

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

The board may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this section.

#### **§1094-H. Certification; renewal**

Certificates must be renewed every 5 years. On or before the expiration of the certificate, the expanded function dental assistant must pay to the board a certification renewal fee of not more than \$100 to be determined by the board. Expanded function dental assistants who have not paid the renewal fee on or before the expiration of the 5-year certificate must be reinstated upon payment of a late fee of not more than \$50 to be determined by the board if paid within 30 days of the certificate's expiration date. Failure to be properly certified within 30 days results in automatic suspension of a certificate to practice. Reinstatement may be made, if approved by the board, by payment to the secretary-treasurer of the board of a fee determined by the board of not more than \$100.

The board may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this section.

**Sec. 2. 32 MRSA §1100-A**, as amended by PL 1993, c. 600, Pt. A, §87, is further amended to read:

#### **§1100-A. Definition**

Duties of dental auxiliaries other than dental hygienists and expanded function dental assistants must be defined and governed by the rules of the Board of Dental Examiners. Dental auxiliaries include, but are not limited to, dental hygienists, dental assistants, expanded function dental assistants, dental laboratory technicians and denturists.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

#### **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

##### **Dental Examiners - Board of 0384**

Initiative: Allocates funds for the costs associated with establishing a new category of dental assistant.

#### **OTHER SPECIAL REVENUE**

<b>FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$0	\$5,600
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$0	\$5,600

See title page for effective date.

## **CHAPTER 323**

### **H.P. 1054 - L.D. 1502**

#### **An Act To Implement Recommendations of the Family Law Advisory Commission**

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

**Sec. 1. 19-A MRSA §105** is enacted to read:

#### **§105. Award and payment of attorney's fees and other fees**

**1. Attorney's fees and costs.** In an action under this Title, including actions to modify or enforce existing orders, the court may, after an opportunity for hearing, order a party, including a party in interest, to pay another party or another party's attorney reasonable attorney's fees, including costs, for participation in the proceedings.

**2. While pending; part of final decision.** In appropriate cases, the court may order fees and costs paid while an action is pending, including while on appeal, or may make an order as part of a final decision in a case.

**3. Fees and expenses of 3rd-party participants.** The court may order a party to pay reasonable fees and expenses of 3rd-party participants in the proceedings, including guardians ad litem, expert witnesses and providers of services, whether retained by a party or the court.

**4. Interest; means of collection.** Awards under this section are subject to the accumulation of statutory interest and may be collected by any means available under law, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A. Additional fees may be assessed in appropriate cases when additional fees are incurred for prosecuting collection actions.

**Sec. 2. 19-A MRSA §352, sub-§1**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**1. Membership.** The commission is composed of 9 11 members appointed by the Chief Justice of the Supreme Judicial Court. The members must have experience in practicing family law or be knowledgeable about family law. The membership of the commission must include:

A. An active Superior Court Justice;

B. An active District Court Judge;

B-1. An active family case management officer;

- C. A current Probate Court Judge;
- D. Two members of the family law section of the Maine State Bar Association, or its successor;
- E. A representative of a legal services organization;
- E-1. A representative of the Court Alternative Dispute Resolution Service;
- F. A representative of the department; and
- G. Two public members, at least one of whom has experience providing mental health services.

**Sec. 3. 19-A MRSA §851, sub-§8, ¶¶B and E**, as enacted by PL 1997, c. 224, §4 and affected by §5, are amended to read:

- B. Make reasonable provision for either spouse's support, ~~on a motion for which costs and attorney's fees may be ordered;~~
- E. Enforce obedience by appropriate processes ~~on which costs and attorney's fees are taxed as in other actions.~~

**Sec. 4. 19-A MRSA §901, sub-§6**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**6. Attorney's fees and costs.** ~~The court may order either party to pay the costs and attorney's fees of the other party in the defense or prosecution of a divorce.~~ Attorney's fees awarded in the nature of support may be made payable immediately or in installments.

**Sec. 5. 19-A MRSA §904, sub-§1**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

**Sec. 6. 19-A MRSA §904, sub-§§2 and 4**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

**2. Support.** Make reasonable provision for either spouse's separate support, ~~on a motion for which costs and attorney's fees may be ordered;~~

**4. Enforcement.** Enforce obedience by appropriate processes ~~on which costs and attorney's fees are taxed as in other actions;~~

**Sec. 7. 19-A MRSA §952, sub-§1, ¶¶D and E**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

- D. For payment of related attorney's fees; ~~or~~
- E. For alteration of an existing decree or order for the custody or support of a child; or

**Sec. 8. 19-A MRSA §952, sub-§1, ¶F** is enacted to read:

F. For division and disposition of property ancillary to a divorce judgment, including, but not limited to, proceedings to effectuate a qualified domestic relations order; to reach, attach or liquidate property; or to quiet title.

**Sec. 9. 19-A MRSA §952, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Attorney's fees.** ~~When making a final decree, the court may order a party to pay reasonable attorney's fees.~~ Attorney's fees awarded in the nature of support may be made payable immediately or in installments.

**Sec. 10. 19-A MRSA §1552**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

#### **§1552. Obligations of father**

The father of a child who is or may be born out of wedlock is liable to the same extent as the father of a child born in wedlock, whether or not the child is born alive, for the reasonable expense of the mother's pregnancy and confinement and for the education, support and funeral expenses of the child, ~~and reasonable attorney's fees for the prosecution of paternity proceedings.~~

**Sec. 11. 19-A MRSA §1606, sub-§6**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

**Sec. 12. 19-A MRSA §1653, sub-§8, ¶C**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

C. The court may require the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring ~~the obligated at least one~~ parent to obtain and maintain health insurance coverage for medical, hospitalization and dental expenses, if reasonable cost health insurance is available to ~~the obligated~~ that parent. The court order must also require the ~~obligated~~ parent providing insurance to furnish proof of coverage to the ~~obligee other parent~~ within 15 days of receipt of a copy of the court order. If reasonable cost health insurance is not available at the time of the hearing, the court order must establish the obligation to provide health insurance on the part of ~~the obligated at least one~~ parent, effective immediately upon reasonable cost health insurance being available.

**Sec. 13. 19-A MRSA §1803, sub-§6**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

**Sec. 14. 19-A MRSA §2102**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2102. Enforcement of rights**

The obligee may enforce the right of support against the obligor, and the State or any political subdivision of the State may proceed on behalf of the obligee to enforce that right of support against the obligor. When the State or a political subdivision of the State furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing an award for past support and of obtaining continuing support. ~~The obligee's right of support includes an independent right to seek appropriate attorney's fees for handling the action.~~ An award of attorney's fees may be collected by any means available under the law, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A.

See title page for effective date.

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**CHAPTER 324**

**H.P. 776 - L.D. 1123**

**An Act To Promote Stability in  
Labor Relations**

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

**Sec. 1. 26 MRSA §964-A**, as enacted by PL 1997, c. 773, §1 and affected by §7, is repealed and the following enacted in its place:

**§964-A. Continuation of grievance arbitration provisions**

**1. Contract signed before October 1, 2005.** If a contract between a public employer and a bargaining agent signed prior to October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract pertaining to disciplinary action remain in effect until the parties execute a new contract.

**2. Contract signed after October 1, 2005.** If a contract between a public employer and a bargaining agent signed after October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract remain in effect until the parties execute a new contract. In any arbitration that is conducted pursuant to this subsec-

tion, an arbitrator shall apply only those provisions enforceable by virtue of the static status quo doctrine and may not add to, restrict or modify the applicable static status quo following the expiration of the contract unless the parties have otherwise agreed in the collective bargaining agreement. All such grievances that are appealed to arbitration are subject exclusively to the grievance and arbitration process contained in the expired agreement, and the board does not have jurisdiction over such grievances. The arbitrator's determination is subject to appeal, pursuant to the Uniform Arbitration Act. Disputes over which provisions in an expired contract are enforceable by virtue of the static status quo doctrine first must be resolved by the board, subject to appeal pursuant to applicable law. The grievance arbitration is stayed pending resolution of this issue by the board. The board may adopt rules as necessary to establish a procedure to implement the intent of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Nothing in this subsection expands, limits or modifies the scope of any grievance arbitration provisions, including procedural requirements.

**Sec. 2. 26 MRSA §979-R**, as enacted by PL 1997, c. 773, §5 and affected by §7, is repealed and the following enacted in its place:

**§979-R. Continuation of grievance arbitration provisions**

**1. Contract signed before October 1, 2005.** If a contract between a public employer and a bargaining agent signed prior to October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract pertaining to disciplinary action remain in effect until the parties execute a new contract.

**2. Contract signed after October 1, 2005.** If a contract between a public employer and a bargaining agent signed after October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract remain in effect until the parties execute a new contract. In any arbitration that is conducted pursuant to this subsection, an arbitrator shall apply only those provisions enforceable by virtue of the static status quo doctrine and may not add to, restrict or modify the applicable static status quo following the expiration of the contract unless the parties have otherwise agreed in the collective bargaining agreement. All such grievances that are appealed to arbitration are subject exclusively to the grievance and arbitration process contained in the expired agreement, and the board does not have jurisdiction over such grievances. The arbitrator's determination is subject to appeal, pursuant to the Uniform Arbitration Act. Disputes over which provisions in an expired contract are enforceable by