

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

First Regular Session of the 124th Legislature related to the report submitted by the superintendent.

See title page for effective date.

CHAPTER 544

H.P. 1569 - L.D. 2200

An Act To Ensure Full Payment of Annuity Death Benefits

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

Sec. 1. 24-A MRSA §2537, sub-§10, as enacted by PL 1969, c. 132, §1, is repealed and the following enacted in its place:

10. A variable annuity contract delivered or issued for delivery in this State may include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to the greater of the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death. The beneficiary under the contract may not be paid any other amount. A variable annuity contract that includes such incidental benefit may not be deemed to be life insurance and therefore is not subject to the provisions of this Title governing life insurance contracts. A variable annuity contract with a provision for any other benefit on death during the deferred period is subject to the provisions of this Title governing life insurance contracts. A payment on death pursuant to a variable annuity contract under this subsection must be made in accordance with section 2436. This subsection applies to variable annuity contracts delivered or issued for delivery in this State on or after January 1, 2009.

See title page for effective date.

CHAPTER 545

H.P. 1652 - L.D. 2290

An Act To Protect Access to Health Care

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

Sec. 1. 34-B MRSA §3608, sub-§1, ¶E, as amended by PL 2007, c. 286, §8, is further amended to read:

E. Develop techniques for identifying and providing services to consumers at risk, based on the principle that services will be provided as close to the consumer's home as possible; ~~and~~

Sec. 2. 34-B MRSA §3608, sub-§1, ¶F, as enacted by PL 2007, c. 286, §8, is amended to read:

F. Enable, among other things, the sharing of confidential client information to the extent necessary to protect the client's health and safety when it is determined the client has an urgent need for mental health services. The network members shall share confidential client information, even without a client's consent, to the extent necessary to protect the client's health and safety in a period of urgent need for mental health services when the client lacks the capacity to give consent for the information sharing or when an exigency exists so that the client's health and safety is better protected if the information is shared without a delay to obtain consent. A person or entity participating in good faith in sharing information under this paragraph is immune from civil liability that might otherwise result from these actions, including, but not limited to, a civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. The department shall adopt rules to identify the limits and requirements to be included in the memoranda. These rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; ~~and~~

Sec. 3. 34-B MRSA §3608, sub-§1, ¶G is enacted to read:

G. Provide consolidated mental health crisis services for children and adults, beginning March 1, 2009, through a memorandum of understanding among providers of mental health services in the network that must include provisions to ensure coordination, eliminate duplication and provide a level of crisis services established by the department.

Sec. 4. 36 MRSA §2891, sub-§1, as corrected by RR 2003, c. 2, §116, is amended to read:

1. Hospital. "Hospital" means an acute care health care facility with permanent inpatient beds planned, organized, operated and maintained to offer for a continuing period of time facilities and services for the diagnosis and treatment of illness, injury and deformity; with a governing board and an organized medical staff offering continuous 24-hour professional nursing care; with a plan to provide emergency treatment 24 hours a day and including other services as defined in rules of the Department of Health and Human Services relating to licensure of general and specialty hospitals; and that is licensed under Title 22, chapter 405 as a general hospital, specialty hospital or critical access hospital. For purposes of this chapter, "hospital" does not include a nursing home or a publicly owned specialty hospital or, for state fiscal years beginning on or after July 1, 2008, municipally funded hospitals.

Sec. 5. 36 MRSA §2891, sub-§1-A is enacted to read:

1-A. Municipally funded hospital. "Municipally funded hospital" means Mayo Regional Hospital in Dover-Foxcroft or Cary Medical Center in Caribou.

Sec. 6. 36 MRSA §2892, as amended by PL 2005, c. 12, Pt. ZZ, §2, is further amended to read:

§2892. Tax imposed

For the state fiscal year beginning on July 1, 2003, a tax is imposed against each hospital in the State. The tax is equal to .74% of net operating revenue for the tax year as identified on the hospital's most recent audited annual financial statement for that tax year. Delinquent tax payments are subject to Title 22, section 3175-C.

For state fiscal years beginning on or after July 1, 2004, a tax is imposed annually against each hospital in the State. The tax is equal to 2.23% of the hospital's net operating revenue as identified in the hospital's audited financial statement for the hospital's taxable year. For the state fiscal year beginning July 1, 2004, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2002. For the state fiscal year beginning July 1, 2005, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2003. For state fiscal years beginning on or after July 1, 2006 but before July 1, 2008, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2004.

For state fiscal years beginning on or after July 1, 2008, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2006.

Sec. 7. Memorandum of understanding for consolidated services. Notwithstanding any provision of law to the contrary, reductions in funding by consolidating mental health crisis services must be accomplished through a memorandum of understanding subject to this section. The Department of Health and Human Services shall design standards for and negotiate the implementation of a memorandum of understanding among providers of mental health services in each community service network that will achieve savings through the consolidation of crisis services for children and adults. The department shall establish criteria for crisis services, including, but not limited to: access to telephone crisis services 24 hours a day, 7 days a week; mobile outreach for face-to-face assessments; crisis stabilization and follow-up; availability of fixed sites; access to psychiatric consultation; agreements with local hospitals; alternatives to inpatient hospital services through residential beds; compliance with the adult consent decree and reduction of the utilization of hospital emergency rooms. The department shall provide a progress report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on

the progress of the consolidation by January 1, 2009 and an evaluation by January 1, 2010 of the impact of the consolidation on consumers and on savings achieved and any positive or negative effects on consumer access to services and the quality of crisis services consumers receive.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY BDS)**

Mental Health Services - Child Medicaid 0731

Initiative: Provides funding related to consolidating crisis services to one provider per district. The corresponding federal match increase is in the Medical Care - Payments to Providers program.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$200,000
GENERAL FUND TOTAL	\$0	\$200,000

Mental Health Services - Community 0121

Initiative: Provides funding for community integration services for consumers who are not eligible for MaineCare.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$500,000
GENERAL FUND TOTAL	\$0	\$500,000

Mental Retardation Waiver - MaineCare 0987

Initiative: Increases funding for MaineCare home- and community-based waiver services. The corresponding federal match increase is in the Medical Care - Payments to Providers program.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$142,568
GENERAL FUND TOTAL	\$0	\$142,568

**HEALTH AND HUMAN
SERVICES,
DEPARTMENT OF
(FORMERLY BDS)**

DEPARTMENT TOTALS	2007-08	2008-09
GENERAL FUND	\$0	\$842,568

DEPARTMENT TOTAL - ALL FUNDS	\$0	\$842,568
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HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Medical Care - Payments to Providers 0147

Initiative: Increases funding for MaineCare home- and community-based waiver services. The corresponding state funding increases are in the Mental Retardation Waiver - MaineCare program.

FEDERAL EXPENDITURES FUND	2007-08	2008-09
All Other	\$0	\$254,930
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$254,930

Medical Care - Payments to Providers 0147

Initiative: Provides funding for hospital-based physicians.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$7,282,509
GENERAL FUND TOTAL	\$0	\$7,282,509

FEDERAL EXPENDITURES FUND	2007-08	2008-09
All Other	\$0	\$13,022,827
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$13,022,827

Medical Care - Payments to Providers 0147

Initiative: Adjusts funding to reflect an update of the hospital tax base year from 2004 to 2006 and the exclusion of municipally funded hospitals from the tax beginning July 1, 2008.

GENERAL FUND	2007-08	2008-09
All Other	\$0	(\$11,394,341)
GENERAL FUND TOTAL	\$0	(\$11,394,341)

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$0	\$11,394,341

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$11,394,341
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Medical Care - Payments to Providers 0147

Initiative: Appropriates and allocates funds for additional payments to hospitals under the MaineCare program.

GENERAL FUND	2007-08	2008-09
All Other	\$0	\$3,269,264
GENERAL FUND TOTAL	\$0	\$3,269,264

FEDERAL EXPENDITURES FUND	2007-08	2008-09
All Other	\$0	\$5,846,206
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$5,846,206

Medical Care - Payments to Providers 0147

Initiative: Provides funding related to consolidating crisis services to one provider per district. The corresponding state match increase is in the Mental Health Services - Community Medicaid program.

FEDERAL EXPENDITURES FUND	2007-08	2008-09
All Other	\$0	\$357,625
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$357,625

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

DEPARTMENT TOTALS	2007-08	2008-09
GENERAL FUND	\$0	(\$842,568)
FEDERAL EXPENDITURES FUND	\$0	\$19,481,588
OTHER SPECIAL REVENUE FUNDS	\$0	\$11,394,341

DEPARTMENT TOTAL - ALL FUNDS	\$0	\$30,033,361
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SECTION TOTALS	2007-08	2008-09
GENERAL FUND	\$0	\$0
FEDERAL EXPENDITURES FUND	\$0	\$19,481,588
OTHER SPECIAL REVENUE FUNDS	\$0	\$11,394,341
SECTION TOTAL - ALL FUNDS	\$0	\$30,875,929

See title page for effective date.

CHAPTER 546 H.P. 390 - L.D. 507

An Act To Require the Accommodation of Religious Practices in Correctional Facilities

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

Sec. 1. 34-A MRSA §3048 is enacted to read:

§3048. Religious services

The commissioner shall adopt rules that provide for the accommodation of any prisoner who expresses a desire to practice a religion of the prisoner's choice as long as the practice does not present a threat to the safety, security or orderly management of the facility in which the prisoner is housed. The rules must be consistent with all federal requirements. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Rule-making process. The Commissioner of Corrections shall use the February 28, 2008 draft of the Department of Corrections policy "Religious Services, General Guidelines" as a basis for the rules adopted under the Maine Revised Statutes, Title 34-A, section 3048.

See title page for effective date.

CHAPTER 547 H.P. 593 - L.D. 775

An Act To Create a Special License Plate To Support Breast Cancer Support Services

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

Sec. 1. 22 MRSA §1408 is enacted to read:

§1408. Breast Cancer Services Special Program Fund

The Breast Cancer Services Special Program Fund, referred to in this section as "the fund," is established in the Maine Center for Disease Control and Prevention, referred to in this section as "the center." Balances in the fund may not lapse but must be carried forward and used for the purposes of this section.

1. Sources and uses of fund. Revenues from breast cancer support services registration plate fees credited to the fund under Title 29-A, section 456-E, subsections 2 and 4 must be used for breast cancer support services. Upon receipt the center shall equally distribute the funds to a breast and cervical health program within the center, a statewide nonprofit organization established for the purpose of providing services to underserved people with breast health and breast cancer needs and an independent state-based foundation for the purpose of providing funding for cancer research, education and patient support programs.

Sec. 2. 29-A MRSA §456-E is enacted to read:

§456-E. Breast cancer support services registration plate

1. Breast cancer support services plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of breast cancer support services special registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters.

2. Contribution; credit to Breast Cancer Services Special Program Fund. In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the initial contribution for the breast cancer support services special registration plates is \$20, which must be deposited with the Treasurer of State and credited as follows:

A. Nine dollars to the Breast Cancer Services Special Program Fund, as established in Title 22, section 1408;

B. Ten dollars to the Highway Fund; and

C. One dollar to the Specialty License Plate Fund, established under section 469, for administrative and production costs.

3. Design; review; vanity plates. The Secretary of State, in consultation with the plate sponsor, shall