

# 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**

ered adjustments to allocations in fiscal ~~years~~ year 2009-10 ~~and 2010-11~~.

## PART H

**Sec. H-1. Carrying provision; Department of Secretary of State, Administration - Motor Vehicles program.** Notwithstanding any other provision of law, the State Controller shall carry forward any unexpended balance in the All Other line category on June 30, 2010 and on June 30, 2011 in the Department of Secretary of State, Administration - Motor Vehicles program. The amount carried forward may not exceed a total of \$1,000,000 for the biennium ending June 30, 2011 and may carry forward into fiscal year 2011-12. The amount carried forward must be used for the acquisition of a document management system to improve the efficiency and effectiveness of the department's operations.

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

Effective April 2, 2010.

## CHAPTER 601

### H.P. 1271 - L.D. 1781

#### **An Act To Allow Electronic Filing of Vital Records and Closing of Records To Guard against Fraud and Make Other Changes to the Vital Records Laws**

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

**Sec. 1. 22 MRSA §256-A, first ¶,** as amended by PL 2007, c. 631, §1, is further amended to read:

Beginning in 2006, the Department of Labor, in conjunction with the Office of ~~Health Data and Program Management's Division~~ of Data, Research and Vital Statistics, shall compile and annually update a health care occupations report to be completed and presented to the health workforce forum established in section 257 by September 15th. Beginning in 2009, the health care occupations report must be completed and presented to the health workforce forum established in section 257 by September 15th and presented every 4th year thereafter. The report must be posted on a publicly accessible site on the Internet maintained by the Department of Labor and provide the following information:

**Sec. 2. 22 MRSA §256-B, sub-§3,** as amended by PL 2007, c. 240, Pt. RR, §3, is further amended to read:

**3. Submission of surveys.** All surveys conducted pursuant to subsection 1 must be submitted to the Office of ~~Health Data and Program Management's Division~~ of Data, Research and Vital Statistics for analysis, and survey data from which personally identifiable information has been eliminated must be publicly available.

**Sec. 3. 22 MRSA §2701, first ¶,** as amended by PL 2001, c. 574, §16 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

The Department of Health and Human Services shall establish the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics, which shall maintain a statewide system for the registration of vital statistics.

**Sec. 4. 22 MRSA §2701, sub-§5,** as amended by PL 2001, c. 574, §19, is further amended to read:

**5. Deputy State Registrar.** The state registrar may designate an employee of the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics to represent the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics. The representative is known as the Deputy State Registrar of Vital Statistics and has the authority of the state registrar in the state registrar's absence.

**Sec. 5. 22 MRSA §2701, sub-§7,** as amended by PL 2001, c. 574, §20, is further amended to read:

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

A. "File" means the presentation and acceptance of a vital record or report for registration by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics or a municipal clerk as specified in departmental rule.

B. "Date of filing" means the date a vital record is accepted for registration by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics or a municipal clerk.

**Sec. 6. 22 MRSA §2702,** as amended by PL 1995, c. 260, §§4 and 5, is further amended to read:

#### **§2702. Duties of municipal clerks**

The clerk of each municipality in this State shall keep a chronological record of all live births, marriages, deaths and fetal deaths reported to ~~him~~ the municipal clerk under this Title. Such record ~~shall~~ must be kept as prescribed by the state registrar.

**1. Enforce law and rules.** Each municipal clerk in this State shall enforce, so far as comes within ~~his~~ the municipal clerk's jurisdiction, this Title and the ~~regulations~~ rules of the department relating to the registration of vital statistics.

**2. Transmittal of certificates to state registrar.**

Except as authorized by the state registrar, a record received in a municipal office must be transmitted by the clerk of the municipality to the state registrar within a reasonable period of time as specified by department rule and in the format specified by the state registrar.

**3. Transmittal of certificates to other municipalities.**

Except as authorized by the state registrar, when the parents of any child born are residents of any other municipality in this State, ~~or when any deceased person was a resident of any other municipality in this State,~~ the clerk of the municipality where that live birth ~~or death~~ occurred shall, ~~at the same time,~~ transmit the record to the state registrar and transmit a certified copy of the certificate of the live birth ~~or death~~ to the clerk of the municipality where the parents reside, ~~or where the deceased was a resident.~~

**Sec. 7. 22 MRSA §2702-A,** as enacted by PL 1987, c. 268, §2, is amended to read:

**§2702-A. Duties to furnish information**

Any person having knowledge of the facts shall furnish such information as ~~he~~ the individual may possess regarding any birth, death, spontaneous fetal death, abortion, marriage, divorce or annulment, upon demand of the state registrar.

**Sec. 8. 22 MRSA §2703** is amended to read:

**§2703. Birth in unincorporated place**

When a birth, ~~marriage or death~~ occurs in an unincorporated place, it ~~shall~~ must be reported to the ~~town municipal~~ clerk in the ~~town which~~ municipality that is nearest to the place at which the birth, ~~marriage or death~~ took place; and ~~shall~~ must be recorded by the ~~town municipal~~ clerk to whom the report is made. All such reports and records ~~shall~~ must be made and recorded and returned to the state registrar.

**Sec. 9. 22 MRSA §2704,** as amended by PL 2001, c. 574, §21, is further amended to read:

**§2704. Registration of births and deaths at United States Department of Veterans Affairs at Togus**

Certificates of live births, deaths and fetal deaths occurring at the ~~Veterans Administration Center~~ United States Department of Veterans Affairs at Togus must be filed directly with the state registrar. The state registrar shall forward copies of all such certificates of live birth, death and fetal death to the clerk of the municipality where the parents of the child reside ~~or where the deceased was a resident.~~

**Sec. 10. 22 MRSA §2705, sub-§1,** as amended by PL 1989, c. 818, §3, is further amended to read:

**1. Amended certificate or record.** A certificate ~~or record~~ that has been altered or amended after its filing must be marked "amended," and the date on which the certificate or record was amended and a summary description of the evidence submitted in support of the correction must be endorsed on the certificate or record or permanently attached to it. Any certified copies of certificates or records amended under this section must be marked "amended." ~~Notwithstanding this subsection, administrative~~ Administrative correction of clerical errors within ~~one year~~ 90 days after the date of filing does not cause the certificate or record to be considered altered or amended.

**Sec. 11. 22 MRSA §2705, sub-§2** is amended to read:

**2. Incomplete certificates.** Incomplete certificates and records may be completed from a supplementary form within ~~one year~~ 90 days after the date of filing without being considered altered or amended.

**Sec. 12. 22 MRSA §2706,** as amended by PL 2001, c. 574, §22, is further amended to read:

**§2706. Disclosure of vital records**

Custodians of certificates and records of birth, marriage and death may permit inspection of records, or issue certified copies of certificates or records, or any parts thereof, when satisfied that the applicant therefor has a direct and legitimate interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject to review by the Superior Court, under the limitations of this section.

**1. Child not born of marriage.** ~~An official in this State may not permit inspection, or issue a certified copy of any certificate or record of birth disclosing that a child was not born of marriage. Such a record may be disclosed or a certified copy issued upon request of the child, the child's parent or the child's legal guardian or counsel or of petitioners for adoption or in response to court process. Such a record may be disclosed as necessary for the department to carry out its responsibilities as the State's child support enforcement agency.~~

**2. Statistical research.** The state registrar may permit the use of data contained in vital records for purposes of statistical research. Such data ~~shall~~ may not be used in a manner ~~which~~ that will identify any individual.

**3. National statistics.** The national agency responsible for compiling national vital statistics may be furnished such copies or data as it may require for national statistics. The State ~~shall~~ must be reimbursed for cost of furnishing such copies or data, and such data ~~shall~~ may not be used in a manner ~~which~~ that will identify any individual, except as authorized by the state registrar.

**4. Unlawful disclosure of data.** ~~It shall be~~ is unlawful for any employee of the State or of any municipality in the State to disclose data contained in such records, except as authorized in this section and except that a clerk of a municipality may cause to be printed in the annual town report the births reported within the year covered by the report, by number of births and location by city or town where birth occurred, deaths reported within the year covered by the said report, by date of death, name, age and location by city or town where death occurred, and marriages reported within the year covered by the report by names of parties and date of marriage. All other details of birth, marriage, divorce or death shall ~~may~~ not be available to the general public, except as specified in department rules.

**5. Records disclosed.** Vital records of a person must be made available at any reasonable time upon that person's request or ~~to~~ the request of that person's spouse, registered domestic partner, descendants, parents or guardians or that person's duly designated attorney or agent or attorney for an agent designated by that person or by a court having jurisdiction over that person whether the request be made in person, by mail, by telephone or otherwise, provided if the state registrar is satisfied as to the identity of the requester, and, if an attorney or agent, provided if the state registrar is satisfied as to the attorney or agent's authority to act as such that person's agent or attorney. If such the agent or attorney has been appointed by a court of competent jurisdiction, or the attorney or agent's appearance for such the person is entered therein, the state registrar shall upon request so ascertain by telephone call to the register, clerk or recorder of said the court, and this must be deemed sufficient justification to compel compliance with the request for said the record. The state registrar shall, as soon as possible, designate persons in the Office of Health Data and Program Management Data, Research and Vital Statistics who may act in the state registrar's absence; or, in case of the state registrar's disqualification, to carry out the intent of this subsection. A record of birth, death, fetal death, marriage, divorce or domestic partner registration may be disclosed as necessary for the department to carry out its responsibilities.

**6. Address Confidentiality Program.** Access to vital records may be further restricted within the parties listed in subsection 5 according to procedures of the Address Confidentiality Program under Title 5, section 90-B.

**7. Public records.** After 100 years from the date of birth for birth certificates, after 100 years from the date of death for fetal death certificates and death certificates, after 100 years from the date of marriage for marriage certificates and after 100 years from the registration of domestic partnerships, any person may obtain informational copies of these vital records in accordance with the department's rules.

**8. Genealogical research.** Custodians of certificates and records of birth, marriage and death may permit inspection of records by and issue noncertified copies to researchers engaged in genealogical research who hold researcher identification cards, as specified by rule adopted by the department. The department shall adopt rules to implement this subsection. Rules adopted by the department pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 13. 22 MRSA §2708, sub-§1-B** is enacted to read:

**1-B. Hindering state registrar investigation.** A person who knowingly refuses to permit the state registrar to inspect vital records or hinders an investigation conducted by the state registrar pursuant to section 2709 commits a Class E crime.

**Sec. 14. 22 MRSA §2709**, as amended by PL 1973, c. 567, §20, is further amended to read:

**§2709. Duty of state registrar when law violated**

~~When the State Registrar of Vital Statistics~~ state registrar believes that, in any place in this State, the certificates or records of live births, marriages, deaths or fetal deaths are not made or kept as is provided by law, or that any person neglects or fails to perform any duty required in the law relating to the registration of vital statistics, the ~~said state~~ registrar may visit such places and make such investigations as ~~he may deem~~ the state registrar considers necessary, and all records, blanks and papers of ~~town municipal~~ clerks relating to live births, marriages, deaths or fetal deaths shall must be open to ~~his~~ the state registrar's examination. ~~Any person who refuses to permit or hinders the examination or investigation shall be punished by a fine of not less than \$25 nor more than \$50.~~

~~When the state registrar knows, or has good reason to believe, that any penalty or forfeiture under the law relating to vital statistics has been incurred, he shall forthwith give notice thereof, in writing, to the district attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said registrar may have been able to learn, and upon receipt of such notice the district attorney shall prosecute the defaulting person or persons.~~

**Sec. 15. 22 MRSA §2710, sub-§1**, as enacted by PL 2003, c. 672, §17, is amended to read:

**1. Registry.** The Office of ~~Health Data and Program Management Data, Research and Vital Statistics~~ within the department, referred to in this section as "the registry," shall establish a domestic partner registry.

**Sec. 16. 22 MRSA §2761, first ¶,** as amended by PL 1995, c. 260, §6, is further amended to read:

A certificate of each live birth that occurs in this State must be filed with the clerk of the municipality in which the live birth occurred or with the state registrar within a reasonable period of time as specified by ~~the department rules~~ and must be registered if the certificate has been completed and filed in accordance with this section.

**Sec. 17. 22 MRSA §2761, sub-§1,** as amended by PL 1995, c. 260, §6, is further amended to read:

**1. Certificate from hospital.** When the live birth occurs in a hospital or an institution, or en route to the hospital or institution, the person in charge of the institution or the person's authorized designee shall obtain the personal data, prepare the certificate, certify by signature or by electronic process that the child was born alive at the place and time and on the date stated and file the certificate as directed in this section. The physician or other person in attendance shall provide the medical information required by the certificate in a timely fashion, ~~in accordance with~~ as specified by department rule.

**Sec. 18. 22 MRSA §2761, sub-§4,** as amended by PL 2001, c. 574, §23, is further amended to read:

**4. Child not born of marriage.** Except as otherwise provided in this subsection, if the mother was not married at the time of either conception or birth, or between conception and birth, neither the name of the putative father nor any other information about the putative father may be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent. All voluntary acknowledgments and adjudications of paternity in this State must be filed with the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics for comparison with information in the state registry of support orders as established in Title 19-A, section 2104.

**Sec. 19. 22 MRSA §2761-A,** as enacted by PL 1993, c. 738, Pt. C, §4, is amended to read:

**§2761-A. Baptismal records in lieu of birth certificates**

Any ~~Indian~~ Native American whose birth is not recorded pursuant to this Title relating to the registration of live births may, in lieu of a birth certificate, present an official copy of the baptismal record from the files of the mission where the ~~Indian~~ Native American was baptized. The baptismal record has the same evidentiary character as an unamended and undelayed birth certificate under section 2707.

**Sec. 20. 22 MRSA §2765, sub-§2-A, ¶B,** as enacted by PL 1989, c. 818, §9, is amended to read:

B. When a new certificate is established after legitimation pursuant to subsection 1, paragraph B, the actual place and date of birth, the name of the child and the names and personal data of both parents at the time of birth must be shown. Notwithstanding section 2705, the new certificate may not be marked "amended." The new certificate must be filed with all other birth certificates and is not subject to the provisions of ~~section 2706, subsection 1, or~~ section 2761, subsection 4.

**Sec. 21. 22 MRSA §2766, 2nd ¶,** as amended by PL 2001, c. 574, §25, is further amended to read:

Upon verification of the information in this section, the state registrar shall prepare a form identifying the birth parents of the adoptee. This form must be attached to the new certificate of birth established pursuant to section 2765. A copy of the form must be attached to an abstract of birth issued by the Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics and must be provided to the adoptee.

**Sec. 22. 22 MRSA §2768, sub-§5,** as enacted by PL 2007, c. 409, §4 and affected by §6, is amended to read:

**5. Forms; rules.** The state registrar shall develop by rule the data elements required in the contact preference form, medical history form and application form as required by this section and may adopt other rules for the administration of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 23. 22 MRSA §2769, sub-§5,** as enacted by PL 2007, c. 409, §5 and affected by §6, is amended to read:

**5. Forms; rules.** The state registrar shall develop by rule the data elements required for forms as required by this section and may adopt other rules for the administration of this section. Rules adopted pur-

suant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 24. 22 MRSA §2841, sub-§1**, as amended by PL 1977, c. 232, §1, is further amended to read:

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead fetus or its removal from the State ~~shall be~~ is responsible for filing the certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery ~~shall be~~ is responsible for filing the certificate. ~~He~~ The funeral director or authorized person or physician or other person in attendance at or after delivery shall obtain the personal data from the best qualified person or source available and shall present the certificate to the person responsible for completing the medical certification of the cause of death.

**Sec. 25. 22 MRSA §2842**, as amended by PL 2007, c. 56, §§1 and 2, is further amended to read:

**§2842. Registration of deaths**

Except as authorized by the department, a certificate of each death ~~which that~~ occurs in this State ~~shall~~ must be filed with the State Registrar of Vital Statistics or clerk of the municipality where death occurred within a reasonable period of time, as specified by department ~~regulation rule~~, after the day on which death occurred and prior to the removal of the body from the State.

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State ~~shall be~~ is responsible for filing the certificate. ~~He~~ The funeral director or authorized person shall obtain the personal data from the best qualified person or source available ~~and he shall present the certificate to the physician or medical examiner responsible for completing the medical certification of the cause of death.~~

**2. Medical certificate by physician, nurse practitioner or physician assistant.** The medical certification of the cause of death must be completed ~~in typewritten or legibly hand-printed style~~ and signed in a timely ~~fashion~~ manner, as specified by department rule, by a physician, nurse practitioner or physician assistant authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department ~~regulations rules~~ and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the health care provider in charge of the patient's care or another health care provider designated by the health care provider in charge had not examined the

patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the health care provider in charge or another health care provider designated by the health care provider in charge shall examine the body prior to completing the certification of death process. Any health care provider who fails to complete the medical certification of the cause of death fully, ~~in typewritten or legibly hand-printed style~~ and in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and does not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending health care provider, result in death within a short time.

C. "Health care provider" means a physician authorized to practice in this State, nurse practitioner or physician assistant.

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

E. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor.

**2-A. Medical certification.** Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician, nurse practitioner or physician assistant was the attending health care provider, the medical certification of the cause of death may be completed and signed by a physician, nurse practitioner or physician assistant authorized to practice at the ~~Veterans Administration Hospital~~ United States Department of Veterans Affairs at

Togus or at another federal medical facility within the State or by a physician, an advanced practice registered nurse or physician assistant licensed to practice in New Hampshire, Vermont or Massachusetts who, at the request of the Chief Medical Examiner, is willing to do so.

### 3. Medical certificate by medical examiner.

When a death occurs under circumstances that make it a medical examiner case as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner shall complete ~~in typewritten or legibly hand printed style~~ the medical certification of the cause of death ~~as specified by department rule~~ and sign the death certificate. A certification need not be completed before the remains are ready for release.

The medical examiner is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by the Attorney General's office, entries must be left "withheld" until such time as the Attorney General, in the Attorney General's sole discretion, determines that any criminal investigation and prosecution will not be harmed by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner.

**4. Correction of errors on death statistic records filed under chapter 711.** Certificates of death in medical examiner cases, as defined in section 3025, may be completed or amended at any time by means ~~of forms provided~~ described in rule by the department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner or the medical examiner assigned to the case may sign the forms. A person authorized by the Chief Medical Examiner may amend a certificate of death with respect to the time, date, place and circumstances of death. The medical examiner assigned shall submit the form to the Office of the Chief Medical Examiner for filing with the State Registrar of Vital Statistics. These forms may be filed at any time after death and need not include a summary description of the evidence in support of the completion or amendment.

**Sec. 26. 22 MRSA §2842-B**, as repealed and replaced by PL 2001, c. 601, §1, is amended to read:

#### **§2842-B. Native American human remains**

**1. Transfer of remains.** Except as provided in subsections 2 and 3, a person or entity who possesses any human remains identified as ~~Indian~~ Native American

can human remains shall transfer the remains to the intertribal repatriation organization that is appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs for reburial. The intertribal repatriation organization shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the intertribal repatriation organization shall transfer the remains to the next of kin.

**2. Medical Examiner cases.** In cases within the jurisdiction of the Medical Examiner Act, the Chief Medical Examiner has authority over ~~Indian~~ Native American human remains until the remains are no longer required for legal purposes. At that time, the Chief Medical Examiner shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the Chief Medical Examiner shall release the remains to the next of kin of the deceased. If no next of kin are located, the remains must be released to the intertribal repatriation organization for reburial.

**3. Native American Graves Protection and Repatriation Act.** Subsection 1 does not apply to any human remains or any person or entity subject to the Native American Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

**4. Memorandum of understanding.** The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protection and Repatriation Act.

**Sec. 27. 22 MRSA §2843**, as amended by PL 2007, c. 56, §§3 and 4, is further amended to read:

#### **§2843. Permits for final disposition of dead human bodies**

Except as authorized by the department, a dead human body may not be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the State Registrar of Vital Statistics or the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located as specified by department rule. The permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, as long as the requirements of Title 32, section 1405 are met in appropriate cases. The permit may not be issued to anyone other than a funeral director until the state registrar or the clerk of the municipality receives a medical certificate that has been signed by a physician or a medical examiner that indicates that the physician or medical examiner has per-



sonally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

~~A~~ The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final disposition by cremation, burial at sea, use by medical science or removal from the State only upon receipt of a certificate of release by a duly appointed medical examiner as specified in Title 32, section 1405.

~~A~~ The State Registrar of Vital Statistics or a municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner, attending physician assistant or medical examiner who will certify to the cause of death and present assurances that the attending physician, attending nurse practitioner, attending physician assistant or medical examiner has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

**1. Permit for transportation.** Each dead human body transported into this State for final disposition ~~shall~~ must be accompanied by a permit issued by the duly constituted authority at the place of death. Such permit ~~shall be~~ is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State.

**2. Permit for disinterment or removal.** ~~No~~ A dead human body may not be disinterred or removed from any vault or tomb until the person in charge of the disinterment or removal has obtained a permit from the clerk of the municipality where the dead human body is buried or entombed. The permit must be issued upon receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative and, where any other family member of equal or greater legal or blood relationship or a domestic partner of the decedent also survives, that all such persons are aware of, and do not object to, the disinterment or removal. Nothing contained in this subsection precludes a court of competent jurisdiction from ordering or enjoining disinterment or removal pursuant to section 3029 or in other appropriate circumstances. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to

remain responsible indefinitely for each other's welfare.

**3. Permit for burial.** The person in charge of each burying ground or crematory in this State shall endorse each such permit with which ~~he~~ that person is presented, and return it to the clerk of the municipality in which such burying ground or crematory is located within 7 days after the date of disposition. If there is no person in charge of the burying ground, an official of the municipality in which the burying ground is located shall endorse each such permit, and present it to the clerk of the municipality. The funeral director or authorized person shall present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where death occurred and to the clerk who issued the permit.

**4. Records.** Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3. These records ~~shall~~ must be open to public inspection.

**Sec. 28. 22 MRSA §2843-A, sub-§1, ¶B-1** is enacted to read:

B-1. "Dead body" or "dead human body" means a body or fetus for which it reasonably can be determined that death occurred.

**Sec. 29. 22 MRSA §2843-A, sub-§2,** as enacted by PL 1993, c. 609, §1, is amended to read:

**2. Custody and control generally.** The custody and control of the remains of deceased residents of this State, dead bodies or dead human bodies are governed by the following provisions.

A. If the subject has designated a person to have custody and control in a written and signed document, custody and control belong to that person.

B. If the subject has not left a written and signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin.

C. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin can not, by majority vote, make a decision regarding the subject's remains, the court shall make the decision upon petition under subsection 4, paragraph D.

**Sec. 30. 22 MRSA §2844,** as amended by PL 2001, c. 574, §29, is further amended to read:

#### **§2844. Subregistrars**

The ~~town or city~~ State Registrar of Vital Statistics or municipal clerk may appoint one or more suitable and proper persons in ~~the~~ a municipality as subregistrars, who are authorized to issue permits for transpor-

tation and final disposition of dead human bodies in the same manner as is required of the ~~town or city~~ state registrar or municipal clerk, as specified by department rule. ~~Permits may be issued by a subregistrar only when the town or city clerk or deputy clerk is not available.~~ The completed death certificate or report of death, upon which the permit is issued, together with a copy of the disposition of human remains permit must be forwarded to the ~~town~~ municipal clerk at the earliest opening of the municipal office after the date of issue, and all permits by whomsoever issued must be returned to the ~~town~~ municipal clerk as required by section 2843. The appointment of subregistrars must be made with reference to locality, so as to best suit the convenience of the inhabitants of the ~~town~~ municipality, and such annual appointment must be in writing and recorded in the office of the ~~town or city~~ state registrar or municipal clerk. The subregistrars in any ~~town~~ municipality hold office at the pleasure of the ~~town~~ state registrar or municipal clerk.

**Sec. 31. Appropriations and allocations.** The following appropriations and allocations are made.

#### HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

##### Division of Data, Research and Vital Statistics Z037

Initiative: Allocates funds for program operating expenses.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$0	\$185,638
OTHER SPECIAL	\$0	\$185,638
REVENUE FUNDS TOTAL		

See title page for effective date.

## CHAPTER 602

### S.P. 698 - L.D. 1787

#### An Act To Provide for Legislative Review of Recently Proposed Revisions to Certain Rules Adopted Pursuant to the Site Location of Development Laws and the Storm Water Management Laws

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

**Whereas**, rulemaking relating to the site location of development laws and the storm water management laws is currently in progress and could be complete before this legislation goes into effect unless this legislation is enacted as an emergency; 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 §420-D, sub-§9**, as amended by PL 2005, c. 602, §4, is further amended to read:

**9. Rules.** Rules adopted pursuant to this section after January 1, 2010 and before January 1, 2012 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any rules adopted by the department pursuant to this section on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rules that qualify as state mandates pursuant to the Constitution of Maine, Article IX, Section 21 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 38 MRSA §485-A**, as amended by PL 2009, c. 293, §2, is further amended to read:

#### **§485-A. Notification required; board action; administrative appeals**

**1. Application.** Any person intending to construct or operate a development shall, before commencing construction or operation, notify the commissioner in writing of the intent, nature and location of the development, together with such other information as the board may by rule require. The department shall approve the proposed development, setting forth such terms and conditions as are appropriate and reasonable, disapprove the proposed development, setting forth the reasons for the disapproval, or schedule a hearing in the manner described in section 486-A.

**1-A. Wood supply.** For a new or expanded development requiring an annual supply of wood or wood-derived materials in excess of 150,000 tons green weight, the applicant shall submit a wood supply plan for informational purposes to the Maine Forest Service concurrent with the application required in subsection 1. The wood supply plan must include, but is not limited to, the following information:

- A. The expected operational life of the development;
- B. The projected annual wood consumption of wood mill residue, wood fiber and recycled mate-