

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2004**

**Sec. 2. 38 MRSA §465, sub-§2, ¶C**, as amended by PL 2003, c. 318, §3, is further amended to read:

~~C. Direct~~ Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986, are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 1, 1986, are allowed to continue only until practical alternatives exist. ~~This paragraph does not apply to the discharge of storm water.~~

(1) This paragraph does not apply to a discharge of storm water that is in compliance with state and local requirements.

(2) This paragraph does not apply to a discharge to Class A waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 1, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

**Sec. 3. Reporting.** The Atlantic Salmon Commission shall inform the joint standing committee of the Legislature having jurisdiction over natural resources matters when a license is issued pursuant to the Maine Revised Statutes, Title 38, section 465,

subsection 1, paragraph C, subparagraph (2) or Title 38, section 465, subsection 2, paragraph C, subparagraph (2) and shall report on the status of Atlantic salmon restoration in connection with those licenses. The commission shall provide updates concerning the progress of the Atlantic salmon restoration every 2 years thereafter.

See title page for effective date.

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## CHAPTER 575

H.P. 1276 - L.D. 1754

### An Act To Permit Background Checks on Prospective Adoptive Parents

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

**Sec. 1. 18-A MRSA §9-304, sub-§(a-1)**, as amended by PL 2001, c. 546, §1, is further amended to read:

(a-1) Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

(1) The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or licensed child-placing agency shall submit the report to the court within 60 days.

(i) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(ii) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

(2) The court shall request a background check for each prospective adoptive parent who is not the biological parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice

Information System must include a record of Maine conviction data.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the biological parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(iv) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 620.

(v) State and federal criminal history record information may be used by the court for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interests of the child.

(vi) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the court are for official use only and may not be disseminated outside the court except as required under Title 22, section 4011-A.

(vii) The expense of obtaining the information required by this paragraph is incorporated in the adoption filing fee established in section 9-301. The Probate Court shall collect the total fee and transfer

the appropriate funds to the Department of Public Safety and the department.

The court may waive the background check of a prospective adoptive parent if a previous background check was completed by a court or by the department under this subsection within a reasonable period of time and the court is satisfied that nothing new that would be included in the background check has transpired since the last background check.

This subsection does not authorize the court to request a background check for the biological parent who is also the current legal parent of the child.

**Sec. 2. 18-A MRSA §9-304, sub-§(a-2)** is enacted to read:

(a-2) The department may, pursuant to rules adopted by the department, at any time before the filing of the petition for adoption, conduct background checks for each prospective adoptive parent of a minor child in its custody.

(1) The department may request a background check for each prospective adoptive parent who is not the biological parent of the child. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of Maine conviction data.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the biological parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the department for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of

administration incurred by the Department of Public Safety.

(iv) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 620.

(v) State and federal criminal history record information may be used by the department for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interests of the child.

(vi) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the department are for official use only and may not be disseminated outside the department except to a court considering an adoption petition under subsection (a-1).

(2) Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

## CHAPTER 576

H.P. 1352 - L.D. 1829

### An Act To Amend the Membership of the Children's Cabinet

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

**Sec. 1. 5 MRSA §19131, sub-§2, ¶D,** as enacted by PL 1999, c. 785, §3 and amended by PL 2001, c. 354, §3, is further amended to read:

D. The Commissioner of Behavioral and Developmental Services; ~~and~~

**Sec. 2. 5 MRSA §19131, sub-§2, ¶E,** as enacted by PL 1999, c. 785, §3, is amended to read:

E. The Commissioner of Public Safety;

**Sec. 3. 5 MRSA §19131, sub-§2, ¶¶F and G** are enacted to read:

F. The Commissioner of Labor; and

G. At the discretion of the Governor, a member of the public, appointed by the Governor.

See title page for effective date.

## CHAPTER 577

H.P. 470 - L.D. 640

### An Act To Reduce the Voting Age Qualification for State Primary Elections for Voters Who Will Reach 18 Years of Age by the Time of the General Election

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

**Sec. 1. 21-A MRSA §111-A** is enacted to read:

#### **§111-A. Voting age qualification for primary elections**

Notwithstanding section 111, subsection 2, a person who has not yet reached 18 years of age but will be 18 years of age at the time of a general election and meets all other qualifications in order to vote in a primary election may vote in the primary election for the selection of candidates to be on the ballot at that general election.

See title page for effective date.

## CHAPTER 578

H.P. 1408 - L.D. 1902

### An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to the Review of Agencies under the State Government Evaluation Act

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

**Sec. 1. 3 MRSA §959, sub-§1, ¶A,** as amended by PL 2001, c. 548, §1, is further amended to read:

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews: