

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.

J.S. McCarthy Company
Augusta, Maine
1999

routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

7. Report. The commissioner, within 24 months of the issuance of the first endorsement for a marine organism, shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters regarding the status of the emerging fishery, management goals and objectives and control of access to the emerging fishery. In the report, the commissioner shall consider:

A. The long-term sustainability of the resource;

B. The impact of harvesting on other fisheries; and

C. The department's ability to enforce and administer the management program.

See title page for effective date.

CHAPTER 298

H.P. 1442 - L.D. 2063

An Act to Maintain Protection of Sand Dunes Under Existing Law

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

Sec. 1. 38 MRSA §480-E, sub-§9 is enacted to read:

9. Permit; reconstruction in V-Zone. The department may not deny a permit for reconstruction of a structure under this article solely because the structure is located in a V-Zone designated after January 1, 1999 by the Federal Emergency Management Agency for the National Flood Insurance Program. "Reconstruction" includes reconstruction due to an ocean storm.

See title page for effective date.

CHAPTER 299

S.P. 187 - L.D. 580

An Act to Clarify the Voting Rights of Persons Residing in Certain Sanitary Districts

Emergency preamble. **Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is immediately important to secure the voting rights of persons residing in certain sanitary districts; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1104, sub-§1, as enacted by PL 1981, c. 466, §3, is amended to read:

1. Authorization. All the affairs of a sanitary district ~~shall be~~ are managed by an elected board of trustees which ~~shall consist~~ consists of not less than 3 trustees, or not less than 5 trustees in sanitary districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. The exact number of trustees ~~shall be~~ is determined in accordance with section 1101. A sanitary district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 1101, subsection 7. No municipality ~~nor~~ or unorganized territory within any sanitary district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, all trustees must be residents of the municipality and a majority of the trustees must be residents within the district. A trustee who ceases to qualify for the office of trustee as a result of the application of this subsection shall vacate the office of trustee and the vacancy must be filled as provided in section 1105.

Sec. 2. 38 MRSA §1105, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §214, is further amended by adding after the first paragraph a new paragraph to read:

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, when the term of office of a trustee expires, the trustee's successor must be elected at large by a plurality vote of the voters within the territory of the district.

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

Effective May 24, 1999.

CHAPTER 300

H.P. 75 - L.D. 88

An Act to Add to the List of Mandatory Reporters of Suspected Child Abuse Children's Summer Camp Administrators and Counselors

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

Sec. 1. 22 MRSA §4011, sub-§1, as amended by PL 1997, c. 251, §1, is further amended to read:

1. Reasonable cause to suspect. When, while acting in a professional capacity, an adult who is a medical or osteopathic physician, resident, intern, emergency medical services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant, chiropractor, podiatrist, registered or licensed practical nurse, teacher, guidance counselor, school official, children's summer camp administrator or counselor, social worker, court appointed special advocate or guardian ad litem for the child, homemaker, home health aide, medical or social service worker, psychologist, child care personnel, mental health professional, law enforcement official, state fire inspector, municipal code enforcement official, municipal fire inspector, commercial film and photographic print processor, clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications or chair of a professional licensing board that has jurisdiction over mandated reporters knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, that person shall immediately report or cause a report to be made to the department.

A. Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person shall immediately notify either the person in charge of the institution, agency or facility, or a designated agent, who shall then cause a report to be made. The staff may also make a report directly to the department.

B. Any person may make a report if that person knows or has reasonable cause to suspect that a

child has been or is likely to be abused or neglected.

D. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person shall immediately report or cause a report to be made to the appropriate district attorney's office.

Sec. 2. 22 MRSA §4011, sub-§1-A, as enacted by PL 1985, c. 495, §20, is amended to read:

1-A. Mental health treatment. When a licensed mental health professional is required to report under subsection 1, and ~~his~~ the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and where the department plans to initiate or has initiated a final protection action under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons