

# 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**

B. Petitions must be delivered to the registrar, or clerk at the request or upon the absence of the registrar, for certification by 5 p.m. on May 25th in the election year in which the petitions are to be used, except that petitions for a slate of candidates for the office of presidential elector must be delivered for certification by 5 p.m. on August 8th in the election year in which the petitions are to be used.

**Sec. 2. 21-A MRSA §354, sub-§8-A,** as amended by PL 1995, c. 459, §28, is further amended to read:

**8-A. Filed with the Secretary of State.** A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to be used, except that petitions for a slate of candidates for the office of presidential elector must be filed in the office of the Secretary of State by 5 p.m. on August 15th in the election year in which the petitions are to be used.

See title page for effective date.

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## CHAPTER 265

H.P. 1215 - L.D. 1744

### **An Act to Allow Child-placing Agencies to License Preadoptive Homes as Foster Care Homes for a Child Placed in that Home Awaiting Adoption**

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

**Sec. 1. 22 MRSA §8206** is enacted to read:

**§8206. Preadoptive homes as foster homes**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Foster home" means a child's home that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour-a-day, residential basis.

B. "Preadoptive parent" means a person who has entered into an agreement with a licensed private child-placing agency that has certified the person as a potential adoptive parent who will accept a child into care with the intent to adopt that child.

**2. Home certification.** Pursuant to rules adopted by the department, a licensed private child-placing agency may certify a preadoptive parent's

home as a foster home for a child placed in that home awaiting adoption by the preadoptive parent. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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## CHAPTER 266

S.P. 690 - L.D. 1936

### **An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses**

**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:**

**Sec. 1. 15 MRSA §3301, sub-§5, ¶B,** as amended by PL 1997, c. 421, Pt. A, §2, is further amended to read:

B. Make whatever informal adjustment is practicable without a petition. The juvenile caseworker may effect whatever informal adjustment is agreed to by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments may extend no longer than 6 months and may not be commenced unless:

(1) The juvenile caseworker determines that the juvenile and the juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment may not be used in evidence against the juvenile if a petition based on the same facts is later filed; and

(3) Written consent to the informal adjustment is obtained from the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; or

**Sec. 2. 15 MRSA §3301, sub-§5, ¶C**, as amended by PL 1997, c. 350, §1, is further amended to read:

C. If the juvenile caseworker determines that the facts are sufficient for the filing of a petition, the juvenile caseworker ~~may shall~~ request the prosecuting attorney to file a petition. ~~If this alternative is chosen, the juvenile caseworker shall issue and may serve a summons in accordance with section 3304. If the juvenile caseworker does not make service before requesting the prosecuting attorney to file a petition, the juvenile caseworker shall request a law enforcement officer to serve the summons in accordance with section 3304; or~~

**Sec. 3. 15 MRSA §3301, sub-§5, ¶D** is enacted to read:

D. If the juvenile caseworker makes a determination pursuant to paragraph A or B, the caseworker shall notify the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the date for which they are summonsed.

**Sec. 4. 15 MRSA §3304, sub-§1**, as amended by PL 1997, c. 350, §2, is further amended to read:

**1. Issuance and contents.** The summons issued by the ~~juvenile caseworker law enforcement officer~~ must include the signature of the ~~juvenile caseworker law enforcement officer~~, a brief description of the alleged juvenile crime, the time and place of the alleged juvenile crime and the time and place the juvenile is to appear in court. The summons must also include a statement of the constitutional rights of the juvenile, including the right to have an attorney present at the hearing on the petition and to have an attorney appointed, if indigent. The summons must also include a notice that the case may be informally adjusted by a juvenile caseworker.

**Sec. 5. 15 MRSA §3304, sub-§3**, as amended by PL 1997, c. 350, §3, is repealed and the following enacted in its place:

**3. Service.** The summons must be directed to and served upon the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated. The summons must be served in hand or by leaving it at the juvenile's and parents', guardian's or legal custodian's dwelling house or usual place of abode with a person of suitable age and

discretion residing in that house or by mailing it to the last known address of the juvenile. A copy of the summons must be mailed to the juvenile caseworker and the district attorney.

See title page for effective date.

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## CHAPTER 267

### S.P. 441 - L.D. 1316

#### An Act to Encourage Municipal and State Partnerships Concerning the Issuance of Aquaculture Leases

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

**Sec. 1. 12 MRSA §6072, sub-§3**, as enacted by PL 1977, c. 661, §5, is amended to read:

**3. Municipal approval.** In any municipality with a shellfish conservation program under section 6671, the commissioner may not lease ~~more than 2 acres~~ of areas in the intertidal zone within the municipality without the consent of the municipal officers.

**Sec. 2. 12 MRSA §6072, sub-§7-A, ¶C**, as enacted by PL 1987, c. 453, §1, is amended to read:

C. Will not unreasonably interfere with fishing or other uses of the area taking into consideration the number and density of aquaculture leases in an area. For the purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and subject to a pollution abatement plan that predates the lease application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years;

**Sec. 3. 12 MRSA §6673, sub-§1**, as enacted by PL 1977, c. 661, §5, is amended to read:

**1. Municipal procedure.** A written application lease application written on a form supplied by the commissioner may be approved by the municipal officers if they find that it conforms to the shellfish program, that it will not cause the total area under lease to exceed 1/4 of all the municipal intertidal zone that is open to the taking of shellfish and that granting it is in the best interests of the municipality. On