

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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Augusta, Maine
1999

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Sec. 5. 15 MRSA §3304, sub-§3, as amended by PL 1997, c. 350, §3, is repealed and the following enacted in its place: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

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

approval, the lease shall must be forwarded to the commissioner.

See title page for effective date.

CHAPTER 268

S.P. 680 - L.D. 1930

An Act to Protect Beneficiaries of Structured Settlements

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

Sec. 1. 24-A MRSA §601, sub-§25 is enacted to read:

25. Transferees of structured settlement payment rights. Transferees of structured settlement payment rights registration fees are:

- A. Original issuance fee \$100; and
- B. Annual renewal fee \$100.

Sec. 2. 24-A MRSA c. 24-A is enacted to read:

CHAPTER 24-A

PROTECTION OF BENEFICIARIES OF STRUCTURED SETTLEMENTS

§2241. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Annuity issuer. "Annuity issuer" means an insurer that has issued an insurance contract used to fund periodic payments under a structured settlement.

2. Applicable law. "Applicable law" means:

- A. Federal law;
- B. The laws of this State, including principles of equity applied in the courts of this State; and
- C. The laws of any other jurisdiction:

(1) That is the domicile of the payee or any other interested party;

(2) Under whose laws a structured settlement agreement was approved by a court or responsible administrative authority; or

(3) In whose courts a settled claim was pending when the parties entered into a structured settlement agreement.

3. Dependents. "Dependents" means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony.

4. Discounted present value. "Discounted present value" means the fair present value of future payments as determined by discounting such payments to the present using the applicable federal rate for determining the present value of an annuity most recently published by the United States Internal Revenue Service.

5. Favorable tax determination. "Favorable tax determination," with respect to a proposed transfer of structured settlement payment rights, means any of the following authorities that definitively establishes that the federal income tax treatment of the structured settlement for the parties, other than the payee, to the structured settlement agreement and any qualified assignment agreement will not be affected by that transfer:

A. A provision of the United States Internal Revenue Code or a United States Treasury regulation adopted pursuant to the code;

B. A revenue ruling or revenue procedure issued by the United States Internal Revenue Service;

C. A private letter ruling by the United States Internal Revenue Service with respect to that transfer; or

D. A decision by the United States Supreme Court or a decision of a lower federal court in which the United States Internal Revenue Service has acquiesced.

6. Federal hardship standard. "Federal hardship standard" means a federal standard applicable to transfers of structured settlement payment rights based on findings of a court or responsible administrative authority regarding the payee's needs, as contained in the United States Internal Revenue Code or in a United States Treasury regulation adopted pursuant to the code.

7. Independent professional advice. "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional advisor:

A. Who is engaged by a payee to render advice concerning the legal, tax and financial implica-