

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

**6. No obligation for benefits.** This section does not create any obligation on the part of a carrier to provide an enrollee any health care treatment or service that is not covered by the enrollee's health plan policy or contract.

**7. Admissibility of external review decision.** An external review decision is admissible in an action under this section.

**8. Affirmative defense.** It is an affirmative defense to any action asserted against a carrier under this section that the carrier or any agent for whose conduct the carrier is liable did not control, influence or participate in the health care treatment decision.

**9. Damages.** In a cause of action under this section, the award of damages must be made in accordance with this subsection.

A. Actual or compensatory damages may be awarded.

B. Noneconomic damages awarded may not exceed \$400,000.

C. Punitive damages may not be awarded.

**10. Professional negligence.** This section does not create any new or additional liability on the part of a carrier for harm caused to an enrollee that is attributable to the professional negligence of a treating physician or other health care practitioner.

**11. Employer liability.** This section does not create any liability on the part of an employer that assumes risk on behalf of its employees or an employer group purchasing organization.

**12. Exemption.** This section does not apply to workers' compensation, medical malpractice, fidelity, suretyship, boiler and machinery, property or casualty insurance.

**13. Limitation on remedy.** The cause of action under this section is the sole and exclusive private remedy under state law for an enrollee against a carrier for its health care treatment decisions that affect the quality of the diagnosis, care or treatment provided to an enrollee, except that this subsection may not be construed to prohibit an enrollee or an enrollee's authorized representative from seeking other remedies specifically available under other provisions of this Title.

**14. Wrongful death action.** Notwithstanding subsection 13, an enrollee or an enrollee's authorized representative may bring a cause of action against a carrier for its health care treatment decisions to seek a remedy under either this section or under Title 18-A,

section 2-804, but may not seek remedies under both this section and Title 18-A, section 2-804.

**Sec. 20. Rules.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 4309, any rules adopted by the Superintendent of Insurance to amend Bureau of Insurance Rule Chapter 850, Health Plan Accountability to make that rule consistent with the requirements of this Act are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 21. Application.** Those sections of this Act that enact the Maine Revised Statutes, Title 24-A, sections 4310 and 4311 apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2001. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

**Sec. 22. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

**2000-01**

## PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

### Bureau of Insurance

All Other	\$15,000
-----------	----------

Provides for the allocation of funds to contract with approved independent review organizations to conduct external reviews of adverse health care treatment decisions and render decisions.

See title page for effective date.

---



---

## CHAPTER 743

S.P. 523 - L.D. 1557

### An Act to Expand a Judge's Powers for Contemptuous Failure to Pay

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

**Sec. 1. 12 MRSA §6408** is enacted to read:

**§6408. Suspension of license for failure to appear, answer or pay**

If a license is suspended pursuant to Title 14, section 3142, the suspension remains in effect until the person pays the fine. On payment of the fine and on condition of payment of a \$25 reinstatement fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

**Sec. 2. 12 MRSA §7077, sub-§1-C** is enacted to read:

**1-C. Suspension of licenses and registrations.**

If a license or registration is suspended pursuant to Title 14, section 3142, the suspension remains in effect until the person pays the fine. On condition of payment of a \$25 reinstatement fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

**Sec. 3. 14 MRSA §3141, sub-§1**, as amended by PL 1991, c. 806, §4, is repealed and the following enacted in its place:

**1. Applicability.** The procedures established by this chapter:

A. Apply to all monetary fines, surcharges and assessments, however designated, imposed by a court:

(1) In a civil violation or traffic infraction proceeding; or

(2) As part of a sentence for a criminal conviction;

B. Must be utilized, to the maximum extent possible, to obtain prompt and full payment of all such fines, surcharges and assessments; and

C. Are in addition to, and not in lieu of, those otherwise authorized by law.

As used in this chapter, "fine" includes any surcharge or assessment required by law to be imposed as all or part of a sentence for a criminal conviction and any other costs or other fees the court assesses or imposes against a defendant in any civil or criminal adjudication, including appointed counsel fees and restitution.

**Sec. 4. 14 MRSA §3142**, as amended by PL 1987, c. 708, §13, is repealed and the following enacted in its place:

**§3142. Contempt hearing and punishment**

**1. Punishment.** Unless the defendant shows that failure to pay a fine was not attributable to a willful refusal to obey the order or to a failure on the defendant's part to make a good faith effort to obtain the funds required for the payment, the court may find the defendant in civil contempt and may impose punishment, as the case requires, of:

A. A reasonable fine;

B. Imprisonment; or

C. The suspension of any license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry, not including a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B. Licenses and registration subject to suspension include, but are not limited to:

(1) Licenses issued by the Commissioner of Marine Resources, as provided in Title 12, section 6408;

(2) Licenses issued by the Commissioner of Inland Fisheries and Wildlife, as provided in Title 12, section 7077, subsection 1-C;

(3) Watercraft, snowmobile and all-terrain vehicle registrations, as provided in Title 12, section 7077, subsection 1-C; and

(4) Motor vehicle licenses or permits issued by the Secretary of State, the right to operate a motor vehicle in this State and the right to apply for or obtain a license or permit, as provided in Title 29-A, section 2605.

**2. Notification of issuing entity.** Upon suspension of the person's license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry, the court shall notify the issuing agency that the court has ordered the suspension. The issuing agency shall immediately record the suspension.

**3. Purge of contempt.** The court shall provide an opportunity for the defendant to purge the contempt

by complying with the court's order to pay or to an amended order to pay.

**Sec. 5. 29-A MRSA §2412-A, sub-§1, ¶¶A and B**, as enacted by PL 1995, c. 368, Pt. AAA, §12, are amended to read:

A. Has received written notice of a suspension or revocation from the Secretary of State or a court;

B. Has been orally informed of the suspension or revocation by a law enforcement officer or a court;

**Sec. 6. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

## JUDICIAL DEPARTMENT

### Courts - Supreme, Superior, District and Administrative

All Other \$20,000

Provides one-time funds to contract for the technology assistance required in order for the court to suspend certain licenses for contemptuous failure to pay.

See title page for effective date.

---

---

## CHAPTER 744

### S.P. 625 - L.D. 1790

#### An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits

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

**Whereas**, this legislation needs to take effect before the expiration of the 90-day period so that all those people who may benefit from the provisions of this legislation may take advantage of these provisions in a timely fashion; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. 4 MRSA §1357, sub-§2**, as amended by PL 1983, c. 863, Pt. B, §§35 and 45, is repealed and the following enacted in its place:

**2. Optional methods of payment.** In lieu of payment under subsection 1, a qualifying member may elect to receive a regular retirement allowance under one of the options set out in this subsection. The optional allowance is a reduced allowance computed actuarially on the basis of the option selected.

The qualifying member may elect one of the options by written request to and approval of the executive director prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

For the purposes of this subsection, "qualifying member" means a member or a former member who is receiving a disability retirement benefit.

A. Under Option 1, the qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director or, if no one has been nominated as beneficiary, to the qualifying member's estate.

B. Under Option 2, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

C. Under Option 3, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the