

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

When a municipality fails without good reason to maintain the good condition and repair of a grave, headstone, monument or marker or fails to keep the grass suitably cut and trimmed on any such grave pursuant to section 1101 and at least one of the municipal officers has had 14 days' actual notice or knowledge of the neglected condition, a penalty of not more than \$100 may be assessed on the municipality.

§1101-D. Unorganized townships

If an ancient burying ground or a public burying ground as described in section 1101 is located in an unorganized township, the county in which the township is located is subject to sections 1101, 1101-B and 1101-C.

§1101-E. Graves on land owned by Federal Government

Veterans' graves as described in section 1101 that are located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of section 1101.

Sec. 3. 30-A MRSA §2901, as amended by PL 1989, c. 211, is further amended to read:

§2901. Decoration of veterans' graves on Memorial Day

1. Decoration of veterans' graves. Each municipality, as directed by its municipal officers, shall annually ~~shall~~ decorate on ~~May 30th~~ the day Memorial Day is observed the graves of veterans of the Armed Forces of the United States of America with an American flag and appropriate ~~floral decorations~~ flag holders.

~~**2. Erection of flagpole as alternative.** Municipal officers shall not be required to observe the requirements of subsection 1 in any cemetery when on May 30th an American flag is flown from a flagpole of durable material. Municipal officers shall actively encourage any group of citizens or veterans' organizations to erect suitable flagpoles in cemeteries where veterans are buried.~~

3. No effect on individuals' right to decorate. This section does not in any way affect the right of any friend or relative of a deceased veteran to decorate the grave.

4. Bell ringing on Veterans Day. Each municipality shall, unless it will cause the municipality to incur an additional expense, cause any public bell or clarion within its possession or control to be rung at 11:00 a.m. on Veterans Day, and the municipal officers of each municipality shall request that any other bell or clarion within the ~~town~~ municipality be rung voluntarily at 11:00 a.m. on Veterans Day, and

shall take such steps as are necessary to properly coordinate public and volunteer events.

5. Unorganized townships. If veterans' graves as described in this section are located in an unorganized township, the county in which that unorganized township is located is subject to the provisions in this section.

6. Graves on land owned by Federal Government. Veterans' graves located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of this section.

See title page for effective date.

CHAPTER 701

H.P. 1680 - L.D. 2346

An Act to Extend the Time Period for Municipalities to Make Recommendations Concerning Great Pond Surface Use Restrictions

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

Whereas, current law allows municipalities to submit recommendations by October 30, 1999 to the Commissioner of Inland Fisheries and Wildlife for regulating the use, operations and type of watercraft on great ponds within the jurisdiction of those municipalities; and

Whereas, if a great pond borders on more than one municipality or lands within the jurisdiction of the Maine Land Use Regulation Commission, the approval of the commission or the legislative bodies of all municipalities in which those waters are located is required; and

Whereas, more time is needed by the municipalities in order to competently submit their recommendations; 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. PL 1997, c. 739, §17, as amended by PL 1999, c. 313, §1, is further amended to read:

Sec. 17. Recommendations for regulating the use, operation and type of watercraft for great ponds within the organized areas of the State.

A municipality, with the approval of its legislative body, may submit recommendations to the Commissioner of Inland Fisheries and Wildlife for regulating the use, operation and type of watercraft on great ponds within the jurisdiction of that municipality. For great ponds that border more than one municipality, recommendations may be submitted only after approval by the legislative bodies of all municipalities in which those waters are located. For great ponds that border lands within the jurisdiction of the Maine Land Use Regulation Commission, the approval of the commission is also required. If a municipality chooses to prepare recommendations for such waters, it shall take into consideration the use to which those waters are put, the depth of the water, the amount of water-borne traffic on the waters, wildlife and environmental values, noise, traditional uses of the water body and the safety of persons and property. Recommendations must be accompanied by a written explanation of the rationale for each recommendation and an explanation of what issues were considered in the development of each recommendation. These recommendations may be submitted only after a public hearing and must include a description of the resources the municipality or municipalities will use to enforce or assist in the enforcement of those regulations if enacted. For any municipality whose legislative body is the town meeting, recommendations may only be considered and approved during the annual town meeting held pursuant to the Maine Revised Statutes, Title 30-A, section 2525.

The commissioner shall submit a report to the First Regular Session of the 119th Legislature by January 15, 1999 on the recommendations received from municipalities prior to November 1, 1998 ~~and~~; shall submit a report to the ~~Second~~ First Regular Session of the ~~119th~~ 120th Legislature on the recommendations received from municipalities between November 1, 1998 and ~~October 30, 1999~~ December 1, 2000; and shall submit a report to the ~~Second~~ Regular Session of the 120th Legislature on the recommendations received from municipalities between ~~December 1, 2000 and December 1, 2001~~. Recommendations may be initially submitted to the department only during the month of July, although materials supplementing any municipality's recommendations may be submitted until December 1st. For the purposes of this section, a letter to the commissioner indicating an intent to submit recommendations, including a timeline for submitting those materials, satisfies the requirements of an initial submission. Each report must be accompanied by legislation implementing the municipal recommendations supported by the Department of Inland Fisheries and Wildlife. That legislation may also include recommendations of the

department, developed using the criteria in this section, for waters not addressed in the municipal proposals.

Sec. 2. Retroactivity. This Act applies retroactively to October 30, 1999.

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

Effective April 14, 2000.

CHAPTER 702

S.P. 888 - L.D. 2307

An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents

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

Sec. 1. 19-A MRSA §1653, sub-§3, ¶N, as amended by PL 1997, c. 187, §3 and affected by §5, is further amended to read:

N. All other factors having a reasonable bearing on the physical and psychological well-being of the child; ~~and~~

Sec. 2. 19-A MRSA §1653, sub-§3, ¶O, as enacted by PL 1997, c. 187, §3 and affected by §5, is amended to read:

O. A parent's prior willful misuse of the protection from abuse process in chapter 101 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may only be considered if established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process; ~~and~~

Sec. 3. 19-A MRSA §1653, sub-§3, ¶P is enacted to read: