

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

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

Penmor Lithographers

Lewiston, Maine

2006

CHAPTER 560

H.P. 1290 - L.D. 1850

**An Act To Clarify the Change of
Beneficiary Provision in the Maine
State Retirement System Laws**

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

Sec. 1. 5 MRSA §17054, sub-§4, as enacted by PL 1991, c. 746, §8 and affected by §10, is amended to read:

4. Qualified domestic relations order. The rights of a member ~~or~~ retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059.

Sec. 2. 5 MRSA §17059, sub-§6, ¶A, as enacted by PL 1991, c. 746, §9 and affected by §10, is amended to read:

A. If the order is determined to be a qualified domestic relations order, ~~the it is presumed to be in compliance with all requirements of this Part.~~ The retirement system shall pay benefits in accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant or beneficiary or the retirement system, notwithstanding any provision of law to the contrary or any policy or procedure the retirement system employs in the implementation of this Part.

Sec. 3. 5 MRSA §17805-A, sub-§1, as amended by PL 2001, c. 118, §7, is further amended to read:

1. Election of benefit for different beneficiary. The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

Sec. 4. 5 MRSA §18405-A, sub-§1, as amended by PL 2001, c. 118, §11, is further amended to read:

1. Election of benefit for different beneficiary.

The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

Sec. 5. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 5, section 17054, subsection 4 and Title 5, section 17059, subsection 6, paragraph A apply retroactively to January 1, 1985.

See title page for effective date.

CHAPTER 561

H.P. 1328 - L.D. 1888

**An Act To Amend Certain Laws
Administered by the Department of
Environmental Protection**

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