

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

Rules adopted pursuant to this subsection are major substantive rules under Title 5, chapter 375, subchapter II-A.

13-C. Use of treated ash in secure landfills. Subject to the requirements of other applicable laws, a person may do the following without a license issued pursuant to subsection 13-B:

A. Process municipal solid waste incinerator ash to remove noncombusted materials, size the ash and reduce the solubility of metals contained within the ash; and

B. Use municipal solid waste incinerator ash processed in the manner specified in paragraph A as follows:

(1) As landfill daily cover material in a secure landfill;

(2) As construction material in a secure landfill; and

(3) In pilot projects in a secure landfill.

The use of municipal solid waste incinerator ash pursuant to this subsection is limited to the lined areas within a secure landfill and each use must receive case-by-case approval from the department. Prior to approving the use of municipal solid waste incinerator ash in a secure landfill, the department shall ensure that the use provides adequate protection of human health and the environment.

For purposes of this subsection, the term "secure landfill" means a landfill that utilizes a liner system, a leachate collection and treatment system and a final cover system to minimize discharges of waste or leachate and control the release of gas to the environment.

Sec. 2. Findings. The Legislature makes the following findings:

1. Municipal solid waste incinerator ash contains highly toxic materials such as dioxin that, if inadequately regulated and controlled, can cause very serious damage to the environment and harm to human health and safety;

2. New processing techniques have made possible new uses of this ash that were not contemplated when current laws were enacted; and

3. This Act is essential to ensure that before this ash is used in any manner that introduces the ash into the environment in a way other than through proper landfill disposal the use will be adequately reviewed to

ensure protection against and control of the environmental, health and safety risks.

See title page for effective date.

CHAPTER 419

H.P. 1140 - L.D. 1605

An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 30-A MRSA §2677 is enacted to read:

§2677. Health insurance; retired employee

Notwithstanding section 2671, a municipality shall keep a retired municipal employee formerly employed by the municipality in that municipality's health care plan as long as the retired employee continues to pay the health insurance group rate premiums required for that retired employee.

See title page for effective date.

CHAPTER 420

S.P. 218 - L.D. 677

An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files

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

Sec. 1. 26 MRSA §631, as amended by PL 1991, c. 885, Pt. D, §2, is further amended to read:

§631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy

the employee's personnel file if the employer has a personnel file for that employee. The reviews and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the employee are arranged. The cost of copying is paid by the person requesting the copy. For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee ~~which~~ that the employer has in the employer's possession. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. An employee or former employee may bring an action in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may consider to be necessary and proper. The employer may also be required to reimburse the employee or former employee for costs of suit including a reasonable attorney's fee if the employee receives a judgment in the employee's favor. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board or other administrative tribunals.

See title page for effective date.

CHAPTER 421

S.P. 570 - L.D. 1727

An Act to Establish and Implement a Pilot Program for Restorative Justice

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

PART A

Sec. A-1. 15 MRSA §3204, as amended by PL 1989, c. 741, §10, is further amended to read:

§3204. Statements not admissible in evidence

~~No statements~~ Statements of a juvenile made to a juvenile caseworker during the course of a preliminary

investigation or made to a community resolution team under section 3301 ~~may be~~ are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed.

Sec. A-2. 15 MRSA §3301, sub-§5, ¶B, as amended by PL 1985, c. 439, §11, is further amended to read:

B. Make whatever informal adjustment is practicable without a petition. The juvenile caseworker may effect whatever informal adjustment is agreed to by the juvenile and ~~his~~ the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments ~~shall~~ may extend no longer than 6 months and ~~informal adjustments shall~~ may not be commenced unless:

(1) The juvenile caseworker determines that the juvenile and ~~his~~ the juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment ~~cannot~~ may not be used in evidence against the juvenile if a petition based on the same facts is later filed; and

(3) Written consent to the informal adjustment is obtained from the juvenile and ~~his~~ the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; or

Sec. A-3. 15 MRSA §3301, sub-§§5-A and 6-A are enacted to read:

5-A. Community resolution teams. In accordance with policy and procedures established by the Department of Corrections, the juvenile caseworker may establish a community resolution team after completing the preliminary investigation.

A. Team participants may include the team facilitator; the juvenile caseworker; the juvenile; the juvenile's parents, guardian or legal custodian; the complainant; the victim; a person designated by the victim; the law enforcement officer who notified the juvenile caseworker; and any other person who the juvenile caseworker determines is appropriate.