

# 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**

1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.; and

**Sec. 3. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1997, c. 683, Pt. A, §14, is further amended by enacting subparagraph (43) to read:

(43) Services of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax.

**Sec. 4. Application.** For purposes of enforcement of the Maine Revised Statutes, Title 26, chapter 13, that section of this Act that amends Title 26, section 1043, subsection 11, paragraph F, subparagraph (4-1) applies retroactively to January 1, 1996.

See title page for effective date.

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## CHAPTER 390

H.P. 806 - L.D. 1129

### An Act to Amend the Laws Pertaining to the Maine HIV Advisory Committee

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

**Sec. 1. 5 MRSA §19202, sub-§1**, as repealed and replaced by PL 1993, c. 384, §2, is repealed.

**Sec. 2. 5 MRSA §19202, sub-§1-A** is enacted to read:

**1-A. Duties.** The Maine HIV Advisory Committee, as established in section 12004-I, subsection 42 and referred to in this section as the "committee," shall:

A. Advise all departments and agencies of the State on:

(1) Prevention of the human immunodeficiency virus, referred to in this section as "HIV," and education related to HIV;

(2) Crises that may develop related to HIV;

(3) Services to persons with HIV;

(4) Services for family members and other persons providing care and support to persons with HIV;

(5) HIV-related policy, planning, rules or legislation; and

(6) All fiscal matters related to HIV;

B. Make an annual assessment of the policies, programs and budget proposals of state agencies related to HIV, on which the committee may make recommendations; and

C. Provide a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15th of each year.

**Sec. 3. 5 MRSA §19202, sub-§2**, as repealed and replaced by PL 1993, c. 384, §2, is repealed.

**Sec. 4. 5 MRSA §19202, sub-§2-A** is enacted to read:

**2-A. Membership.** The committee consists of 21 members as provided in this subsection.

A. The members shall annually elect from among themselves a membership committee to perform the functions provided in this subsection.

B. The membership committee shall seek nominations for membership for the coming year from the entities or persons authorized to nominate. If the nominating entities or persons do not provide the nominations within 90 days of the deadlines for the nominations, the membership committee shall seek nominations from other entities and persons.

C. The membership consists of the following:

(1) Two members of the Legislature, one Senator appointed by the President of the Senate and one Representative appointed

by the Speaker of the House of Representatives;

(2) Four representatives of entities serving persons infected with HIV or affected by HIV, chosen by the membership committee from nominations provided by the following:

(a) A representative of the Department of Human Services, Bureau of Health, HIV/STD program, nominated by the Commissioner of Human Services;

(b) A representative of the office managing the funds under the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990, 104 Stat. 576 (1990), as amended, in the Department of Human Services, Auditing, Contracting and Licensing Service Center, nominated by the Commissioner of Human Services;

(c) A representative of the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse, nominated by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services;

(d) A representative of the Department of Education, nominated by the Commissioner of Education;

(e) A representative of the Department of Corrections, nominated by the Commissioner of Corrections; and

(f) A representative of the Department of Public Safety, nominated by the Commissioner of Public Safety;

(3) Three representatives of persons with HIV or at risk for HIV infection or from organizations with extensive participation of persons with HIV, chosen by the membership committee from nominations provided by organizations interested in and working on HIV/AIDS prevention and health, other community-based organizations providing HIV/AIDS services, rural health centers and the public;

(4) Four health care practitioners involved with HIV/AIDS treatment and care issues, chosen by the membership committee from nominations provided by professional organizations representing allopathic and os-

teopathic physicians, nurses, dentists, hospitals, infection control practitioners, pharmacists and rural health centers;

(5) Four providers of other services to persons at increased risk for HIV infection or persons with HIV to be chosen by the membership committee from the following:

(a) A provider of services to homeless persons, nominated by a statewide organization of providers of services to the homeless;

(b) A provider of services to high-risk youth and injection drug users and a provider of mental health or developmental disabilities services, nominated by a statewide organization of providers of such services;

(c) A provider of services to persons with hemophilia, nominated by statewide organizations concerned with hemophilia; and

(d) A provider of services to persons with HIV, nominated by a statewide organization concerned with HIV; and

(6) Four persons representing interests related to HIV, HIV prevention or policy, to be chosen by the membership committee from the following:

(a) Representatives of statewide organizations concerned with family planning, public health, HIV prevention and treatment, organized labor, clergy, funeral directors, civil rights and disability rights, nominated by those organizations;

(b) A representative of families with school-aged children, nominated by members of the public; and

(c) A representative of the Maine Human Rights Commission.

**Sec. 5. 5 MRSA §19202, sub-§3**, as repealed and replaced by PL 1993, c. 384, §2, is amended to read:

**3. Terms.** The term of office of each member is 3 years; except that of the members first ~~appointed~~ chosen by the membership committee pursuant to subsection 2-A, 1/3 must be ~~appointed~~ chosen for a term of one year, 1/3 for a term of 2 years and 1/3 for a term of 3 years; ~~the Commissioner of Human Services or the commissioner's designee serves~~ members chosen after nomination by the Commis-

sioner of Human Services, the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, the Commissioner of Education, the Commissioner of Corrections or the Commissioner of Public Safety serve during the nominating commissioner's term of office; and Legislators serve during the term for which they were elected. The Governor shall designate a chair and vice chair to serve at the pleasure of the Governor. The membership shall annually elect a chair and vice-chair. The chair is the presiding member of the committee. All vacancies must be filled for the balance of the unexpired term in the same manner as original appointments. The members of the committee are entitled to compensation in accordance with chapter 379.

**Sec. 6. 5 MRSA §19202, sub-§3-A** is enacted to read:

**3-A. Compensation.** The members of the committee are entitled to compensation in accordance with chapter 379. All members are entitled to reimbursement for expenses.

**Sec. 7. 5 MRSA §19202, sub-§4**, as enacted by PL 1993, c. 384, §2, is amended to read:

**4. Meetings.** The committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection ~~1-A~~. Special meetings may be called by the chair and must be called at the request of the State Epidemiologist, the Director of the Bureau of Health, the Director of Disease Control, the Director of Sexually Transmitted Diseases or by 3 or more members of the committee.

**Sec. 8. 5 MRSA §19202, sub-§5**, as enacted by PL 1993, c. 384, §2, is repealed.

**Sec. 9. Transition provision.** The Maine HIV Advisory Committee in existence prior to October 1, 1999 shall perform the functions of the membership committee provided in the Maine Revised Statutes, Title 5, section 19202, subsection 2-A in order for the first committee with new membership structure to be formed on or after October 1, 1999.

**Sec. 10. Effective date; retroactivity.** This Act takes effect October 1, 1999, except for section 9, which is retroactive to September 1, 1999.

Effective October 1, 1999, unless otherwise indicated.

## CHAPTER 391

H.P. 371 - L.D. 496

### An Act to Exempt Certain Trusts from the Rule Against Perpetuities

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

**Sec. 1. 33 MRSA §101-A** is enacted to read:

**§101-A. Trusts exempt from rule against perpetuities**

The rule against perpetuities does not apply to a trust created after the effective date of this section if:

**1. Declaration in instrument.** The instrument creating the trust states that the rule against perpetuities does not apply to the trust; and

**2. Power to sell, lease or mortgage.** The trustee or other person to whom the power is properly granted or delegated has the power under the governing instrument, applicable statute or common law to sell or mortgage property or to lease property for any period of time beyond the period that is required for an interest created under the governing instrument to vest in order to be valid under the rule against perpetuities.

See title page for effective date.

## CHAPTER 392

H.P. 392 - L.D. 523

### An Act to Implement Recommendations of the Maine Indian Tribal-State Commission Relating to Child Welfare Services for Indian Children

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

**Sec. 1. 22 MRSA §4062, sub-§1**, as amended by PL 1985, c. 521, is further amended to read:

**1. Payments by department.** The department shall provide payments to facilities caring for children to meet the costs of clothing, board and care, within the limits of available funds. The department may establish, by rule, different categories of facilities, levels of need and care and flat-rate or reimbursement methods to distribute these funds. The department may provide child care and travel expense payments to foster and adoptive parents and trainers participat-