

# 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**

A. A guardian ad litem shall:

(1) Interview the child face-to-face with or without another person present; and

~~(2) Have face to face contact with the child within 7 days of appointment by the court and at least once every 3 months after appointment; and~~

(3) Make a written report of investigations, findings and recommendations ~~every 6 months or~~ as ordered by the court, with copies of the report to each party and the court.

**Sec. 4. 19-A MRSA §1507, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**4. Best interest of the child.** The guardian ad litem shall use the standard of the best interest of the child as set forth in section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem. ~~If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the need for appointing special counsel for the child to serve as the child's legal advocate concerning the issues and during the proceedings as the court determines to be in the best interest of the child and shall appoint a legal advocate if the court determines that such an appointment is necessary.~~

**Sec. 5. 22 MRSA §4005, sub-§1, ¶A**, as amended by PL 1995, c. 405, §18, is further amended to read:

A. The court, in every child protection proceeding except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders, shall appoint a guardian ad litem for the child. The guardian ad litem's reasonable costs and expenses must be paid by the District Court. The appointment must be made as soon as possible after the proceeding is initiated. Guardians ad litem appointed on or after September 1, ~~1997~~ 1998 must meet the qualifications established by the Supreme Judicial Court.

**Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 19-A, section 1507, take effect October 1, 1997.

See title page for effective date, unless otherwise indicated.

**CHAPTER 258**

**H.P. 465 - L.D. 636**

**An Act to Cap the Fees Responsible Parties Pay for the Transportation of Hazardous Waste from Superfund Sites**

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

**Sec. 1. 38 MRSA §1319-I, sub-§2**, as repealed and replaced by PL 1987, c. 491, §25, is amended to read:

**2. Fees for action taken off site of generation.**

Any person who transports hazardous waste in the State shall pay a fee as follows:

A. For hazardous waste ~~which~~ that is transported off the site to a licensed hazardous waste disposal facility for disposal, 2.0¢ a pound; and

B. For hazardous waste ~~which~~ that is transported off the site to a licensed hazardous waste treatment facility for treatment, storage facility for storage or other licensed facility for handling, including beneficial reuse, reclamation or recycling, 1.5¢ a pound.

Fees required under this subsection for hazardous waste that is transported off a federally declared Superfund site that was added to the national priorities list by the United States Environmental Protection Agency pursuant to 40 Code of Federal Regulations, Part 300 on or before January 1, 1997 may not exceed \$200,000 per site in any calendar year.

See title page for effective date.

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**CHAPTER 259**

**S.P. 243 - L.D. 812**

**An Act to Require the Public Utilities Commission to Align Telecommunications Carrier Access Rates with Costs to Foster Economic Development and Competition throughout the State**

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

**Sec. 1. 35-A MRSA §7101-B** is enacted to read:

**§7101-B. Access rates**

**1. Definitions.** As used in this section, the term "intrastate access rates" means rates that a telecommunications service provider pays for access to a local exchange carrier's facilities and services in order to provide intrastate interexchange service.

**2. Access rates.** Notwithstanding any other provision of law, the commission by May 30, 1999 shall establish and every 2 years reestablish intrastate access rates that are less than or equal to interstate access rates established by the Federal Communications Commission.

**3. Consumer rates.** If the commission finds that effective competition in the intrastate interexchange market does not exist, the commission shall require all persons providing intrastate interexchange service to reduce their intrastate long-distance rates to reflect net reductions in intrastate access rates ordered by the commission pursuant to subsection 2.

**Sec. 2. Report.** By January 1, 1998, the Public Utilities Commission shall submit to the Joint Standing Committee on Utilities and Energy a report detailing its plan and schedule for aligning intrastate access rates with interstate access rates pursuant to the Maine Revised Statutes, Title 35-A, section 7101-B. The report must also include:

1. A discussion of progress made in aligning intrastate access rates with interstate access rates;
2. Issues raised by this alignment and how these issues will be addressed; and
3. Whether adjustments in other rates may be made in consequence of this alignment and why those adjustments should be made.

The report may be included in the commission's annual report submitted pursuant to Title 35-A, section 120, as long as the report is submitted by January 1, 1998.

**Sec. 3. Authority to report legislation.** The Joint Standing Committee on Utilities and Energy may report out legislation on intrastate access rates to the Second Regular Session of the 118th Legislature.

See title page for effective date.

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## CHAPTER 260

S.P. 484 - L.D. 1492

### An Act to Provide Recipients of All Assisted Living Programs and Services Residents' Rights and Equivalent Reporting and Enforcement Opportunities

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

**Sec. 1. 22 MRSA §7902-A, sub-§6** is enacted to read:

**6. Applicability of residents' rights rules.** Any rules adopted pursuant to this section pertaining to residents' rights are applicable to both licensed and unlicensed assisted living service programs.

**Sec. 2. 22 MRSA §7924, sub-§1**, as corrected by RR 1995, c. 2, §45, is amended to read:

**1. Alleged violations reported and investigated.** Any person who believes that any of those ~~regulations~~ rules governing the licensure of long-term care facilities ~~duly promulgated~~ or the operation of assisted living programs and services authorized pursuant to section 7901-B adopted by the Department of Human Services pertaining to residents' rights and conduct of resident care has been violated may report the alleged violation to the protection and advocacy agency designated pursuant to Title 5, section 19501; the long-term care ombudsman pursuant to section 5106, subsection 11-C and section 5107-A; the Office of Advocacy pursuant to Title 34-A, section 1203; and any other agency or person whom the Commissioner of Human Services and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services may designate.

**Sec. 3. 22 MRSA §7948, sub-§1**, as enacted by PL 1991, c. 637, §2, is amended to read:

**1. Generally.** Any resident whose rights have been violated as described in this section may commence a civil action in the Superior Court on that resident's own behalf for injunctive and declaratory relief against any long-term care facility or provider of assisted living programs and services that is alleged to be in violation of any rule described in section 7924 or 7902-A or in violation of the rights enumerated in 42 United States Code, Section 1396r, Subsection (c). In order to grant a preliminary or permanent injunction under this section, the Superior Court must find that:

- A. The plaintiff will suffer irreparable injury if the injunction is not granted;
- B. The irreparable injury outweighs any harm that granting the injunctive relief would inflict on the defendant;
- C. The plaintiff has exhibited a likelihood of success on the merits of the case; and