

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

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. 22 MRSA §3174-I, sub-§1, ¶B-2 is enacted to read:

B-2. The department shall establish additional assessment practices and related policies for persons with Alzheimer's disease and other dementias as follows.

(1) For persons who have been assessed using the department's primary assessment instrument and found to have cognitive or behavioral difficulties but who do not require nursing intervention with the frequency necessary to qualify for nursing facility level of care, the department shall administer a supplemental dementia assessment for those persons with cognitive and behavioral impairments. By May 1, 1996, the criteria reflected in this supplemental dementia assessment and the scoring mechanism must be incorporated into rules adopted by the department in consultation with consumers, providers and other interested parties. The assessment criteria proposed in the rulemaking must consider, but are not limited to, the following: orientation, memory, receptive communication, expressive communication, wandering, behavioral demands on others, danger to self or others and awareness of needs.

(2) The department shall reimburse a nursing facility for individuals who are eligible for care based on the supplemental dementia assessment only if the nursing facility demonstrates a program of training in the care of persons with Alzheimer's disease and other dementias for all staff responsible for the care of persons with these conditions. The department, in consultation with consumers, providers and interested parties, shall develop the requirements for training and adopt rules containing those requirements. By July 1, 1997, the department, in consultation with consumers, providers and interested parties, shall adopt rules establishing the standards for treatments, services and settings to meet the needs of individuals who have Alzheimer's disease and other dementias. These stan-

dards must apply to all levels of care available to such individuals.

(3) No later than January 15, 1997, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human service matters on the extent to which the use of the supplemental dementia assessment has expanded medical eligibility for nursing facility care to include persons with Alzheimer's disease or other dementias.

(4) Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

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

Effective April 11, 1996.

CHAPTER 688

S.P. 640 - L.D. 1675

An Act to Amend the Membership of Certain Boards and Commissions

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

Sec. 1. 5 MRSA §3307-E, sub-§1, ¶A, as enacted by PL 1991, c. 854, Pt. B, §1, is amended to read:

A. The Director of the State Planning Office, the Commissioner of Economic and Community Development, the Commissioner of Labor, the Commissioner of Professional and Financial Regulation, the Commissioner of Defense and Veterans' Services and the President of the Maine Technical College System, or the commissioners' designees, who serve ex officio;

Sec. 2. 5 MRSA §3307-E, sub-§3, as amended by PL 1993, c. 410, Pt. PPP, §1, is further amended to read:

3. Administration. The Commissioner of Economic and Community Development or the commissioner's designee is the chair of the task force. The Economic Conversion Division shall provide staff support to the task force. State agencies shall provide technical assistance to the task force as needed.

Sec. 3. 5 MRSA §3331, sub-§1, ¶H, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, is amended to read:

H. The Commissioner of Economic and Community Development or the commissioner's designee; and

Sec. 4. 5 MRSA §13001, sub-§1, ¶A, as enacted by PL 1991, c. 854, Pt. D, §1, is amended to read:

A. The Commissioner of Economic and Community Development or the commissioner's designee;

Sec. 5. 5 MRSA §13001, sub-§5, as amended by PL 1993, c. 410, Pt. PPP, §2, is further amended to read:

5. Chair. The council shall biennially elect a chair, except that the Commissioner of Economic and Community Development or the commissioner's designee shall chair the council for the term ending January 1, 1996.

Sec. 6. 5 MRSA §13031, sub-§3, as enacted by PL 1989, c. 875, Pt. L, §§2 and 4, is amended to read:

3. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development or the commissioner's designee.

Sec. 7. 5 MRSA §13058, sub-§18 is enacted to read:

18. Commissioner's designee. When the commissioner is explicitly empowered by statute to appoint a designee to replace the commissioner on any board, commission or similar body, none of which have a termination date, and the commissioner appoints a designee, the commissioner shall appoint that designee from within the commissioner's department. The commissioner shall make this designee known to the appointing authority and to the chair of the body to which the appointment is made, if that body exists at the time of appointment. The designee is the only person who may fill that appointee position until a successor is designated through the same appointment procedure.

Sec. 8. 5 MRSA §13069, sub-§1, ¶A, as enacted by PL 1989, c. 875, Pt. M, §§6 and 13, is amended to read:

A. The commission consists of 11 members appointed by the Governor.

(1) The members appointed must be involved in a related business field or possess experience or familiarity with media marketing or public relations. The Governor shall ensure an equitable regional representation from the State.

(2) The Executive Director of the Maine Arts Commission and the commissioner or the commissioner's designee shall serve as ex officio nonvoting members of the commission.

Sec. 9. 10 MRSA §929-A, sub-§2, as enacted by PL 1993, c. 410, Pt. MMM, §1, is amended to read:

2. Membership. The council consists of 19 members. The Governor, President of the Senate and Speaker of the House of Representatives shall jointly appoint the following 18 members, 2 of whom shall serve as cochairs of the council:

A. Fourteen members having a broad range of expertise in areas including but not limited to: labor, environment, business, and education; and

B. Four members of the Legislature with a demonstrated interest in economic development.

The Commissioner of Economic and Community Development or the commissioner's designee is a member of the council.

Sec. 10. 10 MRSA §934, sub-§3, ¶A, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is amended to read:

A. The Commissioner of Economic and Community Development or the commissioner's designee;

Sec. 11. 20-A MRSA §12705, sub-§1, as amended by PL 1993, c. 111, §1, is further amended to read:

1. Membership. The board of trustees consists of 13 appointed voting members, one ex officio voting member and 3 2 ex officio, voting nonvoting members as follows:

C. Twelve from the field of business and industry, the field of labor, the field of education and the general public;

D. The Commissioner of Education, or the commissioner's successor, who serves as an ex officio voting member;

E. The Commissioner of Economic and Community Development, or the commissioner's successor, who serves as an ex officio nonvoting member;

F. The Commissioner of Labor, or the commissioner's successor, who serves as an ex officio nonvoting member; and

G. One member who is from the student body of one of the technical college campuses at the time of appointment and who is a permanent resident of the State. To be eligible for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester.

The student member is a full voting member of the board of trustees and serves for a 2-year term and until a successor is qualified. By January 1st of every 2nd year, the president of the system shall solicit a list of ~~5~~ 6 eligible students from the student governments from ~~5~~ 6 of the campuses within the Maine Technical College System, the ~~6th~~ 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student trustee chosen from the list within 30 days of receiving the list of names. The nomination is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature. The student trustee may not come from the same campus in any 2 consecutive terms. In the event that the student trustee transfers from one campus to another during the student's term of appointment, the student's original campus of enrollment is the campus excluded when the next student trustee is appointed.

Sec. 12. 20-A MRSA §12705, sub-§7, as amended by PL 1987, c. 532, §2, is further amended to read:

7. Quorum. A quorum ~~shall consist~~ consists of a majority of the voting members of the board of trustees. No action may be taken without the affirmative vote of ~~6~~ a majority of the members present and voting.

See title page for effective date.

CHAPTER 689

H.P. 1211 - L.D. 1661

An Act to Increase the Penalty for Criminal Restraint of a Young Child

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

Sec. 1. 17-A MRSA §302, sub-§3, as repealed and replaced by PL 1979, c. 512, §25, is amended to read:

3. Criminal restraint is a Class D crime except that it is a Class C crime if the person restrained has in fact not attained 8 years of age.

See title page for effective date.

CHAPTER 690

H.P. 1234 - L.D. 1694

An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault

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

Sec. 1. 15 MRSA §3308, sub-§7, ¶D is enacted to read:

D. When a juvenile who is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is committed to the Maine Youth Center or placed on probation, the Department of Corrections shall provide, while the juvenile is committed to the Maine Youth Center or on probation, a copy of the juvenile's judgment and commitment to the Department of Human Services, to all law enforcement agencies that have jurisdiction in those areas where the juvenile may reside, work or attend school and to the superintendent of any school system in which the juvenile attends school during the period of commitment or probation. The Department of Corrections may provide a copy of the juvenile's judgment and commitment to any other agency or person whom the Department of Corrections determines is appropriate to ensure public safety. Neither the failure of the Department of Corrections to perform the requirements of this paragraph nor compliance with this paragraph subjects the Department of Corrections or its employees to liability in a civil action.

Sec. 2. 15 MRSA §3309-A, sub-§2, as repealed and replaced by PL 1985, c. 213, is amended to read:

2. Information needed to make a disposition. Following an order of adjudication pursuant to section 3310, subsection 5, paragraph A, for the purposes of making a disposition; ~~and~~

Sec. 3. 15 MRSA §3309-A, sub-§3, as enacted by PL 1985, c. 213, is amended to read:

3. By consent of the parties. When the juvenile and the prosecuting attorney consent and the court finds that such an evaluation may be of assistance to it