unless by its terms it is irrevocable. ~~No proof~~ Proof of a subsequent resolution by the board of directors of the granting corporation ~~shall~~ may not thereafter be required under subsection 1, paragraph B, until and unless the granting corporation ~~shall~~, in the case of a revocable resolution, ~~revoke~~ revokes the grant by executing and filing in the manner provided under this section proof of a further resolution of its board of directors revoking the grant.

If proof of a resolution is not appropriate, then the Secretary of State may accept without a filing fee a letter from the entity controlling use of the corporation name or mark in this State. The letter must state that a franchise relationship exists and must be dated and signed by an officer. If no franchise relationship exists, then the letter must demonstrate how the corporation attempting to file is affiliated with the controlling entity.

**Sec. 3. 13-A MRSA §303, sub-§2,** as amended by PL 1993, c. 316, §17, is further amended to read:

2. Such registration is made by delivering for filing, in accordance with section 106, an application for registration executed in accordance with section 104, setting forth the name of the corporation, the current principal or registered office, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is actually doing business, ~~and~~ a brief statement of the business in which it is engaged, and a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations.

**Sec. 4. 13-A MRSA §803, sub-§1**, as enacted by PL 1971, c. 439, §1, is amended to read:

1. Prior to the election of the initial directors, if they were not named in the articles of incorporation, or prior to the organizational meeting of the board of directors required by section 407, if the initial directors were named in the articles, the articles of incorporation may be amended by the incorporator or, if there is more than one incorporator, ~~then~~ by 2/3 of the incorporators. If the incorporators do not sign the document, the Secretary of State shall accept the signature of the clerk.

**Sec. 5. 13-A MRSA §1302, sub-§1**, as amended by PL 1993, c. 616, §5, is further amended to read:

1. A corporation required to deliver an annual report for filing as provided by section 1301 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to do business in this State, for suspending domestic corporations. A foreign corporation whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report, together with the current annual filing fee, and by paying the ~~sum~~ reinstatement fee of \$125 for each year the corporation failed to file an annual report. The maximum ~~fee for reinstatement fee~~ may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

**Sec. 6. 13-B MRSA §303, sub-§2**, as amended by PL 1993, c. 316, §37, is further amended to read:

2. **Application.** The registration must be made by delivering for filing, in accordance with section 106, an application for registration executed in accordance with section 104 setting forth the name of the corporation, the current principal or registered office, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is actually engaged in corporate activities, a brief statement of the activities in which it

is engaged and a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Secretary of State of such state or territory or by such other official as may have custody of the records pertaining to corporations.

**Sec. 7. 13-B MRSA §308, sub-§7, ¶B**, as enacted by PL 1993, c. 316, §41, is amended to read:

B. That it no longer intends to ~~transact business~~ carry on activities under the assumed name; and

**Sec. 8. 13-B MRSA §801-A** is enacted to read:

**§801-A. Amendment before organizational meeting**

The articles of incorporation may be amended before the organizational meeting by the following procedures.

**1. Timing.** The articles of incorporation may be amended:

A. If the initial directors were not named in the articles of incorporation, before the election of the initial directors; or

B. If the initial directors were named in the articles of incorporation, before the organizational meeting of the board of directors required by section 406.

**2. Authority to amend.** The articles of incorporation may be amended by:

A. The incorporator; or

B. If there is more than one incorporator, by 2/3 of the incorporators.

**3. Accepted signature.** If the incorporators do not sign the document, the Secretary of State shall accept the signature of either the clerk or secretary of the corporation.

**Sec. 9. 13-B MRSA §1101-A** is enacted to read:

**§1101-A. Voluntary dissolution by incorporators**

A corporation that has not carried on activities may be voluntarily dissolved by its incorporator or incorporators at any time after the filing date of its articles of incorporation in the following manner.

**1. Articles of dissolution.** Articles of dissolution must be executed by a majority of the incorporators and delivered for filing, as provided by sections 104 and 106, and must set forth:

- A. The name of the corporation;
- B. The filing date of its articles of incorporation;
- C. That the corporation has not carried on activities;
- D. That no debts of the corporation remain unpaid; and
- E. That a majority of the incorporators consent to the dissolution of the corporation.

**2. Corporation's existence ceases.** On the filing date of the articles of dissolution, the existence of the corporation ceases.

**3. No vote or action of directors.** Dissolution pursuant to this section does not require any vote or action of the directors.

**Sec. 10. 13-B MRSA §1301, sub-§1, ¶C,** as repealed and replaced by PL 1993, c. 680, Pt. A, §23, is amended to read:

- C. The names and business or residence addresses, of the president, the treasurer, the registered agent and, the secretary or clerk, and directors of the corporation, including the street or rural route number, town or city and state.

**Sec. 11. 31 MRSA §6,** as amended by PL 1981, c. 698, §153, is further amended to read:

**§6. Prohibition of certain names**

No person or persons, partnership or other entity engaged in any business, except a corporation, ~~shall~~ may adopt a name for such business ~~which that~~ contains the words "~~corporation~~", "corporation", "~~incorporated~~" or "~~limited~~", "limited," or any abbreviation of any such words. A limited partnership may use the term "limited partnership" as part of its name and a limited liability company may use the term "limited liability company" as part of its name.

**Sec. 12. 31 MRSA §403, sub-§1, ¶A,** as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

- A. Must contain the words "~~Limited Partnership~~" "Limited Partnership," unless filing a registration of name under section 406;

**Sec. 13. 31 MRSA §406, sub-§2, ¶B,** as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

- B. The state or territory under the laws of which it is organized and the current principal or registered office;

**Sec. 14. 31 MRSA §422, sub-§7** is enacted to read:

**7. Change in address of general partners.** If there is a change in the address of one or more of the general partners from that appearing on the record of the office of the Secretary of State, the certificate of limited partnership must be amended to set forth the new business, residence or mailing address of each general partner.

**Sec. 15. 31 MRSA §495,** as amended by PL 1993, c. 316, §61, is further amended to read:

**§495. Amendments to application**

If any statement in the application for authority to do business of a foreign limited partnership ~~becomes inaccurate~~ requires change as a result of subsequent events, the foreign limited partnership shall promptly file with the Secretary of State a certificate, executed by a general partner, ~~correcting~~ amending the statement.

If there is a change in the address of one or more of the general partners from that appearing on the record of the office of the Secretary of State, the application must be amended to set forth the new business, residence or mailing address of each partner. A general partner must also file an amendment to the application if the address of the registered or principal office of the limited partnership changes in the jurisdiction of its organization.

**Sec. 16. 31 MRSA §526, sub-§7,** as amended by PL 1993, c. 316, §67, is further amended to read:

**7. Certificate of limited partnership, amendment or cancellation.** For filing of a certificate of limited partnership under section 421, a certificate of amendment under section 422, except as provided in subsection 5, or a certificate of cancellation under section 423, a fee in the amount of \$250. For filing of a certificate of amendment under section 422, subsection 7, a fee in the amount of \$20;

**Sec. 17. 31 MRSA §526, sub-§8,** as amended by PL 1993, c. 316, §69, is further amended to read:

**8. Foreign limited partnerships.** For filing of an application for authority to do business as a foreign limited partnership under section 492, a certificate of amendment under section 495, except as provided in subsection 9, or a certificate of cancellation under section 496, a fee in the amount of \$250. For filing a certificate of amendment under section 495 to change the address of a general partner or to change the address of the registered or principal office in the

jurisdiction of its organization, a fee in the amount of \$30;

**Sec. 18. 31 MRSA §530, sub-§1**, as enacted by PL 1991, c. 780, Pt. U, §33, is amended to read:

**1. Failure to file annual report.** A limited partnership required to deliver an annual report for filing as provided by section 529 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension of the limited partnership. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign limited partnership's authority to do business in this State and suspend a domestic limited partnership from doing business. The Secretary of State shall use the procedures set forth in section 498, subsection 2, relative to revoking the right of foreign limited partnerships to do business in this State, for suspending domestic limited partnerships. A foreign limited partnership whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 492. A domestic limited partnership that has been suspended under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the ~~sum~~ reinstatement fee of \$125 for each year the limited partnership failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

**Sec. 19. 31 MRSA §603, sub-§1, ¶A**, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

A. Must contain the words "~~Limited Liability Company~~" "Limited Liability Company," unless filing a registration of name under section 606;

**Sec. 20. 31 MRSA §606, sub-§2, ¶¶B and E**, as enacted by PL 1993, c. 718, Pt. A, §1, are amended to read:

B. The state or territory under ~~whose~~ the laws of which it is organized and the current principal or registered office;

E. A brief ~~description~~ statement of the activities in which it is engaged; and

**Sec. 21. 31 MRSA §645, sub-§4** is enacted to read:

**4. Choosing personal liability.** All or specified members of a limited liability company may be liable in their capacity as members for all or specified debts, obligations or liabilities of the company if:

A. A statement to that effect is contained in the articles of organization; and

B. Any member so liable has either voted for the adoption of the provision or has consented in writing to be bound by the provision.

A member of a limited liability company may act as guarantor or surety, may provide collateral or may otherwise assume responsibility for the debts, obligations or liabilities of the limited liability company whether or not a statement under paragraph A exists or a vote or consent under paragraph B has occurred.

**Sec. 22. 31 MRSA §715**, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

**§715. Amendments to application**

If a statement in the application for authority to do business of a foreign limited liability company ~~becomes inaccurate~~ requires change as a result of subsequent events, the foreign limited liability company shall promptly file with the Secretary of State a certificate executed by a manager or, if there is no manager, by a member ~~correcting~~ amending the statement.

**Sec. 23. 31 MRSA §751, sub-§12**, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

**12. Foreign limited liability companies.** For filing of an application for authority to do business as a foreign limited liability company under section 712, a certificate of amendment under section 715, except as provided in subsection 13 or a certificate of cancellation under section 717, a fee of \$250. For filing a certificate of amendment under section 715 to change the address of the registered or principal office in the jurisdiction of its organization, a fee in the amount of \$30;

**Sec. 24. 31 MRSA §758, sub-§1**, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

**1. Failure to file annual report.** A limited liability company required to deliver an annual report for filing as provided by section 757 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, if the report is received by the Secretary of State prior to revocation or suspension of the limited liability company. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State,

notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and suspend a domestic limited liability company from doing business. The Secretary of State shall use the procedures set forth in section 719, subsection 2, ~~related~~ relative to revoking the right of foreign limited liability companies to do business in this State, for suspending domestic limited liability companies. A foreign limited liability company whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 712. A domestic limited liability company that has been suspended under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the ~~sum~~ reinstatement fee of \$125 for each year the limited liability company failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

See title page for effective date.

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## CHAPTER 459

### H.P. 1042 - L.D. 1461

#### An Act to Update and Clarify the Election Laws

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

**Sec. 1. 21-A MRSA §1, sub-§1**, as enacted by PL 1985, c. 161, §6, is amended to read:

**1. Absentee voter.** "Absentee voter" means a person who qualifies under section ~~754~~ 751-A to cast an absentee ballot.

**Sec. 2. 21-A MRSA §23, sub-§1**, as enacted by PL 1985, c. 161, §6, is amended to read:

**1. Registration and enrollment applications.** The registrar shall keep registration, enrollment and changes of enrollment applications and requests in ~~his~~ the registrar's office permanently, except that those records must be kept only 10 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and ~~162~~ 162-A.

**Sec. 3. 21-A MRSA §102, first ¶**, as enacted by PL 1985, c. 161, §6, is amended to read:

The registrar may appoint one or more deputies. If the registrar is ~~to be absent from the municipality~~ unavailable for a period exceeding 15 consecutive days, ~~he~~ the registrar shall appoint a deputy registrar

who must be ~~physically present in the municipality~~ available to perform the duties of the registrar. If the registrar and ~~his~~ the appointed deputy are ~~absent from the municipality~~ unavailable for more than 15 consecutive days, the municipal clerk shall serve as registrar pro tem.

**Sec. 4. 21-A MRSA §103**, as amended by PL 1991, c. 862, §§1 and 2, is further amended by repealing and replacing the headline to read:

#### §103. Registration appeals board

**Sec. 5. 21-A MRSA §103**, as amended by PL 1991, c. 862, §§1 and 2, is further amended by inserting before subsection 1 a new paragraph to read:

In a city or town that has a population of 5,000 or more, if a person is aggrieved by the decision of the registrar of voters to remove a name from the voting list or to refuse to place it on the voting list, that person may appeal in writing to the registration appeals board.

**Sec. 6. 21-A MRSA §103, sub-§1**, as amended by PL 1991, c. 862, §1, is further amended to read:

**1. Population of 5,000 or over.** ~~In a city or town that has a population of 5,000 or over, a board of registration consisting of~~ The registration appeals board consists of 3 members who must be appointed as follows: The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the duties of the ~~board of~~ registration appeals board, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the ~~board of~~ registration appeals board, it shall also nominate an alternate board member, who ~~shall serve~~ serves if the member nominated by the municipal committee is or becomes unable to serve. The municipal clerk may not serve as a member or alternate member of the registration appeals board.