

# 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**

**Whereas**, under current Medicaid regulations, a spouse who remains at home after his or her spouse is admitted to a nursing facility receives a monthly support allowance from the noninstitutionalized spouse; and

**Whereas**, current regulations do not extend such protection to spouses of residents of cost-reimbursed residential care facilities; and

**Whereas**, absent such spousal support protections, a spouse may be in drastically reduced financial circumstances as a result of the institutionalization of the other spouse, a condition known as "spousal impoverishment"; and

**Whereas**, this inequity in the system creates disincentives for people to use less restrictive alternatives to nursing facility care; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Study. Resolved:** That the Commissioner of Human Services, in conjunction with the Long-term Care Steering Committee, shall undertake a study of the levels of spousal and family support assistance available to both married and single recipients of services under the different long-term care and assisted living programs and develop recommendations regarding the promotion of greater equity in the levels of resource and income support allowances available to the spouses and families of individuals receiving long-term health care in various settings. They shall also study medical and financial eligibility screening and the availability and development of long-term care options. In the course of the study the commissioner and the Long-term Care Steering Committee shall consult with the long-term care ombudsman program, Legal Services for the Elderly, the Alzheimer's Association, other consumer representatives and providers of long-term care services; and be it further

**Sec. 2. Reports. Resolved:** That the Commissioner of Human Services and the Long-term Care Steering Committee shall submit a report containing final recommendations on medical and financial eligibility screening and an interim report on the availability and development of long-term care options to the Joint Standing Committee on Health and Human Services no later than January 1, 1998. They shall submit a report containing final recommendations on the availability and development of long-term care options and levels of spousal and family support assistance to the Joint Standing Committee on Health and Human Services no later

than November 1, 1998. In submitting reports to the committee, the commissioner and the Long-term Care Steering Committee may submit proposed legislation concerning financial support for the spouses and families of long-term care recipients.

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective May 30, 1997.

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## CHAPTER 43

### H.P. 265 - L.D. 329

#### **Resolve, Directing the Commissioner of Labor to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Pay Discrimination Based on Gender**

**Sec. 1. Rulemaking regarding discrimination in pay based on gender. Resolved:** That the Commissioner of Labor shall adopt rules in consultation with the Maine Human Rights Commission to implement the provisions of the Maine Revised Statutes, Title 26, section 628, prohibiting discrimination in pay on the basis of gender. The commissioner shall forward the final rules to the Joint Standing Committee on Labor no later than March 1, 1998. These rules are routine technical rules under Title 5, chapter 375, subchapter II-A. The department shall enforce those rules within currently available resources.

See title page for effective date.

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## CHAPTER 44

### H.P. 444 - L.D. 594

#### **Resolve, Authorizing the Maine Technical College to Achieve Cost Savings through the Lease-purchase of Facilities**

**Sec. 1. Authorization of lease-purchase of buildings, equipment and real property for the Maine Technical College System. Resolved:** That, in compliance with the Maine Revised Statutes, the Maine Technical College System is authorized to lease-purchase its current office space in Augusta, Maine together with related buildings, equipment and the site on which the buildings are located. The principal amount of the lease-purchase may not

exceed \$1,250,000. The interest rate must be approximately 5.6% and total interest costs may not exceed \$735,000. The Maine Technical College System is authorized to encumber, mortgage or otherwise give security for the buildings, equipment and real property that are the subject of the lease-purchase in order to allow consummation of the lease-purchase and is authorized to transfer interests in real estate in order to provide for utility easements and other necessities. Any lease-purchase effected pursuant to this authorization must state that the Maine Technical College System may discontinue the lease-purchase in the event that annual appropriations of state funds necessary to pay for the lease-purchase, as determined by the system, are discontinued by the Legislature.

See title page for effective date.

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## CHAPTER 45

H.P. 926 - L.D. 1269

### **Resolve, to Foster the Self-governing Powers of Maine's Indian Tribes in a Manner Consistent with Protection of Rights and Resources of the General Public**

**Preamble.** Whereas, there is conflict over the effect of the Act to Implement the Maine Indian Claims Settlement as evidenced by the introduction of legislation to give the Passamaquoddy Tribe authority to change the names of geographic features within Passamaquoddy territory; to eliminate the application of state law to tribal lands; to require full faith and credit for decisions of the tribal courts; and to make all persons within Passamaquoddy territory subject to tribal court jurisdiction; and

**Whereas,** the most basic function of the Maine Indian Tribal-State Commission, established as a part of the Act to Implement the Maine Indian Claims Settlement, is to "continually review the effectiveness of . . . [the Settlement] Act and the social, economic and legal relationship between the Passamaquoddy Tribe and the Penobscot Nation and the State and . . . make such reports and recommendations to the Legislature as it deems appropriate"; and

**Whereas,** we realize that the "[continual] review [of] the effectiveness of . . . the social, economic and legal relationship between the Passamaquoddy Tribe and the Penobscot Nation and the State" requires an effort by and is of mutual interest to both the State and the Maine Indian Tribes to learn to better respect and honor the powers and duties of the State and the Indian tribes within the tribes' Indian territories; and

**Whereas,** we all pride ourselves on our abilities to listen, learn, identify and adapt to changing circumstances, especially with respect to the needs of our youth, both within the State and within the tribal territories; now, therefore, be it

#### **Sec. 1. Maine Indian Tribal-State Commission authorized to focus on needs of youth.**

**Resolved:** That the Maine Indian Tribal-State Commission, established by the Maine Revised Statutes, Title 30, section 6212, is authorized and directed to undertake a systematic review of the civil laws of the State to determine the manner and extent to which those laws, as enforced, constrict or impinge upon the best interests of the children with respect to:

1. The traditional culture and way of life as practiced in the tribal communities;

2. The ability of the tribes to regulate their members, lands, schools and other cultural institutions and communities in a manner that honors tribal traditions without jeopardizing the resources of the State held for the benefit of all or the property or other rights of persons who are nonmembers of the Tribe; and

3. The respect and dignity appropriately given to all individual citizens in the State and members of the tribes; and be it further

#### **Sec. 2. Study organization, objective; consultation, conflict resolution. Resolved:**

That the Maine Indian Tribal-State Commission study must be conducted over the next 4 years, in consultation with appropriate representatives of affected tribes and agencies of the State, including teachers and local law enforcement, and using conflict resolution techniques, to identify policies, programs or provisions that could be undertaken to foster the social and economic strength of both the State and Maine's tribal communities without significant risk of harm to the resources of the State held for the benefit of all, or the property or other rights of persons who are not members of the tribes and with special attention to the needs of the youth of both the State and the tribes.

The commission shall consider the concerns that gave rise to the legislation proposed by the Passamaquoddy Tribe to amend the Act to Implement the Maine Indian Claims Settlement and determine how those concerns may be addressed; and be it further

#### **Sec. 3. Reporting dates established. Resolved:**

That the Maine Indian Tribal-State Commission shall report its findings and legislative recommendations to the Second Regular Session of the 118th Legislature by December 15, 1997; to the First Regular Session of the 119th Legislature by December 15, 1998; and to the First Regular Session