

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

to the department for any additional amount due. The pharmaceutical manufacturer may, at its expense, hire a mutually agreed-upon independent auditor to verify the accuracy of the utilization data provided by the department. If a discrepancy is discovered, the department shall justify its data or refund any excess payment to the pharmaceutical manufacturer.

If the dispute over the rebate amount is not resolved, a request for a hearing with supporting documentation must be submitted to the Administrative Hearings Unit. Failure to resolve the dispute may be cause for terminating the drug rebate agreement and denying payment to the pharmaceutical manufacturer for any drugs.

~~All prescription drugs of a pharmaceutical manufacturer who enters into an agreement pursuant to this subsection that appear on the approved list of drugs must be immediately available and the cost of the drugs must be reimbursed and is not subject to any restrictions or prior authorization requirements. Any prescription drug of a manufacturer that does not enter into an agreement is not reimbursable unless the department determines the prescription drug is essential; _~~

All prescription drugs of a pharmaceutical manufacturer that enters into an agreement pursuant to this subsection that appear on the list of approved drugs under this program must be immediately available and the cost of the drugs must be reimbursed and is not subject to any restrictions or prior authorization requirements, except as provided in this paragraph. If the commissioner establishes maximum retail prices for prescription drugs pursuant to section 2693, the department shall adopt rules for the elderly low-cost drug program requiring the use of a drug formulary and prior authorization for the dispensing of certain drugs to be listed on a formulary. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-2. 22 MRSA §254, sub-§8-A is enacted to read:

8-A. Participation requirement. Beginning January 1, 2001, all manufacturers and labelers of drugs that participate in the Medicaid program under this Title must participate in the drug rebate program under subsection 8. For the purposes of this subsection, "labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 207.20 (1999).

Sec. B-3. 22 MRSA §3174-Y is enacted to read:

§3174-Y. Prior authorization in Medicaid program

If the commissioner establishes maximum retail prices for prescription drugs pursuant to section 2693, the department shall adopt rules for the Medicaid program requiring additional prior authorization for the dispensing of drugs determined to be priced above the established maximum retail prices. The department shall adopt rules for the Medicaid program requiring additional prior authorization for the dispensing of drugs provided from manufacturers and labelers who do not enter into agreements with the department under section 2681, subsection 3. For the purposes of this section, "labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 207.20 (1999).

See title page for effective date.

CHAPTER 787

S.P. 1034 - L.D. 2619

An Act to Fund the Construction of Court Facilities in Maine

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

Sec. 1. 4 MRSA §1606, sub-§2, as repealed and replaced by PL 1999, c. 127, Pt. A, §2, is amended to read:

2. Limitation on securities issued. The authority may not issue securities in excess of ~~\$83,000,000~~ \$93,000,000 outstanding at any one time, of which no less than ~~\$30,000,000~~ \$40,000,000 must be specifically allocated to projects relating to the Judicial Branch, except for the issuance of revenue refunding securities authorized by section 1610 and securities issued under section 1610-A. The amount of securities that may be outstanding in the name of the authority may be increased by the Legislature upon a showing by the authority that its available revenues are sufficient to support additional issuance of securities and that the issuance of securities will not materially impair the credit standing of the authority, the investment status of securities issued by the authority or the ability of the authority to fulfill its commitments to holders of securities. Nothing in this chapter may be construed to authorize the authority to issue securities to fund the construction,

reconstruction, purchase or acquisition of facilities without a majority vote of approval in each House of the Legislature.

See title page for effective date.

CHAPTER 788

S.P. 111 - L.D. 308

**An Act to Implement the
Recommendations of the 118th
Legislative Joint Select Committee to
Implement a Program for the
Control, Care and Treatment of
Sexually Violent Predators**

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

Sec. 1. 15 MRSA §1004, as amended by PL 1997, c. 317, Pt. A, §1, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229 or post-conviction review proceedings under sections 2121 to 2132 or, probation revocation proceedings under Title 17-A, sections 1205 to 1207 or supervised release revocation proceedings under Title 17-A, section 1233, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively.

Sec. 2. 17-A MRSA §1202, sub-§1-A, as enacted by PL 1997, c. 395, Pt. M, §1, is repealed and the following enacted in its place:

1-A. Notwithstanding subsection 1:

A. The period of probation for a person convicted under chapter 11 or section 854, excluding subsection 1, paragraph A, subparagraph (1), may be extended by up to 4 years for a Class A crime, by up to 2 years for a Class B or Class C crime and by up to one year for a Class D or Class E crime if the court finds that the additional time is needed to provide sex-offender

treatment to the person or to protect the public from the person because, based on one or more of the factors in section 257, the court determines that the person is a high-risk sex offender; and

B. The period of probation for a person sentenced as a dangerous sexual offender pursuant to section 1252, subsection 4-B is any term of years.

Sec. 3. 17-A MRSA §1203, sub-§1, as amended by PL 1999, c. 24, §3, is repealed.

Sec. 4. 17-A MRSA §1203, sub-§1-A is enacted to read:

1-A. The court may sentence a person to a term of imprisonment, not to exceed the maximum term authorized for the crime, an initial portion of which must be served and the remainder of which must be suspended. The period of probation commences on the date the person is released from the initial unsuspended portion of the term of imprisonment, unless the court orders it to commence on an earlier date.

A. If the period of probation commences upon release of the person from the initial unsuspended portion of the term of imprisonment, the court may revoke probation for any criminal conduct committed during that initial period of imprisonment.

B. The court may revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a dangerous sexual offender, pursuant to section 1252, subsection 4-B, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections.

C. As to both the suspended and unsuspended portions of the sentence, the place of imprisonment must be as follows.

(1) For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

(2) For a Class A, Class B or Class C crime the court must:

(a) Specify a county jail as the place of imprisonment for any portion of the sentence that is 9 months or less; and

(b) Commit the person to the Department of Corrections for any por-