

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
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accept or process any otherwise valid voter registration application or absentee ballot application submitted by a uniformed service voter or an overseas voter on the grounds that the voter submitted the application more than 3 months before the election for which the application will be used. An application or request for an absentee ballot for a uniformed service voter or overseas voter that is accepted pursuant to section 753-A remains valid through the next 2 regularly scheduled general elections for federal office and entitles the voter to receive absentee ballots for all elections during that period.

Sec. 32. 21-A MRSA §780-A is enacted to read:

§780-A. Use of blank write-in absentee ballot

Prior to the time when regular absentee ballots are available, if an applicant requests a blank write-in absentee ballot or indicates that it takes more than 6 weeks to receive and return mail to the applicant's location, the clerk shall send a blank write-in absentee ballot to the voter. Once the regular absentee ballots become available, the clerk shall issue a regular absentee ballot in response to any request under this section. If the clerk has issued a blank write-in absentee ballot to a voter before the regular absentee ballots become available, the clerk may send a regular absentee ballot to the voter, following the procedures for issuing a 2nd absentee ballot under section 753-B.

Sec. 33. 21-A MRSA §781, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 34. 21-A MRSA §781-A is enacted to read:

§781-A. Absentee ballot application; procedure on receipt

Upon receipt of an application, written request or telephone application for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and return envelope by mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter. The clerk shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope which moves free of postage under federal law.

Sec. 35. 21-A MRSA §§782 and 783, as enacted by PL 1985, c. 161, §6, are amended to read:

§782. Absentee ballots; procedure on return

On receipt of a return envelope apparently containing an absentee ballot, the clerk shall ~~note the date~~

~~and time of delivery on it and deliver it to the registrar follow the procedures for regular absentee voting under this subchapter. The registrar shall certify on the envelope whether the person whose name appears as sender is registered and, in a primary election, enrolled in the municipality. He shall then return the envelope to the clerk.~~

§783. Authority of Secretary of State

The Secretary of State may act administratively to facilitate voting by ~~members of the Armed Forces uniformed service voters and overseas voters.~~ He ~~The Secretary of State~~ may use federal or other facilities available for this purpose.

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

Effective June 3, 2003.

CHAPTER 408

S.P. 551 - L.D. 1597

An Act To Implement Federal Requirements in Child Protection Matters

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

Sec. 1. 22 MRSA §4036-B is enacted to read:

§4036-B. Removal of child from home

1. Application. The provisions of this section apply in any case in which the court orders, or has ordered, the removal of a child from home.

2. Welfare of child. Before a court may order removal of a child from home, the court must specifically find that remaining in the home is contrary to the welfare of the child.

3. Reasonable efforts to prevent removal. The department shall make reasonable efforts to prevent removal of the child from home, unless the court finds the presence of an aggravating factor. In an order providing for removal of the child from home, or within 60 days of the date of removal of the child from home, the court shall make a finding:

A. Whether or not the department has made reasonable efforts to prevent the removal of the child from home; and

B. If the court finds that the department did not make reasonable efforts to prevent the removal

of the child from home, whether or not there is an aggravating factor.

4. Reasonable efforts to reunify. The department shall make reasonable efforts to rehabilitate and reunify the family as provided in section 4041, subsection 1-A unless the court has ordered that the department need not commence or may cease reunification pursuant to section 4041, subsection 2. In the jeopardy order pursuant to section 4035 and in each judicial review order pursuant to section 4038, the court shall make a finding whether or not the department has made reasonable efforts to rehabilitate and reunify the family.

5. Reasonable efforts to finalize permanency plan. The department shall make reasonable efforts to finalize the permanency plan. In each order determining a permanency plan pursuant to section 4038, subsection 7-A, the court shall make a finding whether or not the department has made reasonable efforts to finalize the permanency plan.

6. Requirements for findings. A court order making any finding required by this section must:

- A. Be in writing;
- B. State that the finding was based on the specific facts and circumstances relating to the child; and
- C. Explicitly document the basis for the finding.

Sec. 2. 22 MRSA §4038, sub-§1-A, ¶A, as enacted by PL 1987, c. 269, §2, is amended to read:

- A. When custody has been granted to a person other than a parent or the department; or

Sec. 3. 22 MRSA §4038, sub-§1-A, ¶B, as amended by PL 1997, c. 475, §3, is further amended to read:

- B. When custody has been granted to a parent who did not have custody at the time the child protection petition was filed;

Sec. 4. 22 MRSA §4038, sub-§1-A, ¶C, as amended by PL 1997, c. 475, §3, is repealed.

Sec. 5. 22 MRSA §4038, sub-§1-A, ¶D, as enacted by PL 1997, c. 475, §4, is repealed.

Sec. 6. 22 MRSA §4038, sub-§5, as enacted by PL 1985, c. 739, §14, is amended to read:

5. Hearing. The court shall hear evidence and shall consider the original reason for the adjudication and disposition under sections 4035 and 4036, the events that have occurred since then and the efforts of the parties as set forth under section 4041 and shall

consider the effect of a change in custody on the child. After hearing or by agreement, the court shall make written findings that determine:

- A. The safety of the child in the child's placement;
- B. The continuing necessity for and appropriateness of the child's placement;
- C. The effect of a change in custody on the child;
- D. The extent of the parties' compliance with the case plan and the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care;
- E. A likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship; and
- F. If the child is 16 years of age or older, whether or not the child is receiving instruction to aid the child in independent living.

Sec. 7. 22 MRSA §4052, sub-§2-A, as enacted by PL 1997, c. 715, Pt. B, §14, is amended to read:

2-A. Department as petitioner or as party. The department shall file a termination petition or seek to be joined as a party to any pending petition in the following circumstances:

A. ~~A~~ When a child has been in foster care for 15 of the most recent 22 months. This paragraph does not apply if the department is required to undertake reunification efforts and the department has not provided to the family of the child such services as the department determines to be necessary for the safe return of the child to the child's home consistent with the time period in the case plan; or The department must file the petition before the end of the child's 15th month in foster care. In calculating when to file a termination petition:

- (1) The time the child has been in foster care begins when the child is considered to have entered foster care as specified in section 4038, subsection 7-A, paragraph A;
- (2) When a child experiences multiple exits from and entries into foster care during the 22-month period, all periods in foster care must be accumulated; and
- (3) The time in foster care does not include trial home visits or times during which the child is a runaway.

This paragraph does not apply if the department is required to undertake reunification efforts and the department has not provided to the family of the child such services as the court determines to be necessary for the safe return of the child to the child's home consistent with the time period in the case plan;

B. A Within 60 days of a court order that includes a finding of an aggravating factor and an order to cease reunification; or

C. Within 60 days of a court finding that the child has been abandoned.

The department is not required to file a termination petition if the department has chosen to have the child cared for by a relative or the department has documented to the court a compelling reason for determining that filing such a petition would not be in the best interests of the child.

Sec. 8. Statement of intent regarding youth services. It is the intent of the Legislature that the Department of Human Services and the Department of Behavioral and Developmental Services provide services to eligible children and their families in home and community settings whenever possible, minimizing the need for intervention by the State and eliminating the need for parents to give up custody in order to qualify their children for services. As appropriate to the child and family and within existing resources, services must include assessment, health care and case management.

See title page for effective date.

CHAPTER 409

S.P. 467 - L.D. 1419

An Act To Protect Campers by Making Personal Information Confidential

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

Sec. 1. 12 MRSA §1827, sub-§3 is enacted to read:

3. Camper confidentiality. Notwithstanding Title 1, chapter 13, subchapter 1, the names of campers, other identifying information and dates of a reservation are confidential and are not subject to public disclosure during the calendar year for which a reservation is made. Records may be made available

upon request to law enforcement officers investigating criminal activity.

See title page for effective date.

CHAPTER 410

H.P. 1165 - L.D. 1592

An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders

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

Sec. 1. 12 MRSA §6004 is enacted to read:

§6004. Juvenile violations

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

Sec. 2. 12 MRSA §7003 is enacted to read:

§7003. Juvenile violations

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

Sec. 3. 12 MRSA §8004 is enacted to read:

§8004. Juvenile violations

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment.

Sec. 4. 15 MRSA §3003, sub-§14-B, ¶B, as amended by PL 1999, c. 624, Pt. B, §2 and PL 2001, c. 439, Pt. G, §6, is further amended to read:

B. To provide appropriate services to juveniles committed to ~~the Long Creek Youth Development Center~~ a Department of Corrections juvenile correctional facility who are on leave or in the community on ~~aftercare~~ community reintegration; and