

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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Lewiston, Maine
2005

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

(3) Programs whose primary mission is to coordinate pro bono legal services for low-income people in this State.

Sec. 2. 4 MRSA §18-A, sub-§3-A, ¶A, as enacted by PL 1997, c. 173, §5, is repealed and the following is enacted in its place:

A. For all fees collected by the Judicial Department after July 1, 2005, 7% must be deposited in the fund. This paragraph does not apply to fees dedicated under section 17-A or section 18-B, subsection 8.

Sec. 3. 4 MRSA §18-A, sub-§3-A, ¶B, as enacted by PL 1997, c. 173, §5, is amended to read:

B. A surcharge of \$5 \$10 must be imposed by a court on each civil fine, penalty or forfeiture imposed by the court and deposited in the fund.

See title page for effective date.

CHAPTER 362

H.P. 815 - L.D. 1186

An Act To Clarify the Smoking Ban for Off-track Betting Facilities

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

Sec. 1. 22 MRSA §1542, sub-§2, ¶N, as enacted by PL 2003, c. 493, §5 and affected by §14, is amended to read:

N. Smoking is not prohibited in designated smoking areas in an off-track betting facility or simulcast racing facility at a commercial track, if that facility is licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003, is purchased from the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003 or is moved to another location within the same municipality by the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003, as long as:

(1) No sales or services are provided in the designated smoking area, except that television equipment and stand-alone betting terminals or other means of placing wagers may be provided;

(2) No employees work in or are required to pass through the designated smoking area;

(3) Members of the public, except for those who choose to be present in the designated smoking area, are not required to utilize or pass through the designated smoking area for any purpose; ~~and~~

(4) No one under 18 years of age is permitted in the designated smoking area;

(5) The designated smoking area within the purchased or relocated off-track betting facility or purchased or relocated simulcast racing facility has a floor area no larger than 2,000 square feet, except that any designated smoking area larger than 2,000 square feet and in existence on January 1, 2005 is exempt from this subparagraph;

(6) No slot machines are located within the off-track betting or simulcast racing facility. For the purposes of this subparagraph, an off-track betting facility or a simulcast racing facility must be in a separately enclosed area, whether stand-alone or within another facility, that is accessible by either an interior or exterior door; and

(7) The designated smoking area is located entirely within a separately enclosed area of an off-track betting facility or simulcast racing facility and proper signs are mounted to the exterior of the designated smoking area indicating that use of that area is for off-track betting and simulcast racing patrons only.

See title page for effective date.

CHAPTER 363

S.P. 441 - L.D. 1261

An Act To Allow Physicians Licensed in Other States but Trained outside the United States To Practice Medicine in Maine

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

Sec. 1. 32 MRSA §3271, sub-§6 is enacted to read:

6. Waiver for exceptional circumstances. The board may waive the requirements of subsection 2 for a physician who does not meet the postgraduate training requirements but who meets the requirements of this subsection.