

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

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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

provided in section 4011 and Title 15, section 393, subsection 1, paragraph D, if applicable.

See title page for effective date.

CHAPTER 335

H.P. 757 - L.D. 1034

An Act to Provide Information to the Maine Land Use Regulation Commission

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

Sec. 1. 12 MRSA §685-B, sub-§6-B is enacted to read:

6-B. Notification of land division required.
When any land division occurs by platting, sale, lease or other conveyance, regardless of whether a subdivision is created, a plan showing the division of the original parcel must be filed within 60 days of the division, by the person creating the division, with the commission.

See title page for effective date.

CHAPTER 336

S.P. 557 - L.D. 1683

An Act to Clarify Issuance of the Writ of Possession

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

Sec. 1. 14 MRSA §6005, first ¶, as amended by PL 1995, c. 208, §2, is further amended to read:

When the defendant is defaulted or fails to show sufficient cause, judgment must be rendered against the defendant by the District Court for possession of the premises ~~and a writ of possession be issued to remove the defendant, which may be served by a constable.~~ Seven calendar days after the judgment is entered, the court shall issue the writ of possession to remove the defendant. The writ may be served by a sheriff or a constable. A writ of possession may not issue in any case in which the ground for termination of the tenancy was rent arrearage and the defendant paid the amount necessary to reinstate the tenancy as provided by section 6002.

Sec. 2. 14 MRSA §6008, sub-§§1 and 2, as enacted by PL 1995, c. 448, §2, are amended to read:

1. Right to appeal. Either party may appeal on questions of law from a judgment to the Superior Court as in other civil actions. Either party may appeal on any issue triable by right by a jury to a trial de novo in the Superior Court as provided in this section. The time for filing an appeal of the judgment of the District Court expires upon the issuance of the writ of possession pursuant to section 6005 or 30 days from the time the judgment is entered, whichever occurs first.

2. Appeal by defendant; record; stay. When the defendant appeals, the defendant shall pay to the plaintiff or, if there is a dispute about the rent, to the District Court, any unpaid portion of the current month's rent or the rent arrearage, whichever is less. The District Court shall promptly transmit the record and any such payments to the Superior Court without waiting for the preparation of a transcript of recorded testimony. The Superior Court may stay the issuance of a writ of possession pending disposition of the appeal.

A. The Superior Court shall condition the granting and continuation of the stay on the defendant's payment of ~~the current~~ rent for the premises as required by this subsection at the time of appeal and on payment of any rent that has accrued since the filing of the appeal to the plaintiff or, if there is a dispute about the rent, into an escrow account to be administered by the clerk of the Superior Court. Upon application of either party, the Superior Court may authorize payments from the escrow account for appropriate expenses related to the premises. The appeal decision or an agreement of the parties must provide for the disposition of the escrowed rent.

B. The Superior Court may condition the granting and continuation of the stay, in appropriate cases, on the defendant's agreement to refrain from causing any nuisance or damage.

See title page for effective date.

CHAPTER 337

S.P. 529 - L.D. 1634

An Act to Provide Information to Consumers of Health Care

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

Sec. 1. 22 MRSA §1831 is enacted to read:

§1831. Patient referrals

1. Provision of information. In order to provide for informed patient or resident decisions, a hospital or nursing facility shall provide lists of licensed providers of care and services for all patients or residents prior to discharge for whom home health care or nursing care is needed.

A. For all patients or residents requiring home health care, the list must include all licensed home health care providers that request to be listed and any branch offices, including addresses and phone numbers, that serve the area in which the patient or resident resides.

B. For all patients or residents requiring nursing facility care, the list must include all nursing facilities that request to be listed that serve the area in which the patient or resident resides or wishes to reside.

C. The hospital or nursing facility shall disclose to the patient or resident any direct or indirect financial interest the hospital or nursing facility has in the nursing facility or home health care provider.

2. Rulemaking. The department shall establish by rule guidelines necessary to carry out the purposes of this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 338

H.P. 842 - L.D. 1147

**An Act to Ensure Consistency
Between State and Federal Special
Education Requirements**

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

Sec. 1. 20-A MRSA §7004 is enacted to read:

§7004. Special education

1. Rulemaking. The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal statute or regulation, if an applicable federal statute or regulation exists.

During the consideration of any proposed rule, when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a

regulatory burden more stringent than the burden imposed by the corresponding federal statute or regulation, if such a federal statute or regulation exists, and explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal statute or regulation.

Sec. 2. Current rules; review. Any rule of the Department of Education concerning special education in existence on the effective date of this Act is subject to the review requirements of this Act for proposed rules. The department shall evaluate the current rules concerning special education, identify provisions believed to impose a regulatory burden more stringent than the burden imposed by the corresponding federal statute or regulation, if such a statute or regulation exists, and explain the justification for the difference. The department shall report the results of this evaluation to the Joint Standing Committee on Education and Cultural Affairs no later than December 15, 1997.

See title page for effective date.

CHAPTER 339

H.P. 547 - L.D. 738

**An Act to Allow Child Support for
Juveniles Committed to the Maine
Youth Center**

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

Sec. 1. 15 MRSA §3314, sub-§5, as enacted by PL 1987, c. 400, §3, is amended to read:

5. Support orders. Whenever the court commits a juvenile to the Department of Human Services, ~~to the Maine Youth Center~~ or to a relative or other person, the court may order either or both parents of the juvenile to pay a reasonable amount of support for the juvenile. The order is enforceable under Title 19-A, section 2603. A parent may not be required to pay support for a juvenile during any period when the juvenile resides in ~~the Maine Youth Center~~ or a county jail.

See title page for effective date.

CHAPTER 340

H.P. 287 - L.D. 351

**An Act to Decrease Infectious
Disease Transmission**