

# 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**

least one program or significant subprogram within a policy area that has the same or similar goals and objectives as one or more other state agencies; develop jointly with those state agencies measurable objectives; and coordinate strategies for achieving those objectives. During selection of the program, and development of the joint goals and objectives, each agency shall consult with and receive comments from the joint standing committee of the Legislature having jurisdiction over that agency's matters, the State Budget Officer and the Director of the Office of Fiscal and Program Review.

Each state agency shall submit its joint measurable objectives and strategies to the Director of the State Planning Office, who shall provide copies to the State Budget Officer, the Office of Fiscal and Program Review and the joint standing committee of the Legislature having jurisdiction over the agency's matters.

**5. Development of policy areas.** By December 31, 1997, the State Budget Officer and the Legislative Council or the council's designee, in consultation with state agencies, shall ~~develop a plan to~~ group all state agencies into policy areas, which must be formed around common goals and measurable objectives. Any plan grouping that proposes to transfer or modify the existing statutory mission or mandate of an agency must be submitted to and approved by the Legislature prior to implementation.

**7. Development of joint budget proposals.** By September 1, 1998, state agencies within each policy area shall develop budget proposals that are tied to their joint measurable objectives ~~and in their~~ strategic plan.

**Sec. 10. 5 MRSA §1710-P, sub-§8**, as amended by PL 1995, c. 560, Pt. K, §82 and affected by §83 and enacted by c. 705, §2, is further amended to read:

**8. Demonstration project; job training programs.** The Department of Labor, the Department of Education, the Department of Human ~~Resources Services~~, the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Maine Technical College System shall at a minimum select job training ~~as one of the policy areas in which they and~~ develop joint strategic planning and budgeting goals and objectives and coordinate strategies as a demonstration project for the purposes of carrying out the requirements of subsections 4 to 7 ~~for the biennium beginning July 1, 1997.~~

**Sec. 11. 5 MRSA §12004-I, sub-§29-C**, as enacted by PL 1995, c. 395, Pt. B, §2, is amended to read:

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See title page for effective date.

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## CHAPTER 185

### H.P. 228 - L.D. 292

#### An Act to Modify Waiver of a Defense in the Criminal Law

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

**Sec. 1. 17-A MRSA §101, sub-§1**, as repealed and replaced by PL 1981, c. 324, §24, is amended to read:

**1.** The State is not required to negate any facts expressly designated as a "defense," or any exception, exclusion or authorization ~~which that~~ is set out in the statute defining the crime by proof at trial, unless the existence of the defense, exception, exclusion or authorization is in issue as a result of evidence admitted at the trial ~~which that~~ is sufficient to raise a reasonable doubt on the issue, in which case the State must disprove its existence beyond a reasonable doubt. This subsection does not require a trial judge to instruct on an issue that has been waived by the defendant. The subject of waiver is addressed by the Maine Rules of Criminal Procedure.

See title page for effective date.

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## CHAPTER 186

### H.P. 960 - L.D. 1323

#### An Act to Remove the Sunset for the Employment of an Owner's Representative

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

**Sec. 1. 5 MRSA §1753, sub-§5**, as enacted by PL 1993, c. 606, §2, is amended to read:

**5. Report required.** A school unit employing an owner's representative under this section shall provide a report to the Bureau of General Services describing the effectiveness of an owner's representative to a project ~~and the recommendations for continuation or discontinuation beyond the date of repeal of this section.~~ The Bureau of General Services shall provide the joint standing committee of the

Legislature having jurisdiction over state and local government matters with an annual report on the employment of an owner's representative, including the written comments from each school unit that has chosen to employ an owner's representative under this section.

**Sec. 2. 5 MRSA §1753, sub-§6**, as enacted by PL 1993, c. 606, §2, is repealed.

See title page for effective date.

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## CHAPTER 187

### H.P. 776 - L.D. 1053

#### An Act to Implement the Recommendations of the Family Law Advisory Commission Concerning Parental Rights and Responsibilities

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

**Sec. 1. 19-A MRSA §1501, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**5. Shared parental rights and responsibilities.**

"Shared parental rights and responsibilities" means that most or all aspects of a child's welfare remain the joint responsibility and right of both parents, so that both parents retain equal parental rights and responsibilities, and both parents confer and make joint decisions regarding the child's welfare. Matters pertaining to the child's welfare include, but are not limited to, education, religious upbringing, medical, dental and mental health care, travel arrangements, child care arrangements and residence. Parents who share parental rights and responsibilities shall keep one another informed of any major changes affecting the child's welfare and shall consult in advance to the extent practicable on decisions related to the child's welfare.

**Sec. 2. 19-A MRSA §1653, sub-§2, ¶D**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

D. The order of the court awarding parental rights and responsibilities must include the following:

- (1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an alloca-

tion of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; ~~and~~

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7; and

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities.

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

**Sec. 3. 19-A MRSA §1653, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Best interest of child.** The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding ~~primary~~ the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

A. The age of the child;

B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare;