

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

(3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union and the dates and amounts of deposits.

E. The funds may be withdrawn, if otherwise lawful and permitted by contract, by the payee on written instructions of the payor or the payor's legal representative or on the death of the person for whose benefit the funds were paid, in which event they must be used in accordance with the agreement.

2. Rulemaking. The board shall adopt rules regarding prearranged funeral agreements, including, but not limited to:

A. The form, format and content of trust agreements;

B. Standards regarding when service contracts are required in conjunction with trust agreements and the form, format and content of the service contracts;

C. The establishment of reasonable fees that may be charged only pursuant to subsection 1, paragraph D; and

D. Inspection of trust agreements, account information and any related documentation.

Rules adopted pursuant to this section are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

3. Financial institution or credit union liability. The financial institution or credit union is discharged from liability for payment of the funds in an account under subsection 1 upon presentation of a written consent to withdrawal signed by the payor or the payor's legal representative and by the payee or upon presentation of proof of death of the person for whose benefit the funds were paid.

4. Applicability. This section does not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges, cemetery space or perpetual care.

5. Cotrustees. This section may not be construed as prohibiting any person, including a payor, from serving as a mortuary cotrustee with the payee.

6. Penalties. Any person who violates this section is guilty of a Class E crime. This section does not preclude prosecution or conviction under other applicable laws, including, but not limited to, disciplinary actions under this chapter.

**Sec. 3. Application.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 32, section 1401 applies to prearranged funeral or burial plan agreements entered into on or after the effective date of this Act.

**Sec. 4. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

**1999-00**

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Office of Licensing and Registration**

All Other \$1,500

Provides funds for the costs associated with adopting rules on behalf of the State Board of Funeral Service.

See title page for effective date.

**CHAPTER 259**

**H.P. 1012 - L.D. 1423**

**An Act to Revise the Staffing and Resources of the Office of Public Advocate**

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

**Sec. 1. 2 MRSA §6, sub-§2,** as repealed and replaced by PL 1995, c. 560, Pt. K, §2, is amended to read:

**2. Range 90.** The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health, Mental Retardation and Substance Abuse Services;

Associate Commissioner of Administration, Department of Mental Health, Mental Retardation and Substance Abuse Services;

Associate Commissioner for Systems Operations, Department of Mental Health, Mental Retardation and Substance Abuse Services;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections; ~~and~~

Associate Commission for Juvenile Services, Department of Corrections; and

Public Advocate.

**Sec. 2. 2 MRSA §6, sub-§3**, as amended by PL 1997, c. 643, Pt. H, §1 and Pt. Q, §2, is repealed and the following enacted in its place:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;

Director, Bureau of Alcoholic Beverages and Lottery Operations;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Chief of the State Police;

Director, State Planning Office;

Director, Energy Resources Office;

Director of Human Resources;

Director, Bureau of Children with Special Needs;

Commissioner of Defense, Veterans and Emergency Management;

Director, Bureau of Parks and Lands;

Director, Bureau of Information Services; and

Director of Econometric Research.

**Sec. 3. 35-A MRSA §116, sub-§8, ¶B**, as enacted by PL 1991, c. 591, Pt. CC, §2, is amended to read:

B. The Public Advocate may use the revenues provided in accordance with this section to fund 7 the Public Advocate and 9 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

**Sec. 4. 35-A MRSA §1701, sub-§3**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

**3. Salaries of certain employees.** The salaries of the following employees of the Public Advocate are within the following salary ranges:

A. Deputy Public Advocate, salary range 53;

B. Senior Counsel, salary range 36;

C. Economic Analyst, salary range 36;

D. Research Assistant, salary range 30;

E. Business Services Manager, salary range 26; and

F. Special Assistant to the Public Advocate, salary range 20.

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>EXECUTIVE DEPARTMENT</b>		
<b>Public Advocate</b>		
Positions - Legislative Count	(3,000)	(3,000)
Personal Services	\$114,750	\$154,500
All Other	42,000	50,000
Capital Expenditures	8,000	
TOTAL	\$164,750	\$204,500

Provides funds from the Public Advocate Regulatory Fund to establish an Economic Analyst position, a Research Assistant position and a Clerk Typist III position.

**Public Advocate**

Personal Services	\$27,750	\$60,000
Provides funds from the Public Advocate Regulatory Fund for the reclassification of the Public Advocate, General Counsel, Counsel, Administrative Assistant and Senior Legal Secretary positions.		

<b>EXECUTIVE DEPARTMENT TOTAL</b>	\$192,500	\$264,500
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See title page for effective date.

**CHAPTER 260**

**H.P. 1002 - L.D. 1400**

**An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile Records Repository**

**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:**

**PART A**

**Sec. A-1. 15 MRSA §3203-A, sub-§1, ¶C,** as amended by PL 1997, c. 645, §6, is further amended to read:

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the juvenile caseworker and the Department of the Attorney General. In all other cases the law enforcement officer shall immediately notify the juvenile caseworker if the law enforcement officer believes that immediate secure detention is required. If the juvenile caseworker determines not to order the detention or continued detention of the juvenile, the caseworker shall inform the law enforcement officer and the attorney for the State prior to the juvenile's release. The attorney for the State, with or without a request from a law enforcement officer, shall consider the facts

of the case, consult with the juvenile caseworker who made the initial determination, consider standards for detention under subsection 4, paragraph C and subsection 4, paragraph D, subparagraphs (1) to (6) and may order detention or continued detention of the juvenile under the same or any authorized conditions pending the juvenile's initial appearance before the court. If detention or continued detention is ordered, the detention placement must be made by the juvenile caseworker within 12 hours following the juvenile's arrest.

**Sec. A-2. 15 MRSA §3203-A, sub-§2, ¶A,** as amended by PL 1997, c. 752, §8, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile caseworker shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile caseworker who has been contacted and, if a juvenile has been placed in a secure detention facility, that a detention hearing will be held within 48 24 hours following this placement, excluding Saturday, Sunday and legal holidays.

**Sec. A-3. 15 MRSA §3203-A, sub-§3,** as amended by PL 1991, c. 493, §4, is further amended to read:

**3. Law enforcement officer's report.** An officer who notifies a juvenile caseworker pursuant to subsection 1, paragraph A or B shall file a brief written report with the juvenile caseworker, stating the juvenile's name, date of birth and address; the name and address of the juvenile's legal custodian; and the facts that led to the notification, including the offense that the juvenile is alleged to have committed. The report must contain sufficient information to establish the jurisdiction of the Juvenile Court.

A report of a notification pursuant to subsection 1, must be filed within 24 hours of the notification, excluding nonjudicial days. When a juvenile caseworker orders the conditional release of a juvenile and a report of the notification is not filed with the juvenile caseworker within 15 days, excluding nonjudicial days, the juvenile caseworker shall review the conditions imposed at the time of the release. Following the review, the juvenile caseworker may lessen or eliminate the conditions.

The date on which the report is received by the juvenile caseworker is the date of referral to the juvenile caseworker for an intake assessment.