

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

REVISOR'S REPORT
1997

CHAPTER 1

Sec. 1. 4 MRSA §17-B, as enacted by PL 1997, c. 362, §1, is reallocated to 4 MRSA §17-C.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 11 and 362, which enacted 2 substantively different provisions with the same section number.

Sec. 2. 4 MRSA §807, sub-§3, ¶1, as repealed and replaced by PL 1997, c. 393, Pt. A, §6, is corrected to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7 and Title 19-A, section 2361, subsection 10. This paragraph is repealed October 1, 1998; ~~or~~

EXPLANATION

This section corrects a clerical error by deleting the word "or" between paragraphs I and J.

Sec. 3. 5 MRSA §17751, sub-§2, as amended by PL 1997, c. 190, §1, is corrected to read:

2. Absence without pay. Except as provided in section ~~17765~~ 17766, the board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

EXPLANATION

This section corrects a cross-reference to a section that is reallocated in this report.

Sec. 4. 5 MRSA §17765, as enacted by PL 1997, c. 190, §2, is reallocated to 5 MRSA §17766.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 161 and 190, which enacted 2 substantively different provisions with the same section number.

Sec. 5. 8 MRSA §271, sub-§6, as enacted by PL 1997, c. 416, §1, is reallocated to 8 MRSA §271, sub-§7.

Sec. 6. 8 MRSA §271, sub-§6, as enacted by PL 1997, c. 474, §1, is reallocated to 8 MRSA §271, sub-§8.

Sec. 7. 8 MRSA §271, sub-§6, as enacted by PL 1997, c. 528, §12, is reallocated to 8 MRSA §271, sub-§9.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 406, 416, 474 and 528, which enacted 4 substantively different provisions with the same subsection number.

Sec. 8. 12 MRSA §7017, sub-§7, as enacted by PL 1997, c. 513, §1, is reallocated to 12 MRSA §7017, sub-§8.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 312 and 513, which enacted 2 substantively different provisions with the same subsection number.

Sec. 9. 12 MRSA §7035, sub-§13, ¶A, as amended by PL 1995, c. 667, Pt. A, §6, is corrected to read:

A. A program that supports landowners, called the Support Landowners Program. Twelve dollars of each \$15 collected under section ~~7101~~ 7076, subsection ~~5 A~~, section ~~7133~~, subsection

~~4 A and section 7151, subsection 5 A 12-A~~ is dedicated to the Support Landowners Program. The Support Landowners Program may:

- (1) Offer a toll-free number for landowner concerns;
- (2) From among existing staff, appoint a landowner relations coordinator at the Augusta office of the department and regional landowner relations coordinators at the regional offices. Regional landowner relations coordinators may be appointed only from the department's recreational safety coordinators and volunteers;
- (3) Provide linkage with local conservation organizations, volunteer groups and advisory groups;
- (4) Enhance enforcement of trespass, dumping and property damage violations;
- (5) Provide educational materials and signs;
- (6) Coordinate with other related landowner relations activities, including Landowner Recognition Day; and
- (7) Encourage landowners who only allow access to their property with permission to conspicuously post signs on the property indicating the name and address of the owner or other person with authority to grant permission; and

Sec. 10. 12 MRSA §7035, sub-§13, ¶B, as enacted by PL 1995, c. 436, §1, is corrected to read:

B. A program called the Sport Hunter Program. The Sport Hunter Program is established to combat disrespect and misconduct and to improve the hunter's image through landowner relations, coordination with hunter safety programs and conservation ethics. Three dollars of each \$15 collected under section ~~7101 7076~~, subsection ~~5 A, section 7133, subsection 4 A and section 7151, subsection 5 A 12-A~~ is dedicated to the Sport Hunter Program.

EXPLANATION

These sections correct cross-references.

Sec. 11. 12 MRSA §7463-A, sub-§2-A, ¶B, as enacted by PL 1993, c. 206, §4 and affected by §7, is corrected to read:

B. In 1995, no more than 1,400 permits; ~~and~~

EXPLANATION

This section corrects a clerical error by deleting the "and" after paragraph B.

Sec. 12. 17-A MRSA §602, sub-§2, ¶C, as repealed and replaced by PL 1997, c. 223, §1, is corrected to read:

C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include the following:

- (i) A meal, if the meal is provided by industry or special interest organizations as part of an informational program presented to a group of public servants;
- (ii) A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or
- (iii) A subscription to a newspaper, news magazine or other news publication.

EXPLANATION

This section corrects a clerical error by renumbering subparagraphs (i), (ii) and (iii) as subparagraphs (1), (2) and (3).

Sec. 13. 18-A MRSA §5-507, as enacted by PL 1997, c. 453, §3, is corrected to read:

~~§5-507~~ **§5-508. 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 concerning the principal's finances and property. In the exercise of the powers conferred under a durable financial power of attorney, an attorney-in-fact shall act as a fiduciary under the standards of care applicable to trustees as described by section 7-302. An attorney-in-fact is not authorized to make gifts to the

attorney-in-fact or to others unless the durable financial power of attorney explicitly authorizes such gifts.

(b) A durable financial power of attorney must be notarized by a notary public or an attorney at law.

(c) A durable financial power of attorney must contain the following language:

"Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent") to make decisions about your money and property and to use it on your behalf. The powers granted to the Agent are broad and sweeping. Your Agent will have the power to sell or otherwise dispose of your property and spend your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to ~~5-507~~ 5-508 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money and property belonging to the Principal and to spend it on that person's behalf. This Durable Power of Attorney is only valid if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to ~~5-507~~ 5-508 and 7-302 and in Maine case law. As the Agent, you are not entitled to use the money for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this form will end when the Principal dies and you will not have the authority to administer the estate unless you are named in the Principal's will. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this form or your duties under it that you do not

understand, you should ask a lawyer to explain it to you."

(d) These requirements do not render ineffective a durable financial power of attorney validly executed prior to the effective date of this section.

Sec. 14. PL 1997, c. 453, §3, first line, is corrected to read:

Sec. 3. 18-A MRSA ~~§5-507~~ §5-508 is enacted to read:

EXPLANATION

These sections correct a numbering problem created by Public Law 1997, chapters 241 and 453, which enacted 2 substantively different provisions with the same section number, and correct internal cross-references to the reallocated section.

Sec. 15. 19-A MRSA §1615, as enacted by PL 1997, c. 537, §21, is reallocated to 19-A MRSA §1616.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 466 and 537, which enacted 2 substantively different provisions with the same section number.

Sec. 16. 19-A MRSA §§2104 and 2105, as enacted by PL 1997, c. 466, §8, are reallocated to 19-A MRSA §§2107 and 2108.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 466 and 537, which enacted 4 substantively different provisions with the same section numbers.

Sec. 17. 19-A MRSA §2361, sub-§3, ¶G, as amended by PL 1997, c. 407, §2 and c. 537, §46, is corrected to read:

G. The penalties as provided by this section that could be incurred by the responsible parent for failure to appear, failure to provide documents,

papers and other evidence as required or intentionally providing false information; ~~and~~

Sec. 18. 19-A MRSA §2361, sub-§3, ¶H, as enacted by PL 1997, c. 407, §3, is corrected to read:

H. That the responsible parent must provide to the department the name and last known address of any other person that has an ownership in any property in which the responsible parent has an ownership interest; and

Sec. 19. 19-A MRSA §2361, sub-§3, ¶H, as enacted by PL 1997, c. 537, §47, is reallocated to 19-A MRSA §2361, sub-§3, ¶I.

EXPLANATION

These sections correct a lettering problem created by Public Law 1997, chapters 407 and 537, which enacted 2 substantively different provisions with the same paragraph letter, and correct punctuation.

Sec. 20. 20-A MRSA §7004, as enacted by PL 1997, c. 338, §1, is reallocated to 20-A MRSA §7005.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 308 and 338, which enacted 2 substantively different provisions with the same section number.

Sec. 21. 22 MRSA §8302-A, sub-§2, as enacted by PL 1997, c. 494, §10, is corrected to read:

2. Rules for home day care providers. Rules for home day care providers must include, and are limited to, rules pertaining to the following:

- A. Cardiopulmonary resuscitation;
- B. Water for drinking and cooking;
- C. Wastewater;
- D. Rabies vaccinations for pets;
- E. Recording the times, reasons and numbers of children involved when more than 12 children are cared for;

F. Ongoing training for providers on health and safety issues, including training on communicable diseases. This training must be offered at times that are convenient to the providers;

G. Child to staff ratios;

H. Health and safety of the children and staff;

I. Procedures for waivers of rules and for suspension and revocation of certification; and

J. The age, criminal record and personal history of the home day care provider, staff and members of the household.

Rules adopted pursuant to paragraphs A to F are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A and rules adopted pursuant to paragraphs G to J are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

EXPLANATION

This section corrects a clerical error by adding the word "to."

Sec. 22. 24-A MRSA §2808-B, sub-§2, ¶D-1, as enacted by PL 1997, c. 370, Pt. E, §6, is reallocated to 24-A MRSA §2808-B, sub-§2, ¶D-2.

EXPLANATION

This section corrects a numbering problem created by Public Law 1997, chapters 370 and 445, which enacted 2 substantively different provisions with the same paragraph letter.

Sec. 23. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1997, c. 349, §2, is further amended by correcting subparagraph (40) to read:

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

Sec. 24. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1997, c. 431, §2, is corrected by reallocating subparagraphs (40) and (41) to subparagraphs (41) and (42).

EXPLANATION

These sections correct a numbering problem created by Public Law 1997, chapters 349 and 431, which enacted 2 substantively different provisions with the same subparagraph number, and correct punctuation.

Sec. 25. 26 MRSA §2102, sub-§1, ¶A, as enacted by PL 1987, c. 356, is corrected to read:

A. Training in accordance with Title ~~30~~ 30-A, section ~~3774~~ 3154, subsection 2;

EXPLANATION

This section corrects a cross-reference.

Sec. 26. 29-A MRSA §453, sub-§1, as amended by PL 1997, c. 437, §6, is corrected to read:

1. Vanity registration plates. The Secretary of State may issue registration plates that contain letters or a combination of letters and numbers for automobiles, taxi cabs, limousines, pickup trucks, trucks that are registered up to 9,000 pounds gross vehicle weight, motorcycles, motor homes, semitrailers that do not exceed 2,000 pounds and camp trailers. The number of characters appearing on a plate issued under this section may not exceed 7.

EXPLANATION

This section corrects a punctuation error.

Sec. 27. 34-B MRSA §1220, sub-§1, ¶A, as enacted by PL 1997, c. 422, §3, is corrected to read:

A. To provide reports in a timely fashion on behalf of the department in response to any requests made by a court pursuant to Title 17-A, section 1204, subsection 4 and to undertake or cause to be undertaken such ~~inquires~~ inquiries or evaluations as are necessary to complete the reports;

EXPLANATION

This section corrects a clerical error by replacing the word "inquires" with the word "inquiries."

Sec. 28. 36 MRSA §175-A, sub-§4, as amended by PL 1997, c. 526, §10, is corrected to read:

4. Recording fees part of tax liability. Fees paid by the assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and, in the case of a tax imposed by this Title, may be collected by all the methods provided for in chapter 7. In the case of other obligations ~~owned~~ owed to the State and authorized to be collected by the bureau, the fees may be collected by any collection method authorized by this section or section 176-A.

EXPLANATION

This section corrects a clerical error by replacing the word "owned" with the word "owed."

Sec. 29. PL 1997, c. 18, §1, is corrected to read:

Sec. 1. 18-A MRSA §1-602, as amended by PL 1993, c. 148, §§3 and 4, is further amended to read:

§1-602. Filing and certification fees

The register of probate ~~shall~~ must receive the following fees for filing or certifying documents:

(1) For making and certifying to the register of deeds copies of devises of real estate, abstracts of petitions for appointment of a personal representative or for an elective share and any other document for which certification is required, ~~\$6~~ \$8, except as otherwise expressly provided by law. The fee must be paid by the personal representative, petitioner or other person filing the document to be certified when the copy of the devise or abstracts is made. The register of probate shall deliver the certified document to the register of deeds together with the fee for recording as provided by Title 33, section 751. The personal representative, petitioner, applicant or other person requesting the certification shall pay the recording fee to the register of probate.

(2) For receiving and entering each petition or application for all estates, testate and intestate, including foreign estates, and the filing of a notice by a domiciliary foreign personal representative, except for the filing of a successor personal representative, when the value of the estate is:

- (ii) For filing a will to be probated and without an appointment, \$10;
- (iii) \$10,000 and under, \$15;
- (iv) \$10,001 to \$20,000, \$30;
- (v) \$20,001 to \$30,000, \$45;
- (vi) \$30,001 to \$40,000, \$60;
- (vii) \$40,001 to \$50,000, \$75;
- (viii) \$50,001 to \$75,000, \$100;
- (ix) \$75,001 to ~~\$150,000~~ \$100,000, \$150;
- (x) ~~\$150,001~~ \$100,001 to ~~\$250,000~~ \$150,000, \$200;
- (xi) ~~\$250,001~~ \$150,001 to ~~\$500,000~~ \$200,000, ~~\$300~~ \$250;
- (xii) ~~\$500,001~~ \$200,001 to ~~\$1,000,000~~ \$250,000, ~~\$400~~ \$300;
- (xiii) ~~\$1,000,001~~ \$250,001 to ~~\$2,000,000~~ \$300,000, ~~\$500~~ \$350; ~~or~~
- (xiv) ~~More than \$2,000,000, \$600-~~ \$300,001 to \$400,000, \$400;
- (xv) \$400,001 to \$500,000, \$450;
- (xvi) \$500,001 to \$750,000, \$500;
- (xvii) \$750,001 to \$1,000,000, \$550;
- (xviii) \$1,000,001 to \$1,500,000, \$600;
- (xix) \$1,500,001 to \$2,000,000, \$700; or
- (xx) More than \$2,000,000, \$750.

(3) For making copies from the records of the court, \$1 for ~~the first each page plus 50¢ for each additional page; except the charge for furnishing to the personal representative one copy of each will probated shall be \$1.~~

(4) For each certificate, under seal of the court, of the appointment and qualification of a personal representative, guardian, conservator or trustee, ~~\$3~~ \$5, and for each double certificate, ~~\$5~~ \$10.

(5) For filing a petition for appointment as guardian, ~~\$10~~ \$25.

(6) For filing application for involuntary hospitalization, \$10.

(7) For filing a joined petition for guardian and conservator, ~~\$20~~ \$35.

(8) For filing any other formal proceeding, ~~\$40~~ \$15.

(9) For filing a petition for appointment of conservator, ~~\$40~~ \$25.

(10) For all other subsequent informal appointments, \$15.

EXPLANATION

This section corrects a clerical error by replacing the word "receives," which appeared in the public law, with the phrase "must receive."

Sec. 30. PL 1997, c. 24, Pt. PP, §1, is corrected to read:

Sec. PP-1. 22 MRSA §3024-A, first ¶, as amended by PL 1983, c. 534, §1, is further amended to read:

The salary of the Chief Medical Examiner of the State of Maine ~~shall~~ must be set by the Governor. Other nonsalaried medical examiners ~~shall~~, upon the submission of their completed report to the Chief Medical Examiner, must be paid a fee of ~~\$45~~ \$70 for an inspection and view and ~~shall~~ are entitled to receive travel expenses to be calculated at the mileage rate currently paid to state employees pursuant to Title 5, section 8. An additional fee of ~~\$20~~ \$50 may be authorized by the Chief Medical Examiner for payment to other nonsalaried medical examiners for visits to death scenes other than hospitals.

EXPLANATION

This section corrects a clerical error by replacing "aNNitional," which appeared in the public law, with the proper word "additional."

Sec. 31. PL 1997, c. 24, Pt. RR, §1, is corrected to read:

Sec. RR-1. 15 MRSA §3203-A, sub-§1, ¶B-1, as amended by PL 1993, c. 354, §1, is further amended to read:

B-1. When, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile from imminently inflicting bodily harm on others or the juvenile, the officer may refer the juvenile for temporary, emergency detention in a jail or other secure facility intended or primarily used for the detention of adults approved pursuant to subsection 7, paragraph A or a facility approved pursuant to subsection 7, paragraph B, prior to notifying a juvenile caseworker. Such a facility may detain the juvenile for up to 2 hours on an emergency basis, provided that the law enforcement officer immediately notifies the juvenile caseworker and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile caseworker may, if continued emergency detention is required to prevent the juvenile from imminently inflicting bodily harm on others or the juvenile, authorize temporary emergency detention in that facility for an additional 4 hours. Following any temporary emergency detention, the juvenile caseworker shall order the conditional or unconditional release of a juvenile or shall effect a detention placement. After December 31, 1991 and except as otherwise provided by law, any detention beyond 6 hours must be in a placement other than a facility intended or primarily used for the detention of adults and must be authorized by a juvenile caseworker. It is the responsibility of the law enforcement officer to remain at the facility until the juvenile caseworker has released the juvenile or has authorized detention.

EXPLANATION

This section corrects a clerical error by replacing "aNNitional," which appeared in the public law, with the proper word "additional."
