

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

owned by the snowmobile repair shop or any repair shop employee.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF Savings Fund Program		
All Other	\$1,500	\$1,500
Appropriates funds to be used only to offset additional General Fund revenue from license fee increases.		

See title page for effective date.

CHAPTER 452

S.P. 174 - L.D. 503

An Act to Provide for State and Federal Criminal Record Checks on Educational Personnel in the State

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

Sec. 1. 20-A MRSA §6101, sub-§1, ¶¶E and F, as amended by PL 1995, c. 547, §2, are further amended to read:

- E. Major and minor fields of study recognized by the post-secondary institutions attended; and
- F. Degrees received and dates awarded; ~~and.~~

Sec. 2. 20-A MRSA §6101, sub-§1, ¶G, as enacted by PL 1995, c. 547, §3, is repealed.

Sec. 3. 20-A MRSA §6103, as enacted by PL 1995, c. 547, §5, is amended to read:

§6103. Criminal history record information conviction data

Beginning ~~January~~ July 1, 1999, certification, authorization, approval and renewal under chapters 501 and 502 are subject to the provisions of this section.

1. Conviction data obtained; reliance. The commissioner shall obtain criminal history record information containing a record of conviction data

from the Maine Criminal Justice Information System for any person applying for certification, authorization, approval or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a certificate, authorization, approval or renewal.

2. Issuance restriction. Issuance of a certificate, authorization, approval or renewal to any person whose criminal history record information includes a criminal conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

3. Confidentiality. Any information obtained pursuant to this section is confidential. The results of criminal history record checks received by the commissioner are for official use only and may not be disseminated outside the department.

4. Expenses. Notwithstanding Title 26, sections 594 and 629, the expense of obtaining the information required by this section must be paid by the applicant.

5. Criminal record information obtained from the Federal Bureau of Investigation. The commissioner shall obtain other state and national criminal history record information from the Federal Bureau of Investigation for any person applying for certification, authorization, approval or renewal. The commissioner may rely on information provided by the Federal Bureau of Investigation within 24 months prior to the issuance of a certificate, authorization, approval or renewal.

6. Fingerprinting. The applicant shall submit 2 fingerprint cards bearing the legible rolled and flat impression of the applicant's fingerprints prepared by a state or local public law enforcement agency to the department which shall forward the fingerprint cards to the Department of Public Safety, State Bureau of Identification for the purpose of conducting state and national criminal history record checks.

7. Use of criminal history record. State and federal criminal history record information may be used for the purpose of screening educational personnel applicants by the commissioner in order to determine whether certification, authorization, approval or renewal of educational personnel is granted or maintained.

8. Applicant's access to criminal history record check. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of a criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may inspect and review criminal record information pursuant to Title 16, section 620.

Sec. 4. 20-A MRSA §13011, sub-§1, ¶D, as amended by PL 1995, c. 207, §1, is further amended to read:

D. Seek a revocation of a certificate in the Administrative Court; ~~and~~

Sec. 5. 20-A MRSA §13011, sub-§1, ¶E, as enacted by PL 1995, c. 207, §1, is amended to read:

E. Certify or authorize personnel who provide early childhood educational programs or developmental therapy to children with disabilities from birth to under 9 years of age in the home, in community-based special purpose and integrated programs and in public schools; ~~and~~

Sec. 6. 20-A MRSA §13011, sub-§1, ¶F is enacted to read:

F. Approval must be obtained from the department and maintained by all individuals for whom certification or authorization is not required prior to being hired or being placed under contract by a public school or an approved private school.

Sec. 7. 20-A MRSA §13011, sub-§8 is enacted to read:

8. Criminal history record checks. Criminal history record checks of an applicant for certification, authorization, approval or renewal must be conducted in accordance with this section, section 6103 and pursuant to rules adopted by the state board. Rules adopted pursuant to this subsection are minor technical rules in accordance with Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 453

H.P. 1214 - L.D. 1714

An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly

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

Sec. 1. 9-B MRSA §161, sub-§2, ¶I, as amended by PL 1995, c. 419, §5, is further amended to read:

I. Any disclosure of records made pursuant to Title 22, section 16, 17, 3477 or 4314;

Sec. 2. 18-A MRSA §5-411, as amended by PL 1995, c. 291, §2, is repealed and the following enacted in its place:

§5-411. Bond

The following provisions govern bonds for conservators.

(a) The Probate Court shall require a conservator of an estate of \$25,000 or more to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law, with sureties as it specifies, unless the court makes a specific finding as to why a bond should not be required. With respect to estates of less than \$25,000, the court may in its discretion require a bond or other surety. In making a finding as to why a bond is not required, the court shall consider the person's creditworthiness, financial solvency or past financial management.

(b) A conservator who moves out of State while serving as conservator shall notify the Probate Court regarding the change of residence. The court may require a conservator who moves or locates out of State while serving as conservator to furnish a bond at that time. Unless otherwise directed, the bond must be in the amount of the aggregate capital value of the property of the estate in the conservator's control plus one year's estimated income minus the value of securities deposited under arrangements requiring an order of the court for their removal and the value of any land that the fiduciary, by express limitation of power, lacks power to sell or convey without court authorization. In lieu of sureties on a bond, the court may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

(c) The following persons wishing to serve as conservators are exempt from the bonding requirements of this section:

(1) Spouses;

(2) Financial institutions authorized to do business in the State under Title 9-B, section 131, subsection 12-A, or their employees; and

(3) Persons who are already bonded in their course of business if the bond is sufficient to cover the duties of conservator.

Sec. 3. 18-A MRSA §5-507 is enacted to read:

§5-507. Durable financial power of attorney

(a) A durable financial power of attorney is a durable power of attorney by which a principal designates another as attorney-in-fact to make decisions on the principal's behalf in matters concern-