

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

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

Sec. 1. 5 MRSA §191-B is enacted to read:

**§191-B. Qualification**

To serve as Attorney General, a person must be a member in good standing of the bar of the State. For purposes of this section, a person is a "member in good standing of the bar of the State" if that person is admitted to the practice of law in this State, is presently registered with the Board of Overseers of the Bar as an active practitioner and has not been and is not currently disbarred or suspended from practice pursuant to Title 4, chapter 17, subchapter II or Maine Bar Rule 7.2 or its successor.

See title page for effective date.

**CHAPTER 146**

**H.P. 529 - L.D. 720**

**An Act to Amend the Laws Regarding Confidentiality of Library Records**

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

Sec. 1. 27 MRSA §121, as amended by PL 1991, c. 67, is further amended to read:

**§121. Confidentiality of library records**

Records maintained by any public municipal library, ~~including the Maine State Library, the Law and Legislative Reference Library~~ and libraries of the University of Maine System and the Maine Maritime Academy, that contain information relating to the identity of a library patron relative to the patron's use of books or other materials at the library, are confidential. Those records may only be released with the express written permission of the patron involved or as the result of a court order.

~~Public municipal libraries shall have up to 5 years from the effective date of this chapter to be in compliance with this section.~~

Sec. 2. **Effective date.** This Act takes effect January 1, 1998.

Effective January 1, 1998.

**CHAPTER 147**

**S.P. 277 - L.D. 885**

**An Act to Amend the Qualifications of the Administrator of the Maine Veterans' Homes**

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

Sec. 1. 37-B MRSA §606, as enacted by PL 1983, c. 460, §3, is amended to read:

**§606. Administrator**

The administrator ~~shall~~ must be an honorably discharged ~~war~~ veteran who shall administer the home in accordance with the rules, guidelines and general policies established by the board. ~~He shall serve~~ The administrator serves an indefinite term, but may be removed for cause by the board. ~~His~~ The administrator's salary ~~shall be~~ is set by the board. The administrator shall hire the necessary employees to operate the home and, whenever possible, ~~shall~~ give preference in hiring to war veterans. These employees ~~shall~~ are not be deemed employees of the State.

See title page for effective date.

**CHAPTER 148**

**H.P. 786 - L.D. 1074**

**An Act to Establish Practical Difficulty Standards for a Variance from the Dimensional Standards of a Municipal Zoning Ordinance**

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

Sec. 1. 30-A MRSA §4353, sub-§4, as amended by PL 1991, c. 659, §1, is further amended to read:

**4. Variance.** Except as provided in subsections 4-A ~~and~~, 4-B ~~and~~ 4-C, the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The land in question can not yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

C. The granting of a variance will not alter the essential character of the locality; and

D. The hardship is not the result of action taken by the applicant or a prior owner.

Under its home rule authority, a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including, but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.

**Sec. 2. 30-A MRSA §4353, sub-§4-C** is enacted to read:

**4-C. Variance from dimensional standards.**

A municipality may adopt an ordinance that permits the board to grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;

D. No other feasible alternative to a variance is available to the petitioner;

E. The granting of a variance will not unreasonably adversely affect the natural environment; and

F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Under its home rule authority, a municipality may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a

variance from the dimensional standards of a zoning ordinance.

See title page for effective date.

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## CHAPTER 149

### S.P. 366 - L.D. 1225

#### An Act to Amend the Maine Children's Trust Incorporated

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

**Sec. 1. 22 MRSA §3881, sub-§4**, as enacted by PL 1993, c. 600, Pt. A, §16, is amended to read:

**4. Income.** "Income" means annual contributions made to the fund through the income tax checkoff ~~and any other sources.~~

**Sec. 2. 22 MRSA §3883, sub-§2**, as enacted by PL 1993, c. 600, Pt. A, §16, is amended to read:

**2. Membership.** The board consists of at least 17 members, appointed as follows:

A. One Senator, appointed by the President of the Senate for a 2-year term served concurrently with the legislative term;

B. One Representative, appointed by the Speaker of the House of Representatives for a 2-year term served concurrently with the legislative term;

C. Four members of the Maine Association of Child Abuse and Neglect Councils, selected by that association. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and 2 are appointed for 3-year terms. After the initial appointments, appointees are appointed for 3-year terms;

D. Two representatives of the Department of Human Services appointed by the Commissioner of Human Services. One member must be a senior policy-making official and the other must be a line manager with several years of experience in child abuse and neglect. Of the initial appointees, one is appointed for a 2-year term and the other is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms; and

E. Nine members of the public and the business community.

(1) Three members must be appointed by the Governor. Of the initial appointees, one