

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.

J.S. McCarthy Company
Augusta, Maine
2001

forfeiture or penalty of not less than \$250 nor more than \$2,500.

2. Adjudications. As used in this section, a prior adjudication includes a consent decree that contains an admission of a violation. The dates of prior adjudications for any violation of sections ~~704-42-B~~ and 702 or a combination must precede the commission of the violation being enhanced, although prior adjudications involving a combination may have occurred on the same day. The date of any adjudication is the date the forfeiture or penalty is adjudged or the consent decree allowed, even though an appeal was taken.

Sec. 5. Change in printed posters or notices. The Department of Labor shall incorporate the information regarding at-will employment required under the Maine Revised Statutes, Title 1, section 42-B, subsection 2 in the next reprinting of the printed poster or notice in which the information is to be included.

See title page for effective date.

CHAPTER 243

H.P. 662 - L.D. 862

An Act to Prohibit Appointment of Referees in Protection from Abuse and Protection from Harassment Actions

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

Sec. 1. 5 MRSA §4658, sub-§5 is enacted to read:

5. Referee. The court may not mandate appointment of referees in actions brought under this chapter. If an action under this chapter is joined with another proceeding, this subsection does not prohibit the court from mandating appointment of a referee on any issue, other than harassment, that is part of the other proceeding.

Sec. 2. 19-A MRSA §4010, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

5. Mediation and referees. The court may not mandate mediation or appointment of referees in actions brought under this chapter. If an action under this chapter is joined with another proceeding pursuant to subsection 2, this subsection does not prohibit the court from mandating mediation or the appointment of

a referee on any issue, other than abuse, that is part of the other proceeding.

See title page for effective date.

CHAPTER 244

H.P. 478 - L.D. 618

An Act to Remove State Road Signs with Offensive Names from Interstate Route 95 and the Maine Turnpike

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

Whereas, a sign posted on the Maine Turnpike contains an offensive and incorrect name and must be removed immediately; 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. 1 MRSA §1102, as enacted by PL 1977, c. 259, §1, is repealed and the following is enacted in its place:

§1102. Offensive names prohibited

1. Place in State may not have offensive name. A place in this State may not have or be given an offensive name.

2. Sign on interstate highway or Maine Turnpike may not contain offensive name. A sign placed by the State on an interstate highway or the Maine Turnpike may not contain an offensive name.

Sec. 2. 23 MRSA §1201, sub-§13, as repealed and replaced by PL 1977, c. 154, is amended to read:

13. Moosehead Lake Region. Such sign ~~shall~~ must be constructed and maintained on the Maine Turnpike at the first reasonable opportunity northerly from the York exit and ~~shall~~ must be worded as follows:

Moosehead Lake Region -- ~~Squaw~~ Big Moose Mountain -- 4 1/2 hours;

Sec. 3. Commissioner of Transportation and Executive Director of Maine Turnpike Authority shall replace signs. The Commissioner of Transportation shall replace any sign on an interstate highway other than a sign that is located on the Maine Turnpike that is in violation of the Maine Revised Statutes, Title 1, section 1102 with a sign that contains proper place names no later than 30 days after the effective date of this Act. The Executive Director of the Maine Turnpike Authority shall replace a sign located on the Maine Turnpike that is in violation of Title 1, section 1102 with a sign that contains proper place names no later than 30 days after the effective date of this Act.

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

Effective May 23, 2001.

CHAPTER 245

H.P. 1184 - L.D. 1607

An Act to Further Protect the Rights of Persons with Mental Retardation or Autism

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

Sec. 1. 34-B MRSA §5605, sub-§13, as amended by PL 1993, c. 326, §9, is further amended to read:

13. Behavioral treatment. ~~Behavior modification~~ Behavioral treatment of persons ~~receiving services~~ a person with mental retardation or autism is governed as follows.

A. A person ~~receiving services with mental retardation or autism~~ may not be subjected to a treatment program to eliminate ~~bizarre or unusual~~ dangerous or maladaptive behavior without first being examined by a physician to rule out the possibility that the behavior is organically caused.

A-1. Behavioral treatment programs may contain both behavior modification and behavior management components. Behavior modification components consist of interventions designed to assist a person with mental retardation or autism to learn to replace dangerous or maladaptive behavior with safer and more adaptive behavior. Behavior management components consist of systematic strategies to prevent the occurrence of dangerous or maladaptive behaviors

by minimizing or eliminating environmental or other factors that cause those behaviors.

B. Treatment programs involving the use of noxious or painful stimuli or other aversive or severely intrusive techniques may be used only to correct behavior more harmful to the person ~~receiving services with mental retardation or autism~~ than is the treatment program and only:

(1) On the recommendation of a physician, psychiatrist or psychologist; and

(2) With the approval, following a case-by-case review, of the chief administrative officer of the residential facility ~~and;~~ a representative of the person's residence, day program or work site; an advocate of the department; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board.

Sec. 2. 34-B MRSA §5605, sub-§14, ¶C, as amended by PL 1993, c. 326, §9, is further amended to read:

C. Physical restraints may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

Sec. 3. 34-B MRSA §5605, sub-§14, ¶D-1 is enacted to read:

D-1. A device whose effect is to reduce or inhibit a person's movement in any way but whose purpose is to maintain or ensure the safety of the person is not considered behavioral treatment. Such a device may be used only in conformity with applicable state and federal rules and regulations, when recommended by a qualified professional after approval of the person's service plan and when use of the device is approved by the chief administrative officer of the residential care facility; a representative of the person's residence, day program or work site; an advocate of the department; a representative of the Division of Mental Retardation; and a representative of the Consumer Advisory Board.

Sec. 4. 34-B MRSA §5605, sub-§14, ¶E, as amended by PL 1993, c. 326, §9, is further amended to read:

E. Daily reports on the use of restraints must be made to the appropriate chief administrative officer of the facility. The report must be reported to the department in any manner required by the department.