

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

have enacted laws or rules more protective of consumer privacy;

2. Decisions by the Federal Trade Commission on the enforcement of state privacy laws that differ from the federal law and regulations against federally chartered financial institutions or credit unions authorized to do business in this State; and

3. The extent to which complaints have been made by consumers related to the sharing of personal information and any enforcement actions taken by agencies within the Department of Professional and Financial Regulation.

See title page for effective date.

CHAPTER 263

H.P. 1158 - L.D. 1558

An Act to Amend the Licensing and Survey Requirements for Residential Care Facilities and Congregate Housing Services Programs

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

Sec. 1. 22 MRSA §7802, sub-§1, ¶E, as amended by PL 1995, c. 670, Pt. B, §6 and affected by Pt. D, §5, is repealed and the following enacted in its place:

E. A 2-year full license may be issued by the department for a residential care facility or a congregate housing service program as long as it is in substantial compliance with licensing rules and has no history of health or safety violations.

Sec. 2. 22 MRSA §7802, sub-§2, ¶D, as amended by PL 1983, c. 602, §2, is further amended to read:

~~D. Regardless of the term of the license or approval, the~~ The department shall monitor inspect for continued compliance with applicable laws and rules on at least an annual basis prior to the expiration of the license or approval.

Sec. 3. 22 MRSA §7802, sub-§2, ¶E is enacted to read:

E. Residential care facilities and congregate housing services programs for which a license has been issued must be periodically inspected for continued compliance with applicable laws and rules under the rules to be established by the department. Rules adopted pursuant to this sec-

tion are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 264

H.P. 1265 - L.D. 1716

An Act to Improve Child Support Services

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

Sec. 1. 19-A MRSA §2001, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

4. Extraordinary medical expenses. "Extraordinary medical expenses" means recurring, uninsured medical expenses in excess of \$250 per child or group of children per year that can reasonably be predicted by the court or hearing officer at the time of establishment or modification of a support order. Responsibility for nonrecurring or subsequently occurring uninsured medical expenses in excess of \$250 in the aggregate per child or group of children supported per year must be divided between the parties in proportion to their adjusted gross incomes. These expenses include, but are not limited to, insurance copayments and deductibles, reasonable and necessary costs for orthodontia, dental treatment, eye care, eyeglasses, prescriptions, asthma treatment, physical therapy, chronic health problems and professional counseling or psychiatric therapy for diagnosed mental disorders.

Sec. 2. 19-A MRSA §2001, sub-§5, ¶F, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 3. 19-A MRSA §2006, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Total support obligation. The total support obligation is determined by adding the child care costs, health insurance premiums and extraordinary medical expenses to the basic support entitlement as follows.

A. When each child is under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total support obligation.

B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or

recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total support obligation.

C. If a party is paying health insurance premiums, the sums actually being expended for health insurance premiums for the child or children for whom support is being ordered must be added to the basic support entitlement to determine the total support obligation. The court shall determine the pro rata share of the health insurance premium actually expended that is attributable to each child.

Sec. 4. 19-A MRSA §2006, sub-§5, ¶¶B, C and E, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

B. When the parties' combined annual gross income exceeds ~~\$126,600~~ \$240,000, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of ~~\$126,600~~ \$240,000.

~~C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of a nonprimary care provider is less than the federal poverty guideline, or if the nonprimary care provider's income is insufficient to meet work-related expenses and other basic necessities as defined in Title 22, section 4301, subsection 1, that nonprimary care provider's weekly parental support obligation for each child for whom a support award is being established or modified may not exceed 10% of that nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income. The child support table includes a self-support reserve for obligors earning less than \$12,600 per year.~~

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for each child residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of each child for whom the party has primary residential responsibility. Each party's proportionate share of child care costs and health insurance premi-

ums is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation.

Sec. 5. 19-A MRSA §2006, sub-§7, ¶¶F and G, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

F. The name and date of birth of each child for whom extraordinary medical expenses are paid and the amount of those expenses; ~~and~~

G. The parental support obligation of the nonprimary care provider; and

Sec. 6. 19-A MRSA §2006, sub-§7, ¶H is enacted to read:

H. The name and date of birth of each child for whom health insurance premiums are paid and the amount of those premiums.

Sec. 7. 19-A MRSA §2006, sub-§8, ¶C, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

C. A breakdown of the parental support obligation, including:

- (1) The amount for basic support entitlements;
- (2) The amount for child care costs;
- (3) The amount for extraordinary medical expenses; ~~and~~
- (4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation; and
- (5) The amount for health insurance premiums;

Sec. 8. 19-A MRSA §2007, sub-§3, ¶L, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

~~L. The tax consequences of a support award, including the substantial monetary benefit that a party may derive from any federal tax credit for child care expenses if the obligor is awarded any tax benefits. In determining the allocation of tax exemptions for children, the court may consider which party will have the greatest benefit from receiving the allocation;~~

Sec. 9. 19-A MRSA §2007, sub-§3, ¶M, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 10. 19-A MRSA §2152, sub-§12 is enacted to read:

12. Admissible evidence. If a person, in response to a request for information pursuant to this section, provides records or data from regularly conducted business, the information is admissible as a public record pursuant to the Maine Rules of Evidence 803(8)(A) and is not within the investigative report exception found in the Maine Rules of Evidence 803(8)(B) because the information is provided pursuant to a duty imposed by law and is inherently reliable.

Sec. 11. 19-A MRSA §2301, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

4. Interstate cooperation. ~~A payment of public assistance by another state for the benefit of a dependent child located within that state creates a debt due that state from a responsible parent in the amount of the public assistance paid.~~ With the execution of an application for nonwelfare services between a state and a resident of that state, the state may request the department to enforce or collect any unpaid support debt belonging to the applicant. Upon written request by a state to the department, the department may attempt to collect either the welfare or nonwelfare debt by action under any appropriate laws, including, but not limited to, remedies established by this article.

Sec. 12. 19-A MRSA §2304, first ¶, as amended by PL 1997, c. 466, §17 and affected by §28, is further amended to read:

When a support order has not been established, the department may establish the responsible parent's current parental support obligation pursuant to chapter 63, establish the responsible parent's debt for past support, including medical expenses, and establish the responsible parent's obligation to maintain health insurance coverage for each dependent child or to pay a proportionate share of health insurance premiums. The department may proceed on its own behalf or on behalf of another state or another state's instrumentality, an individual or governmental applicant for services under section 2103 or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of another state, another state's instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues beyond the child's 18th birthday, if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws, is expelled or attains 19 years of age, whichever occurs first. For purposes of

this section, "debt for past support" includes a debt owed to the department under section 2301, subsection 1, paragraph A, a debt owed under section 2103 and a debt that accrues under sections 1504 and 1554.

Sec. 13. 19-A MRSA §2369, first ¶, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

The receipt of public assistance for a child constitutes an assignment by the recipient to the department of all rights to support for the child and spousal support, including any support unpaid at the time of assignment, as long as public assistance is paid.

See title page for effective date.

CHAPTER 265

S.P. 492 - L.D. 1581

An Act to Allow the Department of Human Services Abuse and Neglect Investigators Access to Certain Baxter School for the Deaf Records

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

Sec. 1. 22 MRSA §4088, sub-§1, ¶C, as enacted by PL 1989, c. 400, §9, is amended to read:

C. "License" ~~shall be defined in accordance with has the same meaning as in~~ Title 5, section 8002; ~~and shall include~~ includes approval and registration. With respect to persons licensed by the Department of Education, "license" means certify, authorize or approve.

Sec. 2. 22 MRSA §4088, sub-§1, ¶D-1 is enacted to read:

D-1. "Service center" means the Community Services Center established in section 6-C.

Sec. 3. 22 MRSA §4088, sub-§3, ¶¶B to G, as enacted by PL 1989, c. 400, §9, are amended to read:

B. Shall investigate all reports received by the department or service center regarding alleged out-of-home abuse and neglect occurring in facilities or by persons subject to licensure ~~by the department~~ pursuant to this Title;

C. Shall conduct a single investigation sufficient to determine not only if abuse or neglect has occurred but also to determine whether a licensing violation has occurred in order to protect children from further harm and establish a basis upon which to take licensing action. This procedure