

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

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~~ 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:

P. If the child is under one year of age, whether the child is being breast-fed.

See title page for effective date.

CHAPTER 703

H.P. 1700 - L.D. 2406

An Act to Amend the Felony-operating-under-the-influence Laws

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

Sec. 1. 29-A MRSA §2411, sub-§6, as amended by PL 1995, c. 368, Pt. AAA, §10, is repealed and the following enacted in its place:

6. Aggravated punishment category. An operator commits a Class C offense if the State pleads and proves that the operator, while operating a motor vehicle in violation of this section:

A. In fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person or in fact caused the death of another person; or

B. Has either a prior conviction for a Class C crime under this section or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with a blood-alcohol content of 0.08% or greater.

The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,000 and a court-ordered suspension of a driver's license for a period of 6 years. These penalties may not be suspended.

See title page for effective date.

CHAPTER 704

H.P. 1634 - L.D. 2286

An Act to Amend the Laws Governing Paternity Establishment

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

Sec. 1. 19-A MRSA §1556, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§1556. Remedies

The Superior Court or District Court has jurisdiction over an action ~~under this subchapter and all remedies to determine parentage.~~ There is no right to demand a jury trial in an action to determine parentage. The Superior Court or District Court has jurisdiction for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, support or funeral expenses for legitimate children and all remedies for the enforcement of these judgments apply. The court has continuing jurisdiction to modify or revoke a judgment for future education and support. All remedies under the Uniform Interstate Family Support Act are available for enforcement of duties of support under this subchapter.

Sec. 2. 19-A MRSA §1557, 2nd ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 3. 19-A MRSA §2103, sub-§1, ¶A, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

A. "Applicant" means an individual, including a person receiving services under section 2108, state, political subdivision of a state or instrumentality of a state.

See title page for effective date.

CHAPTER 705

S.P. 957 - L.D. 2498

An Act to Increase Access to High-quality Jobs Through the Federal Workforce Investment Act

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

Sec. 1. 26 MRSA §1192, sub-§6-E is enacted to read:

6-E. Prohibition against disqualification of individuals in approved training under federal Workforce Investment Act. Notwithstanding any other provision of this chapter, unless inconsistent with federal law, the acceptance of training opportunities available through the federal Workforce Investment Act of 1998, 20 United States Code, Sections 9201 to 9276 (1998) is deemed to be acceptance of training with the approval of the State within the meaning of any other provision of federal or state law relating to unemployment benefits.

See title page for effective date.