

# 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**

disposition under section 4036 or under Title 19-A, section 1502 or 1653.

**Sec. 9. 22 MRSA §4055, sub-§1-A, ¶¶C and E**, as enacted by PL 1995, c. 481, §4, are amended to read:

C. The child has been placed in the legal custody or care of the department, the parent has a chronic substance abuse problem, and the parent's prognosis indicates that the child will not be able to return to the custody of the parent within a reasonable period of time, considering the child's age and the need for a permanent home. The fact that a parent has been unable to provide safe care of a child for a period of ~~12~~ 9 months due to substance abuse constitutes a chronic substance abuse problem;

E. The child has been placed in the legal custody or care of the department for at least ~~12~~ 9 months, and the parents have been offered or received services to correct the situation but have refused or have made no significant effort to correct the situation.

**Sec. 10. 22 MRSA §4055, sub-§2**, as amended by PL 1995, c. 481, §5, is further amended to read:

**2. Primary considerations.** In deciding to terminate parental rights, the court shall consider the best interest of the child, the needs of the child, including the child's age, the child's attachments to relevant persons, periods of attachments and separation, the child's ability to integrate into a substitute placement or back into the parent's home and the child's physical and emotional needs.

**Sec. 11. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 22, section 4052, subsection 2, as amended by Public Law 1995, chapter 694, Part D, section 47 and affected by Part E, section 2, takes effect October 1, 1997.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 476**

**H.P. 400 - L.D. 545**

**An Act to Enhance the Penalty for Operating a Motor Vehicle after Habitual Offender Revocation When the Actor Has Had a Prior Conviction for Operating after Revocation or Operating under the Influence within the Previous 10 Years**

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

**Sec. 1. 29-A MRSA §2557, sub-§2, ¶¶A and B**, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. C, §14 and affected by §15, are further amended to read:

A. A Class D crime if:

(1) The person has no conviction for operating after revocation under this section or under former Title 29, section 2298 within the previous ~~5~~ 10 years; and

(2) The person has no conviction for violating section 2411 or former Title 29, section 1312-B within the previous ~~5~~ 10 years; and

B. A Class C crime if:

(1) The person has one or more convictions for operating after revocation under this section or under former Title 29, section 2298 within the previous ~~5~~ 10 years; or

(2) The person has one or more convictions for violating section 2411 or former Title 29, section 1312-B within the previous ~~5~~ 10 years.

See title page for effective date.

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**CHAPTER 477**

**H.P. 264 - L.D. 328**

**An Act to Increase the Penalty for Burglary When the Actor has Prior Convictions for Certain Enumerated Crimes**

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

**Sec. 1. 17-A MRSA §401, sub-§2, ¶B**, as amended by PL 1977, c. 510, §51, is repealed and the following enacted in its place:

B. A Class B crime if:

(1) The defendant intentionally or recklessly inflicted or attempted to inflict bodily injury on anyone during the commission of the burglary or an attempt to commit the burglary or in immediate flight after the commission or attempt;

(2) The defendant was armed with a dangerous weapon other than a firearm or knew that an accomplice was so armed;

(3) The violation was against a structure that is a dwelling place; or

(4) At the time of the burglary, the defendant had 2 or more prior Class A, B or C convictions for any combination of theft or any violation of this section or section 651, 702 or 703 or attempts to commit any of those crimes. For purposes of this subparagraph, the dates of the prior convictions must precede the commission of the burglary by no more than 10 years, although both prior convictions may have occurred on the same date. This subparagraph does not apply if the 2 prior offenses were committed within a 3-day period. The date an offense was committed is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent; and

See title page for effective date.

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**CHAPTER 478**

**H.P. 827 - L.D. 1132**

**An Act to Amend the Continuing Care Retirement Community Laws**

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

**Sec. 1. 24-A MRSA §6203, sub-§6,** as enacted by PL 1995, c. 452, §20, is amended to read:

**6. Provision of services to nonresidents.** The final certificate of authority must state whether any skilled nursing facility that is part of a life-care community or a continuing care retirement community may provide services to persons who have not been bona fide residents of the community prior to admission to the skilled nursing facility. If the life-care community or the continuing care retirement community is a nonprofit corporation that is a Section 501(c)(3) organization under the federal Internal Revenue Code and that admits to its skilled nursing facility only persons who have been bona fide residents of the community prior to admission to the skilled nursing facility, then the community is exempt from the provisions of Title 22, chapter 103, but is subject to the licensing provisions of Title 22, chapter 405, and is entitled to only one skilled nursing facility bed for every 4 residential units in the community. However, any Any community so exempted from under Title 22, chapter 103 may admit nonresidents of

the community to its skilled nursing facility only during the first 3 years of operation. For purposes of this subsection, a "bona fide resident" means a person who has been a resident of the community for a period of not less than 180 consecutive days immediately preceding admission to the nursing facility or has been a resident of the community for less than 180 consecutive days but who has been medically admitted to the nursing facility resulting from an illness or accident that occurred subsequent to residence in the community. Any community ~~so exempted from~~ under Title 22, chapter 103 is not entitled to and may not seek any reimbursement or financial assistance under the Medicaid program from any state or federal agency and, as a consequence, that community must continue to provide nursing facility services to any person who has been admitted to the facility.

See title page for effective date.

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**CHAPTER 479**

**H.P. 351 - L.D. 474**

**An Act to Amend the Waste Management Laws Regarding Landfill Closure**

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

**Sec. 1. 38 MRSA §1310-F, sub-§1-B,** as amended by PL 1995, c. 665, Pt. HH, §1, is repealed and the following enacted in its place:

**1-B. Closure cost-share fraction.** Subject to the availability of funds, the commissioner shall issue grants or payments for the following percentages of landfill closure costs incurred by municipalities.

A. The state cost share is 75% of closure costs incurred before July 1, 1994.

B. The state cost share is 50% of landfill cover costs and 75% of other closure costs incurred on or after July 1, 1994 and before January 1, 1996.

C. The state cost share is 30% of landfill cover costs and 75% of other closure costs incurred on or after January 1, 1996 and before January 1, 2000.

D. Notwithstanding paragraphs B and C, the state cost share is 75% of closure costs, including landfill cover costs, incurred on or after July 1, 1994 and before January 1, 2000, if:

(1) The costs are incurred pursuant to a written agreement between the municipality