

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

the date of distribution. For assets ~~which~~ that do not have readily ascertainable values, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) The residuary estate ~~must~~ may be distributed ~~in a manner that is equitable~~ by the personal representative in cash or in kind, in accordance with the best interests of the residuary devisees. Residuary assets may be distributed, at the personal representative's discretion, in pro rata or non pro rata shares; except that residuary assets not distributed pro rata must be valued as of the date on which they are distributed.

Sec. 4. Retroactivity. This Act applies retroactively to January 1, 1997.

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

Effective April 10, 1997, unless otherwise indicated.

CHAPTER 74

H.P. 306 - L.D. 370

An Act to Establish a Commemorative Day Recognizing the Children of this State

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

Sec. 1. 1 MRSA §134 is enacted to read:

§134. Children's Day

In recognition of the value and importance of every child, the State designates the last Friday in September as Children's Day. The Governor shall annually issue a proclamation urging citizens, businesses and organizations to observe the day with appropriate celebration and activity.

See title page for effective date.

CHAPTER 75

H.P. 335 - L.D. 457

An Act to Discourage Frivolous Lawsuits by Prisoners

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

Sec. 1. 4 MRSA §1058 is enacted to read:

§1058. Prisoner application to proceed in forma pauperis

1. Prepayment of filing fee and certified copies required. A person who is confined in a federal, state, county or local correctional or detention facility may not bring a civil action arising under federal or state law in any court in this State with respect to a condition of that person's confinement or the effect of an action or inaction by a government official on the life of that person confined and may not appeal a judgment in such a civil action without prepayment of the filing fee unless, in addition to the in forma pauperis application and affidavit required by the Maine Rules of Civil Procedure, Rule 91, that person submits a certified copy of the facility account statement for that person for the 6-month period immediately preceding the filing of the action or appeal, obtained from the appropriate official of each facility at which that person is or was confined.

2. Waiver of prepayment of filing fee. If the court finds that the action or appeal is not frivolous and has been brought in good faith and that the person is without sufficient funds to pay the filing fee, it shall order that prepayment of the full amount of the filing fee be waived. If the court denies the in forma pauperis application, the action or appeal must be dismissed without prejudice, unless within 7 days after the denial the person pays the filing fee to the clerk of the court.

3. Full payment of filing fee required; initial partial filing fee. Notwithstanding subsection 2, the person shall pay the full amount of the filing fee. The court shall assess the person's financial status and, when funds exist, collect as a partial payment of the filing fee an initial partial filing fee of 20% of the greater of:

A. The average monthly deposits to the person's facility account for the 6-month period immediately preceding the filing of the action or appeal; or

B. The average monthly balance in the person's facility account for the 6-month period immediately preceding the filing of the action or appeal.