

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

Penmor Lithographers
Lewiston, Maine
2005

Sec. 3. 22 MRSA §2843, first ¶, as amended by PL 1985, c. 231, §1, is further amended to read:

Except as authorized by the department, no dead human body ~~shall~~ may be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located. The permit ~~shall be~~ is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, provided that the requirements of Title 32, section 1405, are met in appropriate cases. No such permit may be issued to anyone other than a funeral director until the clerk of the municipality receives a medical certificate ~~which that~~ has been signed by a physician or a medical examiner which that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner has signed the medical certificate indicating that the nurse practitioner has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

Sec. 4. 22 MRSA §2843, 3rd ¶, as amended by PL 2001, c. 574, §28, is further amended to read:

A municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner or medical examiner who will certify to the cause of death and present assurances that he or she has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

Sec. 5. 22 MRSA §2846, as amended by PL 2003, c. 672, §21, is further amended by adding at the end 2 new paragraphs to read:

For the purposes of this chapter, "nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

For the purposes of this chapter, "health care provider" means a physician or a nurse practitioner.

Sec. 6. 22 MRSA §2901, sub-§4-A is enacted to read:

4-A. Nurse practitioner. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

Sec. 7. 22 MRSA §2907, sub-§2, as enacted by PL 1969, c. 193, is amended to read:

2. Time of death. The time of death ~~shall~~ must be determined by a physician or nurse practitioner who attends the donor at ~~his~~ the donor's death, or, if none, the physician or nurse practitioner who certifies the death. This physician ~~shall~~ or nurse practitioner may not participate in the procedures for removing or transplanting a part.

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

Effective June 9, 2005.

CHAPTER 360

S.P. 380 - L.D. 1063

An Act To Improve the Guardian ad Litem System

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

Sec. 1. 18-A MRSA §1-112 is enacted to read:

§1-112. Guardian ad litem

(a) In any proceeding under this Title for which the court may appoint a guardian ad litem for a child involved in the proceeding, at the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

(b) A guardian ad litem appointed on or after October 1, 2005 must meet the qualifications established by the Supreme Judicial Court.

(c) If, in order to perform the guardian ad litem's duties, the guardian ad litem needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers.

(d) The guardian ad litem shall use the standard of the best interest of the child as set forth in Title 19-A, section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the

court if the child has expressed them, regardless of the recommendation of the guardian ad litem.

(e) If required by the court, the guardian ad litem shall make a final written report to the parties and the court reasonably in advance of a hearing. The report is admissible as evidence and subject to cross-examination and rebuttal, whether or not objected to by a party.

(f) A person appointed by the court as a guardian ad litem acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem.

(g) A guardian ad litem must be given notice of all civil or criminal hearings and proceedings, including, but not limited to, grand juries, in which the child is a party or a witness. The guardian ad litem shall protect the best interests of the child in those hearings and proceedings, unless otherwise ordered by the court.

Sec. 2. 19-A MRSA §1507, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Guardian ad litem; appointment. In contested proceedings under sections 904 ~~and~~ 1653 and 1803 in which a minor child is involved, the court may appoint a guardian ad litem for the child. The appointment may be made at any time, but the court shall make every effort to make the appointment as soon as possible after the commencement of the proceeding. The court may appoint a guardian ad litem when the court has reason for special concern as to the welfare of a minor child. In determining whether an appointment must be made, the court shall consider:

- A. The wishes of the parties;
- B. The age of the child;
- C. The nature of the proceeding, including the contentiousness of the hearing;
- D. The financial resources of the parties;
- E. The extent to which a guardian ad litem may assist in providing information concerning the best interest of the child;
- F. Whether the family has experienced a history of domestic abuse;
- G. Abuse of the child by one of the parties; and
- H. Other factors the court determines relevant.

At the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

Sec. 3. 19-A MRSA §1803, sub-§2, ¶D, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2 is amended to read:

D. If the court's determination under paragraph C is in the affirmative, the court may appoint a guardian ad litem as provided in section 1507. The court shall hold a hearing on the grandparent's petition for reasonable rights of visitation or access and shall consider any objections the parents or legal guardians may have concerning the award of rights of visitation or access to the grandparent. If the court has appointed a guardian ad litem, the court shall also consider the report of the guardian ad litem. The standard for the award of reasonable rights of visitation or access is provided in subsection 3.

See title page for effective date.

CHAPTER 361

H.P. 510 - L.D. 715

An Act To Provide Support for Legal Services for Low-income Mainers

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

Sec. 1. 4 MRSA §18-A, sub-§1, ¶B, as amended by PL 1997, c. 173, §1, is further amended to read:

B. Except as provided in paragraph C, money in the fund must be disbursed to legal ~~service~~ services providers to support the provision of free civil legal services to low-income or needy people or the needy elderly in this State. Money disbursed from the fund may not be used by a recipient to support lobbying as defined in Title 3, section 312-A, subsection 9; unless the recipient is responding to a request by a Legislator or a member of the Executive Department. Only the following legal ~~service~~ services providers may receive disbursement to provide free civil legal services:

- (1) Nonprofit organizations whose missions ~~are to provide~~ include the provision of free civil legal services and who have at least one year of experience providing free civil legal services;
- (2) Legal aid clinics of accredited law schools operating exclusively in Maine; and