

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-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

credited practitioner of those healing methods; and

C. The employer and employee may negotiate for more or less leave, but both parties must agree.

Sec. 3. 26 MRSA §844, sub-§3 is enacted to read:

3. Leave taken intermittently or on reduced leave schedule. Intermittent or reduced leave schedule family medical leave may be taken subject to the following limitations:

A. Leave for a reason described in section 843, subsection 4, paragraph B or C may not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise. Subject to subsection 1, paragraphs A and B, leave for a reason described in section 843, subsection 4, paragraph A, D or E may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph may not result in a reduction in the total amount of leave to which the employee is entitled under subsection 1 beyond the amount of leave actually taken.

B. If an employee requests intermittent leave, or leave on a reduced leave schedule, for a reason described in section 843, subsection 4, paragraph A, D or E that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that:

- (1) Has equivalent pay and benefits; and
- (2) Better accommodates recurring periods of leave than the regular employment position of the employee.

See title page for effective date.

CHAPTER 234

S.P. 58 - L.D. 176

An Act To Provide Notice to the General Public about Proposed Initiative Questions

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to provide the public with its benefits in advance of the next statewide election; 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:

Sec. 1. 21-A MRSA §901, sub-§3-A, as amended by PL 1997, c. 581, §3, is further amended to read:

3-A. Review for proper form. The Secretary of State shall review the proposed law for a direct initiative of legislation within 10 business days after receipt of the application and either reject the application or provide a first revised draft of the initiative legislation to the applicant within that time. The Secretary of State may reject the application if the Secretary of State determines that the proposed law:

- A. Does not conform to the form prescribed by the Secretary of State; or
- B. Does not conform to the essential aspects of the drafting conventions established for the Maine Revised Statutes. The drafting conventions include but are not limited to:
 - (1) Correct allocation to the statutes and correct integration with existing statutes;
 - (2) Bill titles and statute section headnotes that objectively reflect the content of the bill, section or sections to which they apply;
 - (3) Conformity to the statutory numbering system; and
 - (4) Ensuring that bills enacting statutes do not contain provisions that describe intent or make testimonial statements without creating a legal requirement or duty.

By consent of the applicant the proposed law may be modified to conform with the requirements of this section. The Secretary of State may request assistance from the Revisor of Statutes in reviewing the proposed law.

The applicant shall submit each subsequent draft of the legislation to the Secretary of State for review following the same process. The Secretary of State shall review each subsequent draft from the applicant and provide a revised draft or written response suggesting how the proposed law may be modified to conform with the requirements of this section within 10 business days. ~~Before the ballot question is drafted by the Secretary of State, written consent to the final language of the proposed law must be given by the applicant.~~ The applicant must give written consent to the final language of the proposed law to the Secretary of

State before the petition form is designed by the Secretary of State.

Sec. 2. 21-A MRSA §901, sub-§4, as amended by PL 1997, c. 581, §4, is further amended to read:

4. Ballot question. The ballot question for an initiative or a people's veto referendum must be drafted by the Secretary of State in accordance with section 906 and rules adopted in accordance with the Maine Administrative Procedure Act. The Secretary of State shall provide the ballot question to the applicant for a people's veto referendum within 10 business days after receipt of a properly completed application. The Secretary of State shall provide the ballot question to the applicant for an initiative within 10 business days after the applicant has submitted to the Secretary of State written consent to the final language of the proposed law. The question must be conspicuously displayed on the face of the petition. If an initiative is filed with the Secretary of State and certified pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 as having a sufficient number of signatures and is not enacted without change by the Legislature at the session at which it is presented, then the Secretary of State shall propose a ballot question to be submitted for public comment as provided in section 905-A.

Sec. 3. 21-A MRSA §901, sub-§5, as enacted by PL 1993, c. 352, §1, is amended to read:

5. Summary of proposal. For a direct initiative, the Secretary of State shall request the Revisor of Statutes to recommend a concise summary that objectively describes the content of the proposed law. The Secretary of State shall approve or amend the summary and the summary must be attached to the end of the proposed law printed on the petition form immediately following the statements required by section 901-A.

Sec. 4. 21-A MRSA §901-A, sub-§2, as enacted by PL 2005, c. 356, §1, is amended to read:

2. Required statements; placement of information. The Secretary of State shall include the following statements at the top of the petition to be submitted to voters in a type size of no less than 16 points:

"Freedom of Citizen Information: Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary prepared by the Secretary of State."

"Ballot questions during the 20.. election [most recent election cycle] cost taxpayers approximately \$..... [Secretary of State shall use fiscal information provided by the Office of Fiscal and Program Review] each to be placed on the ballot. As a citizen of Maine, you have a right to this information."

~~The summary of the proposed direct initiative must be printed on the petition immediately following the statements required by this subsection.~~

Sec. 5. 21-A MRSA §903-A, as amended by PL 2005, c. 575, §1, is further amended to read:

§903-A. Circulation

Petitions issued under this chapter may be circulated by any registered voter.

~~**1. Filing.** Filing of petitions in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 must be completed within one year of the date of issuance under this chapter.~~

~~**2. Invalid petition.** Petitions not filed in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 within one year of the date of issuance under this chapter are invalid for circulation.~~

3. Information to circulators. An applicant for a direct initiative or a people's veto referendum pursuant to section 901 shall provide to each person who will be circulating petitions a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto as provided by the Secretary of State. The Secretary of State shall provide a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto when an approved petition form is provided to an applicant for a direct initiative or people's veto referendum. The copy of the laws and rules provided by the Secretary of State may also include comments that may aid in the comprehension of those laws and rules.

Sec. 6. 21-A MRSA §905-A is enacted to read:

§905-A. Public comment on initiative questions

No later than 10 business days after the Legislature adjourns sine die, the Secretary of State shall give public notice of a proposed ballot question for any initiative that will be submitted to the voters at the next statewide election or special election by posting all proposed ballot questions on the Secretary of State's publicly accessible website. The Secretary of State may also publish notice for one day in newspapers having general circulation in the State. After giving public notice of a proposed ballot question in accordance with this section, the Secretary of State shall provide a 30-day public comment period for the purpose of receiving comments on the content and form of proposed questions to be placed on the ballot for any pending initiatives. No later than 10 days after receiving public comments in accordance with this section and after review of those comments, the Secretary of State shall write the ballot question for any pending initiative.

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

Effective June 5, 2007.

CHAPTER 235

H.P. 592 - L.D. 774

An Act To Coordinate the Implementation of the In-stream Flow and Water Level Rules among the Department of Environmental Protection, the Drinking Water Program of the Department of Health and Human Services and the Public Utilities Commission

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

Whereas, the provisions of this legislation must take effect immediately to provide the statutory basis for major substantive rules authorized to be finally adopted when approved; 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:

Sec. 1. 38 MRSA §470-H, as enacted by PL 2005, c. 330, §12, is amended to read:

§470-H. In-stream flow and water level requirements; rules

The board shall adopt rules that establish water use ~~standards~~ requirements for maintaining in-stream flows and ~~GPA~~ lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use. ~~Standards~~ Requirements adopted under this section must be based on the natural variation of flows and water levels, allowing variances if use will still be protective of water quality within that classification. The board shall incorporate into the rules a mechanism to reconcile, to the extent feasible, the objective of protecting aquatic life and other uses as provided for in this section and the objective of allowing community water systems to use

their existing water supplies to provide water service. Before the department issues a community water system withdrawal certificate, the certificate must be reviewed and approved by the drinking water program of the Department of Health and Human Services, with technical assistance from the Public Advocate on economic issues, to ensure that conditions contained in the certificate are economically affordable and technically feasible and will not jeopardize the safety, dependability or financial viability of the community water system. Except as necessary to meet the requirements in this section and rules adopted pursuant to this section, a community water system does not forfeit the rights, powers or responsibilities related to water use that are contained in its legislative charter or similar authority. Rules adopted under this section are state water use rules in accordance with the authority reserved to states under the federal Clean Water Act. A water user that fails to comply with the requirements of the rules adopted under this section is subject to penalties pursuant to section 349. For purposes of this section, "community water system" has the same meaning as in Title 22, section 2660-B, subsection 2. Rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective June 6, 2007.

CHAPTER 236

H.P. 835 - L.D. 1142

An Act To Enhance the Newborn Hearing Program

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

Sec. 1. 22 MRSA §8824, first ¶, as enacted by PL 1999, c. 647, §2, is amended to read:

The department is authorized to implement a tracking system that provides the information necessary to effectively plan ~~and~~ and establish and evaluate a comprehensive system of developmentally appropriate services for newborn ~~children and~~ infants and children up to 3 years of age who are deaf or hard-of-hearing and to ensure that all families are given information regarding the availability of hearing screening for their infants. The services must be designed to reduce the likelihood of associated disabling conditions for these children. The tracking system must be integrated with any national database or similar system developed by the Federal Government.