

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.

Penmor Lithographers
Lewiston, Maine
2005

directions issued to the public, a part of the public or one or more individuals;

D. The employee is unable to work because of a direction given by the employee's employer in response to a concern of the employer that the employee may expose other individuals in the workplace to the extreme public health emergency threat; or

E. The employee is unable to work because the employee is needed to provide care or assistance to one or more of the following individuals: the employee's spouse or domestic partner as defined under Title 18-A, section 1-201, subsection (10-A); the employee's parent; or the employee's child or child for whom the employee is the legal guardian.

For purposes of this subsection, "extreme public health emergency" has the same meaning as in Title 22, section 801, subsection 4-A.

2. Exceptions. An employer who fails to grant a leave under subsection 1 is not in violation of subsection 1 if:

A. The employer would sustain undue hardship from the employee's absence, including the need to downsize for legitimate reasons related to the impact of the extreme public health emergency on the operation of the business;

B. The request for leave is not communicated to the employer within a reasonable time under the circumstances; or

C. The employee to be granted leave under subsection 1, paragraph E is a state, county or municipal employee whose responsibilities are related to services necessary for protecting the public's health and safety in an extreme public health emergency if the employer requires the employee to work, unless there are no other options or persons able to provide care or assist one or more of the individuals listed under subsection 1, paragraph E.

3. Duration of leave. Leave granted under subsection 1 must be for the duration of an extreme public health emergency and for a reasonable and necessary time period following the termination of the extreme public health emergency for diseases or conditions that are contracted or exposures that occurred during the extreme public health emergency.

4. Documentation. Upon the employee's return to work, the employer has the right to request and receive written documentation from a physician or public health official supporting the employee's leave.

5. Benefits retained. The taking of leave under this subchapter may not result in the loss of any employee benefits accrued before the date on which the leave commenced and does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. For any leave that extends beyond the time described in subsection 3, the employer shall allow an employee to continue the employee's benefits at the employee's expense. The employer and employee may negotiate for the employer to maintain benefits at the employer's expense for the duration or any portion of this extended leave.

6. Civil penalties. The Department of Labor may assess civil penalties of up to \$200 for each violation of this section if notice of the violation is given to the employer and the department within 6 months of the occurrence.

7. Application. This subchapter applies to all public and private employers, including the State and its political subdivisions.

Sec. 24. PL 2001, c. 694, Pt. B, §6, as amended by PL 2003, c. 366, §1, is repealed.

See title page for effective date.

CHAPTER 384

H.P. 683 - L.D. 973

An Act To Make Certain Changes in the Laws Concerning the Family Division of District Court

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

Sec. 1. 4 MRSA §183, as amended by PL 2003, c. 688, Pt. C, §1 and c. 689, Pt. B, §6, is further amended to read:

§183. Family Division of District Court

There is established within the District Court a Family Division that has jurisdiction over family matters filed in District Court. The Family Division shall provide a system of justice that is responsive to the needs of families and the support of their children. The Supreme Judicial Court may adopt administrative orders and court rules governing the practice, procedure and administration of the Family Division. These practices and procedures must include, but are not limited to, education for the parties, case management and referral services to mediation and other alternate dispute resolution techniques.

1. Family law magistrates. The Chief Judge of the District Court, with the approval of the Chief Justice of the Supreme Judicial Court, shall employ family ~~ease management officers~~ law magistrates. In selecting family ~~ease management officers~~ law magistrates, the Chief Judge shall give proper consideration to achieving statewide geographical representation in the Family Division.

A. Family ~~ease management officers~~ law magistrates must be members of the Bar of this State and must have experience in the area of family law. Other qualifications may include interest, training or experience in mediation and other alternate dispute resolution techniques, domestic violence, child development, family dynamics and case management.

B. Family ~~ease management officers~~ law magistrates shall devote themselves solely to the official duties of the position. ~~They~~ Family law magistrates may not engage in the private practice of law or in any employment, occupation or business interfering with or inconsistent with the discharge of their duties. The Chief Judge of the District Court shall determine the ~~salary~~ salaries of the family ~~ease management officers~~ law magistrates.

C. Family ~~ease management officers~~ law magistrates are governed by the Maine Code of Judicial Conduct. Family ~~ease management officers~~ law magistrates serve at the pleasure of the Chief Judge of the District Court.

D. Family ~~ease management officers~~ law magistrates shall employ appropriate case management techniques and have jurisdiction to hear and dispose of the following matters:

(1) Interim orders in actions involving the establishment, modification or enforcement of child support;

(2) Interim orders in actions involving divorce, legal separation, paternity or parental rights, including interim orders in post-judgment proceedings arising out of these actions, except that a contested motion concerning interim parental rights and responsibilities, excluding interim child support orders, may be determined by the family ~~ease management officer~~ law magistrate only if both parties consent to determination of the issue or issues in dispute by the family ~~ease management officer~~ law magistrate;

(2-A) Parental rights and responsibilities and parent-child contact orders entered pursuant to Title 19-A, section 4006, subsection

5 and section 4007, subsection 1, paragraph G to make such orders consistent with subsequently entered orders in matters included in subparagraphs (1), (2) and (3);

(3) Final orders in any of the matters included in subparagraphs (1) and (2) when the proceeding is uncontested;

(4) Final orders in a contested proceeding when child support is the only contested issue;

(4-A) Applications for writs of habeas corpus to facilitate the attendance of proceedings by and return of a party who is incarcerated;

(4-B) Requests for access to confidential Department of Health and Human Services child protective records in accordance with Title 22, section 4008. The family ~~ease management officer~~ law magistrate may review records in camera to determine whether to grant access; and

(5) Other actions assigned by the Chief Judge of the District Court.

E. Interim orders in any of the matters included in paragraph D, subparagraphs (1), (2) and (2-A) are effective immediately and are subject to de novo review by a judge at the final hearing. Final orders in any of the matters included in paragraph D, subparagraphs (3) and (4) are subject to appellate review in the same manner as any final order of the District Court. The family ~~ease management officer~~ law magistrate shall inform the parties of the rights of review established in this paragraph.

F. A family ~~ease management officer~~ law magistrate has the power to impose punitive and remedial sanctions in a summary proceeding for contempt occurring in the actual presence of the family ~~ease management officer~~ law magistrate and seen or heard by the family ~~ease management officer~~ law magistrate. The Maine Rules of Civil Procedure relating to summary contempt proceedings apply to a family ~~ease management officer~~ law magistrate exercising the contempt power under this paragraph.

G. The Chief Judge of the District Court may allow family law magistrates to wear robes of any color other than black when presiding over any proceeding.

2. Additional staff. The State Court Administrator shall provide other necessary staff to the Family Division, within the limits of funds available, and shall

seek to take full advantage of federal funding, including reimbursements.

3. Reports. The State Court Administrator shall keep statistical records relating to the cases handled by the Family Division and report this information to the Supreme Judicial Court annually and to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15th of each odd-numbered calendar year.

A. The State Court Administrator shall evaluate the functioning of the family ~~case management officers~~ law magistrates in providing a system of justice that is responsive to the needs of families and the support of their children in light of the jurisdiction given to the family ~~case management officers~~ law magistrates under this section. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 1999 with recommendations, if any, for changing the duties provided in subsection 1, paragraph D.

B. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining the justification for the particular geographic assignments of the family ~~case management officers~~ law magistrates.

See title page for effective date.

CHAPTER 385

H.P. 425 - L.D. 592

An Act To Allow Case Management Officers To Conduct Hearings in Divorce Court

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

Sec. 1. 4 MRSA §183, sub-§4 is enacted to read:

4. Pilot project. Notwithstanding the jurisdictional limitations of subsection 1, the Chief Justice of the Supreme Judicial Court may establish a pilot project in which one or more family case management officers have jurisdiction to hear and dispose of all elements of a divorce action when both parties consent. Orders of the family case management officer are subject to appellate review in the same manner as any final order of the District Court.

Sec. 2. Report. The State Court Administrator shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2007 explaining the results of any pilot project implemented under the Maine Revised Statutes, Title 4, section 183, subsection 4.

See title page for effective date.

CHAPTER 386

H.P. 1186 - L.D. 1677

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005, June 30, 2006 and June 30, 2007

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. Supplemental appropriations and allocations. There are appropriated and allocated from various funds for the fiscal years ending June 30, 2006 and June 30, 2007, to the departments listed, the following sums.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Transfers one Data Entry Specialist position from the Office of the State Controller to Maine Revenue Services for the purpose of consolidating the scanning functions.