

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**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**  
**2002**

**7. Duration of notice.** A ~~health insurance withholding order~~ medical support notice remains in force until the employee terminates employment, the employer or other payor of earnings is released from the order in writing by the department or release is ordered by a court.

**8. Change of plan.** After it is initially determined in response to a ~~health insurance withholding order~~ medical support notice that a child is eligible for coverage, the employer or plan administrator must make subsequent enrollment changes to include the child if the group health insurance plan is changed and provide notices of any changes in coverage to the department.

**9. Fee.** The commissioner may establish by rule a fee that an employer may charge an employee for each withholding and for a change of plan.

**10. Failure to honor.** Failure of an employer or other payor of earnings or the plan administrator to comply with the requirements of a ~~health insurance withholding order~~ medical support notice is a civil violation for which the department may recover up to \$1,000 in a civil action.

**11. Priority of notice.** A ~~health insurance withholding order~~ medical support notice has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not for the purpose of enforcing or paying a child support obligation.

**12. Employer protected.** The department shall defend and hold harmless any employer or other payor of earnings or plan administrator who honors a ~~health insurance withholding order~~ medical support notice.

**13. Immunity.** The employer or plan administrator may not be held liable for medical expenses incurred on behalf of a dependent child because of the employer's or plan administrator's failure to enroll the dependent child in a health insurance or health care plan after being directed to do so by the department.

**14. Employee protected.** An employer who discharges, refuses to employ or takes disciplinary action against a responsible parent, or who otherwise discriminates against that parent because of the existence of the ~~order~~ medical support notice or the obligation the ~~order~~ medical support notice imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

**15. Service.** A ~~health insurance withholding order~~ medical support notice must be served on the responsible parent's employer or other payor of

earnings. Service may be by certified mail, return receipt requested, by an authorized representative of the commissioner, by personal service as permitted by the Maine Rules of Civil Procedure, Rule 4 or as otherwise permitted by sections 2253 and 2254. The department shall send a copy of the ~~health insurance withholding order~~ medical support notice to the responsible parent at the responsible parent's most recent address of record.

**16. Withholding order and support notice combined.** The department may combine a ~~health insurance withholding order~~ medical support notice with a child support income withholding order issued under section 2306.

**17. Rules.** The department shall adopt rules to implement and enforce the requirements of this section.

**Sec. 15. 19-A MRSA §2605, sub-§3,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Notice to State.** In an action to establish a or vacate a paternity order or support order, enforce a support order, amend a support order or to collect support arrearages, if the action relates to a period when the child has received, is receiving or will receive public assistance or the party is receiving support enforcement services pursuant to section 2103, the party bringing the action must send a copy of the motion or petition must be furnished and all accompanying documents by ordinary mail to the department at least 21 days before the hearing when the motion or petition is filed with the court. If the party bringing the action fails to comply with this subsection, the court may allow the department additional time to file all necessary pleadings.

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

Effective March 25, 2002.

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## CHAPTER 555

H.P. 1495 - L.D. 1998

### An Act to Establish the Asthma Prevention and Control Program in the Department of Human Services, Bureau of Health

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

**Sec. 1. 22 MRSA c. 275** is enacted to read:

**CHAPTER 275**

**ASTHMA PREVENTION AND CONTROL PROGRAM**

**§1700. Asthma prevention and control program**

**1. Program established.** The Bureau of Health shall establish an asthma prevention and control program to provide leadership for and coordination of asthma prevention and intervention activities. The program may include, but is not limited to, the following:

- A. Monitoring of asthma prevalence at the state and community levels;
- B. Education and training of health professionals on the current methods of diagnosing and treating asthma;
- C. Patient and family education on how to manage the disease;
- D. Dissemination of information on programs shown to reduce hospitalization, emergency room visits and absenteeism due to asthma; and
- E. Consultation to and support of community-based asthma prevention and control programs.

**2. Consultation.** In implementing the program established in subsection 1, the Bureau of Health shall consult with the Medicaid program administered by the department and the Department of Education. In addition, the bureau shall seek advice from other organizations and private entities concerned with the treatment and prevention of asthma.

**3. Funding.** The Bureau of Health may accept federal funds and grants for implementing the program established in subsection 1 and may contract for work with outside vendors or individuals.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**HUMAN SERVICES, DEPARTMENT OF**

**Bureau of Health**

New Initiative: Allocates funds for one Health Program manager position and one Planning and Research Associate I position and related operating costs to implement an asthma prevention and control program within the Bureau of Health.

<b>Federal Expenditures Fund</b>	<b>2002-03</b>
Positions - Legislative Count	(2,000)
Personal Services	\$88,319
All Other	17,767

Total \$106,086

See title page for effective date.

**CHAPTER 556**

**S.P. 741 - L.D. 2066**

**An Act to Expedite Employment in Maine Industry**

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

**Sec. 1. 26 MRSA §682, sub-§7, ¶A,** as enacted by PL 1989, c. 536, §§1 and 2 and affected by c. 604, §§2 and 3, is amended to read:

A. "Screening test" means an initial substance abuse test performed through the use of immunoassay technology, or a test technology of similar or greater accuracy and reliability approved by the Department of Human Services under rules adopted under section 687, and ~~which that~~ is used as a preliminary step in detecting the presence of substances of abuse.

(1) A screening test of an applicant's urine or saliva may be performed at the point of collection through the use of a noninstrumented point of collection test device approved by the federal Food and Drug Administration. Section 683, subsection 5-A governs the use of such tests.

**Sec. 2. 26 MRSA §683, sub-§2, ¶C,** as amended by PL 1989, c. 832, §6, is further amended to read:

C. The collection of samples.

(1) The collection of any sample for use in a substance abuse test must be conducted in a medical facility and supervised by a licensed physician or nurse. A medical facility includes a first aid station located at the work site.

(2) An employer may not require an employee or applicant to remove any clothing for the purpose of collecting a urine sample, except that:

(a) An employer may require that an employee or applicant leave any personal belongings other than clothing and any unnecessary coat, jacket or similar outer garments outside the collection area; or