

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

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

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**Augusta, Maine**  
**2010**

2. Access to information. The department, at any reasonable time, upon demand, has the right to inspect and copy books, accounts, papers, records and other documents or information, whether stored electronically, on paper or in other forms, including, but not limited to, documents and information regarding total capital expenditures and operating costs for a project, ownership or control of a health care facility or other entity subject to this chapter or health services provided, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated.

3. Findings of fact. Upon completion of an investigation pursuant to this section, the department shall prepare findings of fact and make a recommendation to the commissioner as to whether a provision of this chapter or a rule adopted under this chapter has been violated. If the commissioner determines that a violation has occurred, the commissioner may pursue one or more of the remedies authorized under this Act.

4. Rules. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical 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 March 26, 2010.

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**CHAPTER 557**

**H.P. 1151 - L.D. 1623**

**An Act To Expand Options in  
Child Protection Proceedings  
for Children in Foster Care**

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

**Sec. 1. 22 MRSA §4005, sub-§3** is enacted to read:

3. Wishes of child. The District Court shall consider the wishes of the child, in a manner appropriate to the age of the child, including, but not limited to, whether the child wishes to participate or be heard in court. In addition, when a child's expressed views are inconsistent with those of the guardian ad litem, the court shall consider whether to consult with the child directly, when the child's age is appropriate.

**Sec. 2. 22 MRSA §4038-B, sub-§4, ¶D** is enacted to read:

D. The permanency plan must ensure that all in-state and out-of-state placements are considered to provide the child with all possible permanency options.

**Sec. 3. 22 MRSA §4038-B, sub-§5**, as enacted by PL 2005, c. 372, §6, is amended to read:

5. Wishes of child. The District Court shall consider, ~~but is not bound by,~~ the wishes of a child, in a manner appropriate to the age of the child, in making a determination under this section.

**Sec. 4. 22 MRSA §4055, sub-§3**, as amended by PL 1997, c. 715, Pt. A, §12, is further amended to read:

3. Wishes of child. The court shall consider, ~~but is not bound by,~~ the wishes of a child ~~12 years of age or older,~~ in a manner appropriate to the age of the child, in making an order under this section.

**Sec. 5. 22 MRSA §8101, sub-§1**, as amended by PL 2009, c. 211, Pt. B, §19, is further amended to read:

**1. Children's home.** "Children's home" means any residence maintained exclusively or in part for the board and care of one or more children under the age of 18, ~~by anyone other than a relative by blood, marriage or adoption.~~ "Children's home" does not include:

- A. A facility established primarily to provide medical care;
- B. A youth camp licensed under section 2495; or
- C. A school established solely for educational purposes except as provided in subsection 4.

See title page for effective date.

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**CHAPTER 558**

**S.P. 609 - L.D. 1602**

**An Act To Clarify the Child  
Abuse or Neglect  
Substantiation Process**

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

**Sec. 1. 22 MRSA §4004, sub-§2, ¶C**, as amended by PL 2001, c. 559, Pt. CC, §1, is repealed.

**Sec. 2. 22 MRSA §4004, sub-§2, ¶C-1** is enacted to read:

C-1. Determine in each case investigated under paragraph B whether or not a child has been harmed and the degree of harm or threatened harm by a person responsible for the care of that child by deciding whether allegations are unsubstantiated, indicated or substantiated. Each allegation must be considered separately and may result in a combination of findings.

The department shall adopt rules that define "unsubstantiated," "indicated" and "substantiated"