

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.

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.

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.

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"

findings for the purposes of this paragraph and that specify an individual's rights to appeal the department's findings. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;

See title page for effective date.

CHAPTER 559

S.P. 516 - L.D. 1432

An Act To Create a Saltwater Recreational Fishing Registry

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

Sec. 1. 12 MRSA §6032, as enacted by PL 1999, c. 85, §3, is repealed and the following enacted in its place:

§6032. Marine Recreation Fishing Conservation and Management Fund

1. Fund established. The Marine Recreation Fishing Conservation and Management Fund, referred to in this section as "the fund," is established within the department. In addition to fees derived from the striped bass endorsement and the commercial operator's license pursuant to section 6312, subsections 4 and 5, the commissioner may receive on behalf of the fund funds from any source. All money received into the fund must be used for the purposes of the fund under subsection 2. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund. By February 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the amount of money collected in the fund and all expenditures made from the fund in the previous fiscal year.

2. Uses of fund. The commissioner may authorize the expenditure of money from the fund for the implementation, administration and enforcement of the saltwater recreational fishing registry under section 6312 and for research and conservation efforts related to the saltwater recreational fishery.

Sec. 2. 12 MRSA §6312 is enacted to read:

§6312. Saltwater recreational fishing registry, endorsement and license

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability as determined by the United States Department of Veterans Affairs.

B. "Person with a disability" means a person who is physically or mentally incapacitated as determined by the commissioner.

C. "Registry" means the registry for persons engaged in saltwater recreational fishing established under subsection 2.

2. Saltwater recreational fishing registry established. The commissioner shall administer and maintain a registry of persons who engage in saltwater recreational fishing. The commissioner may designate by rule the methods of fishing or the saltwater areas for which registration is required under this section. The registry must at a minimum contain the name, address, date of birth and telephone number for each person registered. Only an individual may register.

3. Registration required. A person may not engage in saltwater recreational fishing or land or possess fish taken from salt water without registering pursuant to this section except the following persons are exempt from this prohibition and the endorsement requirement under subsection 4:

A. A person under 16 years of age;

B. A passenger on board a vessel captained by an individual who possesses a valid commercial operator's license pursuant to subsection 5;

C. A person renting a smelt fishing camp from an operator that possesses a valid commercial operator's license pursuant to subsection 5;

D. A person with a disability;

E. A disabled veteran;

F. A person that possesses a valid New Hampshire saltwater recreational fishing license that meets the requirements of 50 Code of Federal Regulations, Sections 600.1415 and 600.1416 (2009) engaging in recreational saltwater fishing from the State's southern border to Cape Neddick; and

G. A resident fishing on July 4th, Labor Day weekend or Memorial Day weekend.

Registration does not authorize a person registered on the registry to sell fish taken pursuant to the registry.

A person who has indicated on a valid freshwater fishing license issued under Part 13 that the person engaged in saltwater recreational fishing during the prior year or plans to engage in saltwater recreational fishing during the period covered by the freshwater fishing license is not required to register under this subsection, and residents of the State who make that indication are not required to obtain a striped bass endorsement un-