

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

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Augusta, Maine
2010

**REVISOR'S REPORT
2009**

CHAPTER 1

Sec. 1. 1 MRSA §402, sub-§3, ¶O, as amended by PL 2009, c. 176, §2 and c. 339, §2, is corrected to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; ~~and~~

Sec. 2. 1 MRSA §402, sub-§3, ¶P, as enacted by PL 2009, c. 176, §3, is corrected to read:

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; ~~and~~

Sec. 3. 1 MRSA §402, sub-§3, ¶P, as enacted by PL 2009, c. 339, §3, is reallocated to 1 MRSA §402, sub-§3, ¶Q.

EXPLANATION

These sections correct a lettering problem created by Public Law 2009, chapters 176 and 339, which enacted 2 substantively different provisions with the same paragraph letter.

Sec. 4. 4 MRSA §115, first ¶, as amended by PL 2009, c. 1, Pt. J, §1, is corrected to read:

In each county, the place for holding court is located in a building designated by the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee, who, with the advice and approval of the Bureau of General Services, is empowered to negotiate, on behalf of the State, the leases, contracts and other arrangements the Chief Justice considers necessary, within the limits of appropriations and other funds available to the Supreme Judicial, Superior and District Courts, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial, Superior or District Court in each county. The county commissioners in each county shall continue to provide for the use of the Supreme Judicial, Superior and

District Courts such quarters, facilities, furnishings and equipment in existing county buildings as were in use by the Supreme Judicial and Superior Courts on January 1, 1976, without charge. The county commissioners are not required to provide without charge those quarters, facilities, furnishings and equipment in existing county ~~building~~ buildings that were in use by the District Courts and were subject to a charge prior to January 1, 1976.

EXPLANATION

This section corrects a clerical error.

Sec. 5. 5 MRSA §285, sub-§1, ¶F-7, as enacted by PL 2009, c. 233, §1, is corrected to read:

F-7. Any employee of a regional site of the Child Development Services System under Title 20-A, section 7209, if the group health plan is agreed to in collective bargaining and funds are available;

EXPLANATION

This section corrects a punctuation error.

Sec. 6. 5 MRSA §1591, sub-§3, as enacted by PL 2009, c. 213, Pt. HHH, §1 and affected by §3, is reallocated to 5 MRSA §1591, sub-§4.

EXPLANATION

This section corrects a numbering problem created by Public Law 2009, c. 213, Parts QQ and HHH, which enacted 2 substantively different provisions with the same subsection number.

Sec. 7. 5 MRSA §12004-I, sub-§91, as enacted by PL 2005, c. 634, §8, is corrected to read:

91.

Emergency Management	Homeland Security Advisory Council	Not Authorized	37-B MRSA §709 <u>§708</u>
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EXPLANATION

This section corrects a cross-reference.

Sec. 8. 5 MRSA §13171, first ¶, as enacted by PL 2007, c. 641, §2, is corrected to read:

The Maine Council on Poverty and Economic Security, as established in ~~Title 5~~, section 12004-I, subsection 6-H and referred to in this section as "the council," advises the Governor and the Legislature on

approaches that this State can successfully employ to end poverty and provide economic security to those who are poor or near poor in the State and benchmarks to measure the State's progress in reaching those goals. For purposes of this chapter, "poverty" means either having family income below the nonfarm income official poverty line or below the annual basic needs budget as adjusted to family size determined by the Department of Labor under Title 26, section 1405.

EXPLANATION

This section corrects an internal cross-reference.

Sec. 9. 7 MRSA §3952, sub-§1, ¶B, as amended by PL 1997, c. 690, §35, is corrected to read:

B. Order the dog to be ~~euthanized~~ euthanized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault.

EXPLANATION

This section corrects a spelling error.

Sec. 10. 9-B MRSA §325, sub-§1, ¶A, as amended by PL 2009, c. 19, §1, is corrected to read:

A. The persons named in the articles of incorporation constitute the original board of incorporators of a mutual financial institution. Membership on this board continues until terminated pursuant to the articles of incorporation or bylaws, or by death, resignation or disqualification as provided in this section.

EXPLANATION

This section corrects a clerical error.

Sec. 11. 10 MRSA §1038, sub-§3, ¶D, as enacted by PL 2009, c. 427, §1, is corrected to read:

D. Practice in an underserved practice area, including but not limited to the practice of social work:

- (1) In a public or private child welfare or family service agency;
- (2) In a public interest law service;
- (3) In a public child care facility;
- (4) In a public service for individuals with disabilities;
- (5) In a public service for the elderly;
- (6) In a public service for veterans; or
- (7) At an organization exempt from taxation under the ~~Unites~~ United States Internal Revenue Code, Section 501(c)(3).

Priority consideration must be given to social workers practicing in a public or private child welfare or family service agency, in a public service for the elderly or in a public service for individuals with disabilities;

EXPLANATION

This section corrects a clerical error.

Sec. 12. 10 MRSA §1174, sub-§4, ¶D, as amended by PL 1997, c. 521, §21, is corrected to read:

D. To fail to disclose conspicuously in writing the motor vehicle dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears; ~~or~~

Sec. 13. 10 MRSA §1174, sub-§4, ¶E, as amended by PL 2003, c. 356, §8, is corrected to read:

E. To fail to disclose in writing to a purchaser of a new motor vehicle before entering into a sales contract that the new motor vehicle has been damaged and repaired if the dealer has knowledge of the damage or repair and if the damage calculated at the retail cost of repair to the new motor vehicle exceeds 5% of the manufacturer's suggested retail price, except that a new motor vehicle dealer is not required to disclose to a purchaser that any glass, bumpers, audio system, instrument panel, communication system or tires were damaged at any time if the glass, bumpers, audio system, instrument panel, communication system or tires have been replaced with original or comparable equipment; ~~or~~

EXPLANATION

These sections correct punctuation errors.

Sec. 14. 22 MRSA §7250, sub-§4, ¶E, as amended by PL 2009, c. 196, §2 and c. 298, §2, is corrected to read:

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system; ~~and~~

Sec. 15. 22 MRSA §7250, sub-§4, ¶F, as enacted by PL 2009, c. 196, §3, is corrected to read:

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired fol-

lowing access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022-; and

Sec. 16. 22 MRSA §7250, sub-§4, ¶F, as enacted by PL 2009, c. 298, §3, is reallocated to 22 MRSA §7250, sub-§4, ¶G.

EXPLANATION

These sections correct a lettering problem created by Public Law 2009, chapters 196 and 298, which enacted 2 substantively different provisions with the same paragraph letter.

Sec. 17. 24-A MRSA §6706, sub-§2, ¶A, as amended by PL 2009, c. 335, §12, is corrected to read:

A. Incorporated as a stock insurer with its capital divided into shares and held by the stockholders;
 ¶

EXPLANATION

This section corrects a clerical error.

Sec. 18. 29-A MRSA §2117, as enacted by PL 2009, c. 446, §1, is reallocated to 29-A MRSA §2118.

EXPLANATION

This section corrects a numbering problem created by Public Law 2009, chapters 223 and 446, which enacted 2 substantively different provisions with the same section number.

Sec. 19. 30 MRSA §6209-B, sub-§1, ¶B, as enacted by PL 1995, c. 388, §6 and affected by §8, is corrected to read:

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B ~~to D~~ and C, committed by a juvenile member of either the Passamaquoddy Tribe or the Penobscot Nation on the Indian reservation of the Penobscot Nation;

EXPLANATION

This section corrects a cross-reference.

Sec. 20. 30-A MRSA §1501, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is corrected to read:

1. Subordinate assistants and employees. The jailer, master or keeper shall appoint, subject to the

requirements of section 501, all subordinate assistants and employees. Subordinate assistants and employees shall be appointed for the same period that is provided for deputy sheriffs under section 381. The professional qualifications required of them must emphasize training or experience in or knowledge of corrections. The jailer, master or keeper and all subordinate assistants and employees are subject to the training requirements of Title 25, section ~~2805~~ 2804-D.

EXPLANATION

This section corrects a cross-reference.

Sec. 21. 30-A MRSA §3013, as enacted by PL 2009, c. 351, §1, is reallocated to 30-A MRSA §3014.

EXPLANATION

This section corrects a numbering problem created by Public Law 2009, chapters 273 and 351, which enacted 2 substantively different provisions with the same section number.

Sec. 22. 30-A MRSA §5225, sub-§1, ¶A, as amended by PL 2009, c. 314, §10, is corrected to read:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, buildings, structures, fixtures and equipment for public, arts district, commercial or transit-oriented development district use;

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

- (d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;
- (2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;
- (3) Real property assembly costs;
- (4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;
- (5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a development program;
- (6) Relocation costs, including, but not limited to, relocation payments made following condemnation;
- (7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and
- (8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

EXPLANATION

This section corrects a punctuation error.

Sec. 23. 34-B MRSA §5604, sub-§3, as enacted by PL 2007, c. 356, §23 and affected by §31, is corrected to read:

3. Grievance right. Providing a person with mental retardation or autism with the right to appeal a decision regarding actions or inactions by the department that affects the person's life. The department shall establish in rule a process for hearing such grievances pursuant to Title 22-A, section ~~4203~~ 206, subsection 4. The rules must contain strict time frames for the resolution of grievances. The rules may provide for resolution of grievances through mediation.

A. The department shall provide easily accessible and regular notice of the grievance process to persons with mental retardation or autism served by the department. This notice must be included in informational materials provided to such persons, as well as to guardians, families, correspondents and allies. Notice of the right to appeal must be prominently displayed in regional offices and on the department's publicly accessible website and must be readily available from provider agencies. Notice of the right to appeal must be included in all substantive correspondence regarding personal planning. Written notice of the right to appeal must also be provided when there is a denial or reduction of services or supports to persons served by the department. All notices and information regarding the grievance process must be written in language that is plain and understandable and must include the address and telephone number of the Office of Advocacy and the protection and advocacy agency designated pursuant to Title 5, section 19502.

B. The department must make available a one-page form that enables a person with mental retardation or autism to file a grievance. A grievance may also be filed through an oral request. If a grievance is filed through an oral request, the person receiving the grievance shall reduce the grievance to writing using a one-page form made available by the department.

C. The department shall offer regular training in the grievance process for persons served by the department, their families, guardians and allies and department and service provider staff.

D. If an appeal proceeds to a hearing, the hearing officer's decision constitutes final agency action for the purposes of Rule 80C of the Maine Rules of Civil Procedure unless final decision-making authority has been reserved by the commissioner. If the commissioner makes the final decision and modifies or rejects the hearing officer's recommended decision, the commissioner must state in writing the basis for the commissioner's decision. When the commissioner rejects or modifies a hearing officer's factual findings or makes additional factual findings, the commissioner shall articulate the evidentiary basis for such rejection or modification with appropriate references to the record. The commissioner shall give substantial deference to a hearing officer's determinations on matters of credibility relating to testimony that was heard by the hearing officer, and when rejecting or modifying such determinations of credibility, the commissioner shall state with particularity the reasons with appropriate references to evidence in the record. In the event the commissioner fails to issue a written final decision within 30 days of the date of the recommended decision,

the recommended decision of the hearing officer is deemed the final decision of the commissioner.

EXPLANATION

This section corrects a cross-reference.

Sec. 24. 35-A MRSA §3703, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is corrected to read:

2. Rural electrification cooperative or cooperative. "Rural electrification cooperative" or "cooperative" means any corporation organized under this chapter or which becomes subject to this chapter in the manner provided.

EXPLANATION

This section corrects a punctuation error.

Sec. 25. 35-A MRSA §10106, first ¶, as enacted by PL 2009, c. 372, Pt. B, §3, is corrected to read:

The proceedings of the board and records of the trust are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this ~~subsection~~ section.

EXPLANATION

This section corrects a cross-reference.

Sec. 26. 36 MRSA §5122, sub-§2, ¶CC, as enacted by PL 2009, c. 213, Pt. ZZZ, §5, is corrected to read:

CC. An amount equal to the value of any prior year addition modification under subsection 1, paragraph DD, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011;
- (3) The amount has not been previously used as a modification pursuant to this subsection; and
- (4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011;

Sec. 27. 36 MRSA §5122, sub-§2, ¶CC, as enacted by PL 2009, c. 213, Pt. BBBB, §8 and affected by §17, is reallocated to 36 MRSA §5122, sub-§2, ¶DD.

Sec. 28. 36 MRSA §5122, sub-§2, ¶CC, as enacted by PL 2009, c. 434, §69 and affected by §84, is reallocated to 36 MRSA §5122, sub-§2, ¶EE.

EXPLANATION

These sections correct a numbering problem created by Public Law 2009, chapters 213 and 434, which enacted 3 substantively different provisions with the same paragraph letter, and make technical changes.

Sec. 29. 36 MRSA §5228, sub-§3, as amended by PL 2009, c. 1, Pt. I, §3 and affected by §6, is corrected to read:

3. Amount of estimated tax to be paid. Every person required to make payment of estimated tax is liable for an estimated tax that is no less than the smaller of the paragraphs A and B, except that large corporations as defined in the Code, Section 6655(g), are subject only to paragraph B, except as provided in subsection 5, paragraph C and individual taxpayers encountering an unusual event are subject only to paragraph B with respect to the unusual event, except as provided in subsection 5, paragraph D:

A. An amount equal to the person's tax liability under this Part for the preceding taxable year, if that preceding year was a taxable year of 12 months; or

B. An amount equal to 90% of the person's tax liability under this Part for the current taxable year determined without taking into account the current year's investment tax credit set forth in section 5219-E, except that for farmers and persons who fish commercially, this amount is 66 2/3% of the person's tax liability under this Part for the current taxable year.

EXPLANATION

This section corrects a clerical error.

Sec. 30. 38 MRSA §467, sub-§4, ¶A, as amended by PL 2009, c. 163, §3, is corrected to read:

A. Kennebec River, main stem.

- (1) From the east outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.
- (2) From the west outlet of Moosehead Lake to a point 1,000 feet below the lake - Class A.
- (3) From a point 1,000 feet below Moosehead Lake to its confluence with Indian Pond - Class AA.
- (4) From Harris Dam to a point located 1,000 feet downstream from Harris Dam - Class A.

- (5) From a point located 1,000 feet downstream from Harris Dam to its confluence with the Dead River - Class AA.
- (6) From its confluence with the Dead River to the confluence with Wyman Lake, including all impoundments - Class A.
- (7) From the Wyman Dam to its confluence with the impoundment formed by the Williams Dam - Class A.
- (8) From the confluence with the Williams impoundment to the Route 201A bridge in Anson-Madison, including all impoundments - Class A.
- (9) From the Route 201A bridge in Anson-Madison to the Fairfield-Skowhegan boundary, including all impoundments - Class B.
- (10) From the Fairfield-Skowhegan boundary to the Shawmut Dam - Class C.
- (10-A) From the Shawmut Dam to its confluence with Messalonskee Stream, excluding all impoundments - Class B.
 - (a) Waters impounded by the Hydro-Kennebec Dam and the Lockwood Dam in Waterville-Winslow - Class C.
- (11) From its confluence with Messalonskee Stream to the Sidney-Augusta boundary, including all impoundments - Class B.
- (12) From the Sidney-Augusta boundary to the ~~Father John J. Curran~~ Calumet Bridge at Old Fort Western in Augusta, including all impoundments - Class B.
- (13) From the ~~Father John J. Curran~~ Calumet Bridge at Old Fort Western in Augusta to a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained. Further, the license limits for total residual chlorine and bacteria for existing direct discharges of wastewater to this segment as of January 1, 2003 must remain the same as the limits in effect on that date and must remain in effect until June 30, 2009 or upon renewal of the license, whichever comes later. Thereafter, license limits for total residual chlorine and bacteria must be those established by the department in the license and may include a compliance schedule pursuant to section 414-A, subsection 2.
- (14) From a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point, to a line across the southwest-

erly area of Merrymeeting Bay formed by an extension of the Brunswick-Bath boundary across the bay in a northwesterly direction to the westerly shore of Merrymeeting Bay and to a line drawn from Chop Point in Woolwich to West Chop Point in Bath - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

EXPLANATION

This section changes the name of a bridge to reflect the name change made by Resolve 2009, chapter 4.

Sec. 31. PL 2009, c. 211, Pt. B, §14 is corrected to read:

Sec. B-14. 12 MRSA §13068-A, sub-§4, ¶B, as enacted by PL 2003, c. 655, Pt. B, §380 and affected by §422 and amended by PL-2003, c. 689, Pt. B, §6, is further amended to read:

B. Notwithstanding paragraph A:

- (1) Canoes, owned by a ~~boys or girls summer~~ youth camp located upon internal waters in the State and duly licensed by the Department of Health and Human Services and utilized by campers under the direction and supervision of a youth camp counselor at least 18 years of age or older during training and instruction periods on waters adjacent to the main location of the youth camp within a distance of 500 feet from the shoreline of that camp, are exempt from this subsection; and
- (2) Log rafts, carrying not more than 2 persons and used on ponds or lakes or internal waters of less than 50 acres in area, are exempt from carrying personal flotation devices.

EXPLANATION

This section corrects an amending clause.

Sec. 32. PL 2009, c. 415, Pt. C, §1 is corrected to read:

Sec. C-1. 29-A MRSA §2558, sub-§2, ¶B, as ~~enacted~~ amended by PL 2009, c. 54, §6 and affected by §7, is amended to read:

B. A person who violates subsection 1 and at the time has one OUI conviction, one conviction for violating this section or one conviction for violating former section 2557 or section 2557-A within the previous 10 years commits a Class C crime for which a minimum fine of \$1,000 and a minimum term of imprisonment of one year must be im-

posed, neither of which may be suspended by the court.

EXPLANATION

This section corrects an enacting clause.

Sec. 33. P&SL 2009, c. 8, §1 is corrected to read:

Sec. 1. P&SL 1945, c. 83, §1 is amended to read:

Sec. 1. Territorial limits and corporate name and purposes. The inhabitants and territory within the ~~town~~ City of Caribou in the ~~county~~ County of Aroostook ~~shall be, and hereby are, constituted~~ constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this Act as "the district." for the purpose of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the city with suitable and adequate sewerage facilities.

EXPLANATION

This section corrects a clerical error.

Sec. 34. P&SL 2009, c. 22, §5 is corrected to read:

Sec. 5. P&SL 1945, c. 72, §10, first ¶ is amended to read:

Sec. 10. Annual meeting of district; qualification of voters of district. After the acceptance of this charter and the organization of the board, the annual meeting of the district ~~shall~~ must be held within the district ~~on the 1st Monday of March~~ at a date selected by the trustees, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice ~~thereof of the annual meeting~~, signed by the ~~chairman~~ chair or clerk of the board, ~~shall~~ must be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings ~~shall~~ must state the business to be transacted ~~thereat~~ at the meeting. Ten per cent of the voters qualified to vote in such meetings ~~shall constitute~~ constitutes a quorum. ~~If for any reason a legally sufficient annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 2 months from said date.~~

EXPLANATION

This section corrects the amending clause and a clerical error.
