

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

## CHAPTER 57

## S.P. 218 - L.D. 783

## An Act to Update the Probate Code

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

**Sec. 1. 18-A MRSA §2-401**, as enacted by PL 1979, c. 540, §1, is amended to read:

**§2-401. Homestead allowance**

A surviving spouse of a decedent who was domiciled in this State is entitled to a homestead allowance of ~~\$5,000~~ \$10,000. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to ~~\$5,000~~ \$10,000 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share.

**Sec. 2. 18-A MRSA §2-402**, as repealed and replaced by PL 1985, c. 506, Pt. A, §19, is amended to read:

**§2-402. Exempt property**

In addition to the homestead allowance, the surviving spouse of a decedent who was domiciled in this State is entitled from the estate to value not exceeding ~~\$3,500~~ \$7,000 in excess of any security interests ~~therein in the estate~~ in property exempt under Title 14, chapter 507, subchapter II, Article 7, on the date of death of the decedent. If there is no surviving spouse, children of the decedent are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than ~~\$3,500~~ \$7,000, or if there is not ~~\$3,500~~ \$7,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the ~~\$3,500~~ \$7,000 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to any assets to make up a deficiency of exempt property ~~shall~~ must abate as necessary to permit prior payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share.

**Sec. 3. 18-A MRSA §2-404**, as enacted by PL 1979, c. 540, §1, is amended to read:

**§2-404. Source, determination and documentation**

If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to homestead and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. ~~He~~ The personal representative may determine the family allowance in a lump sum not exceeding ~~\$6,000~~ \$12,000 or periodic installments not exceeding ~~\$500~~ \$1,000 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined.

See title page for effective date.

## CHAPTER 58

## H.P. 151 - L.D. 162

## An Act to Change the Criteria for Intervenor Status

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

**Sec. 1. 22 MRSA §4005-B, sub-§3**, as enacted by PL 1993, c. 697, §1, is repealed and the following enacted in its place:

**3. Criteria.** The court shall grant standing and intervenor status when the court finds that:

A. The grandparent has an existing relationship or has made sufficient effort to establish a relationship with the child. The criterion described in this paragraph need not be met when the child is 6 months or less in age at the time of the initial child protection petition;

B. Intervenor status would be in the best interests of the child; and

C. Intervenor status would also be consistent with the purposes of this chapter as set forth in section 4003.

See title page for effective date.

## CHAPTER 59

H.P. 293 - L.D. 371

### An Act to Encourage Smoke-free Hospitals in Maine

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

**Sec. 1. 22 MRSA §1580-B, sub-§2**, as repealed and replaced by PL 1989, c. 878, Pt. G, §1, is amended to read:

**2. Prohibition.** Beginning November 16, 1989, ~~no~~ a person may not smoke tobacco or any other substance in any enclosed area of any hospital, except ~~as otherwise provided in this section that a hospital may establish an enclosed and adequately ventilated smoking area for patient use.~~ Nothing in this subsection prohibits a hospital from designating the entire hospital campus, both buildings and grounds, as a nonsmoking area.

**Sec. 2. 22 MRSA §1580-B, sub-§3**, as amended by PL 1991, c. 501, is repealed.

**Sec. 3. 22 MRSA §1580-B, sub-§4**, as repealed and replaced by PL 1989, c. 878, Pt. G, §1, is repealed.

See title page for effective date.

## CHAPTER 60

H.P. 757 - L.D. 976

### An Act Concerning Workers' Compensation Health Care Providers

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

**Sec. 1. 39-A MRSA §206, sub-§11**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**11. Generic drugs.** Providers shall prescribe generic drugs whenever medically acceptable for the treatment of an injury or disease for which compensation is claimed. An employee shall purchase generic

drugs for the treatment of an injury or disease for which compensation is claimed if the prescribing ~~physician~~ provider indicates that generic drugs may be used and if generic drugs are available at the time and place of purchase. If an employee purchases a nongeneric drug when the prescribing ~~physician~~ provider has indicated that a generic drug may be used and a generic drug is available at the time and place of purchase, the insurer or self-insurer is required to reimburse the employee for the cost of the generic drug only. For purposes of this section, "generic drug" has the same meaning found in Title 32, section 13702, subsection 11.

See title page for effective date.

## CHAPTER 61

H.P. 297 - L.D. 375

### An Act to Ensure Parity in the Sale of Securities by Maine Financial Institutions

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

**Whereas**, the United States Congress passed the Gramm-Leach-Bliley Act, which includes amendments to the Securities Exchange Act that become effective May 12, 2001; and

**Whereas**, Maine law governing securities sales by state-chartered financial institutions will not conform with the new federal law governing federally-chartered financial institutions as of May 12, 2001; and

**Whereas**, state-chartered banks in Maine will be at a competitive disadvantage to federally-chartered banks without enactment of this legislation; 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. 32 MRSA §10501, sub-§1, ¶C**, as enacted by PL 1985, c. 400, §2, is amended to read:

C. A depository institution when it is engaged in its regular course of business one or more of the activities described in 15 United States Code, Section 78c(a)(4)(B) except for the activities de-