

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

Sec. 3. 22 MRSA §2843-A, sub-§10 is enacted to read:

10. Funeral director or practitioner of funeral service. The following provisions apply to the actions and liability of a funeral director or practitioner of funeral service, cemeteries and crematories and their employees.

A. If there is a dispute regarding custody and control, a funeral director or practitioner of funeral service may refuse to accept the remains or dead body, inter or otherwise dispose of the remains or dead body or complete funeral arrangements until the funeral director or practitioner of funeral service is provided with a court order under subsection 4 or a written agreement of the person who has custody and control.

B. If there is a dispute regarding custody and control, pending a court determination under subsection 4 a funeral director or practitioner of funeral service who has physical possession of the remains or a dead body may embalm or refrigerate and shelter the remains or a dead body and may bill the estate of the subject for those costs, plus attorney's fees and court costs.

C. A person who signs a statement of funeral goods and services, cremation authorization form or other authorization for disposition of the remains or a dead body is deemed to warrant the truthfulness of the facts set forth in the document, including but not limited to the existence of custody and control and the identity of the subject.

D. A funeral director or practitioner of funeral service, cemetery or crematory may rely on a statement of funeral goods and services, cremation authorization form or other authorization signed by a person who has custody and control of the remains or a dead body and may carry out the instructions provided for in the statement of funeral goods and services or on the form or authorization unless the funeral director or practitioner of funeral service, cemetery or crematory knows of objections from another person.

E. A funeral director or practitioner of funeral service, cemetery or crematory is not required to independently investigate custody and control of the remains or a dead body or who is next of kin.

See title page for effective date.

**CHAPTER 388  
H.P. 1093 - L.D. 1486**

**An Act To Amend the Laws  
Concerning the Child Care  
Advisory Council and the  
Maine Children's Growth  
Council**

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

**Sec. 1. 5 MRSA §24001, sub-§6,** as enacted by PL 2007, c. 683, Pt. A, §2, is amended to read:

**6. Quorum; meetings.** ~~Thirteen~~ A majority of the voting members of the council constitute a quorum. The council may meet as often as necessary but shall meet at least 6 times a year. A meeting may be called by a cochair or by any 5 members.

**Sec. 2. 5 MRSA §24001, sub-§8,** as enacted by PL 2007, c. 683, Pt. A, §2, is amended to read:

**8. Staffing; funding.** The council may hire staff as necessary for its work and as resources permit. The council may accept grant funding and other funding as may be available for the work of the council. ~~The Department of Health and Human Services shall act as fiscal agent for the council.~~

**Sec. 3. 5 MRSA §24002, sub-§1, ¶C,** as enacted by PL 2007, c. 683, Pt. A, §2, is amended to read:

C. Reporting by January 15, ~~2010~~ 2011 and every 2 years thereafter at the start of the first regular session of the Legislature to the ~~Department of Health and Human Services, the Governor, the Children's Cabinet and Governor and the one or more joint standing committees of the Legislature having jurisdiction over health, human services, taxation and education matters~~ on the activities and accomplishments of the council and its long-term plan for investment in the healthy development of young children, and issuing such other reports as the council determines to be appropriate.

**Sec. 4. 22 MRSA §3731, sub-§1,** as enacted by PL 1993, c. 158, §2, is amended to read:

**1. Child care.** "Child care" means a regular service of care and ~~protection~~ education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children. "Child care" also means administrative functions related to the delivery of child care services, in-

cluding, but not limited to, contract management, voucher administration, licensing, training, technical assistance and referral.

**Sec. 5. 22 MRSA §3731, sub-§2-A** is enacted to read:

**2-A. Division.** "Division" means the early childhood division of the Department of Health and Human Services, Office of Child and Family Services.

**Sec. 6. 22 MRSA §3732, sub-§4**, as enacted by PL 1993, c. 158, §2, is amended to read:

**4. Accessibility.** High-quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized ~~place~~ system in local communities must be available to facilitate parents' access to child care.

**Sec. 7. 22 MRSA §3732, sub-§5**, as enacted by PL 1993, c. 158, §2, is amended to read:

**5. Affordability.** High-quality child care must be available to families who receive child care subsidies available in the State on a sliding scale fee basis, with families contributing based on ability to pay.

**Sec. 8. 22 MRSA §3736, sub-§1**, as enacted by PL 1993, c. 158, §2, is amended to read:

**1. Single application form.** By October 1, 1993, the department shall develop a universal application for all publicly funded child care programs for applicants who are seeking child care as their primary service. By January 1, 1994, the department shall require all caseworkers and contractors to use the form to determine eligibility for those applicants. Applicants submitting applications to more than one caseworker or contractor may submit photocopies or facsimile copies.

**Sec. 9. 22 MRSA §3739, sub-§2**, as amended by PL 2001, c. 179, §1 and c. 354, §3 and PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

**2. Membership.** The council has a minimum of ~~25~~ 28 members, appointed as follows:

A. One employee of the ~~Bureau of Family Independence~~ department's office of integrated access and support who is responsible for child care services, appointed by the commissioner;

B. ~~Two employees~~ The employee of the Department of Health and Human Services, Office of Child Care and Head Start who are responsible for ~~serves as the state child care services, appointed by the commissioner~~ administrator, or the state child care administrator's designee;

C. One employee of the ~~Department of Health and Human Services, Bureau of Children with Special Needs~~ division within the department concerned with children's behavioral health ser-

ices, appointed by the Commissioner of Health and Human Services commissioner;

D. ~~One employee~~ Two employees of the Department of Education, one of whom represents special education programs and one of whom oversees public programs for children 4 years of age, appointed by the Commissioner of Education;

E. One employee who ~~coordinates~~ serves as the state Head Start program collaboration director, ~~appointed by the commissioner or the state Head Start collaboration director's designee;~~

F. The State Fire Marshal or the State Fire Marshal's designee;

G. One employee of the Office of Substance Abuse, appointed by the Director of the Office of Substance Abuse;

H. One employee of the Department of Economic and Community Development, appointed by the Commissioner of Economic and Community Development;

I. One member of the Senate, appointed by the President of the Senate;

J. Two members of the House of Representatives, at least one of whom ~~must~~ may not be from the ~~minority~~ party with the most members in the House of Representatives, appointed by the Speaker of the House of Representatives;

K. One parent or other consumer who receives a child care subsidy at the time of that parent's or consumer's appointment, appointed by the Governor;

L. One parent or other consumer of child care services who does not receive a child care subsidy, appointed by the Governor;

M. One business representative nominated by the Maine Chamber of Commerce and Industry, appointed by the Governor;

N. One center-based care representative nominated by the Maine Child Care Directors' Association, appointed by the Governor;

O. One Head Start provider nominated by the Maine Head Start Directors' Association, appointed by the Governor;

P. One family ~~day care~~ child care provider nominated by the ~~Maine Family Day Care Association~~ an association of family child care providers in the State, appointed by the Governor;

Q. One person representing Native Americans, appointed by the Governor;

R. One child care provider who does not receive public funds, appointed by the Governor;

S. ~~One person associated with a local preschool handicapped project coordination site representing a nonprofit advocacy organization dedicated to improving the lives of children, youth and their families,~~ appointed by the Governor;

T. ~~One person nominated by the Coalition for Maine's Children associated with a Child Development Services System site,~~ appointed by the Governor;

U. ~~One person nominated by the Maine Association of Child Care Resource and Referral Agencies representing a collaborative partnership between the University of Maine and the Department of Health and Human Services, Office of Child Care and Head Start,~~ nominated by the University of Maine Center for Community Inclusion and Disability Studies, appointed by the Governor;

V. One representative of women nominated by the Maine Women's Lobby, appointed by the Governor; and

W. One direct service provider of child care for school-age children, nominated by the University of Maine at Farmington, Maine Afterschool Network, or a successor program, appointed by the Governor;

X. One person representing the University of Southern Maine, Edmund S. Muskie School of Public Service, Maine Roads to Quality, or a successor program, appointed by the Governor;

Y. A person representing an association of resource development centers in the State, appointed by the Governor; and

Z. One person representing home-based child care providers, appointed by the Governor.

Senators and members of the House of Representatives serve for the duration of the legislative terms that they are serving when appointed. Members from state departments serve at the pleasure of their appointing authorities. All other members serve 3-year terms and may continue to serve beyond their terms until their successors are appointed. If a vacancy occurs before a term has expired, the vacancy must be filled for the remainder of the unexpired term by the authority who made the original appointment. If a member is absent for 2 consecutive meetings and has not been excused by the chair from either meeting, the council may remove the member by majority vote. If a nominating organization does not submit nominations within a reasonable period of time, the appointing authority may fill that organization's seat with a member of the public at large.

The council shall determine whether more than ~~25~~ 28 members would assist it in its work under subsections 1 and 5. If a majority of the council votes to request

the appointment of additional members, the council shall specify the number of additional members needed and shall convey a request for the appointment of those additional members to the Governor, who shall make the appointments.

**Sec. 10. 22 MRSA §3739, sub-§3,** as enacted by PL 1993, c. 158, §2, is amended to read:

**3. Meetings; chair.** The commissioner shall call the first meeting of the council by October 15, 1993. At the first meeting, the council shall select by majority vote a chair from among its members to serve a term of one year. A chair may be reelected to subsequent terms. The chair shall call subsequent meetings. The council may meet as often as funding permits, but must meet at least 4 times per year at a date, time and place determined by the council. The chair, in collaboration with the department, may call a special meeting to address an issue that, in the judgment of the chair, cannot wait until the next regularly scheduled meeting.

**Sec. 11. 22 MRSA §3739, sub-§3-A** is enacted to read:

**3-A. Notice of meetings; agenda.** At a reasonable time before a meeting of the council, the chair shall send a notice of the meeting to every member under subsection 2. A notice of meeting required under this subsection must contain the date, time, place and agenda of the meeting and the minutes of the previous meeting. Notice of a special meeting under subsection 3 must be sent under this subsection as expeditiously as possible.

**Sec. 12. 22 MRSA §3739, sub-§3-B** is enacted to read:

**3-B. Attendance at meetings.** A member of the council is expected to attend all meetings under subsection 3. If a member is unable to attend a meeting called under subsection 3, the member shall inform the chair. A member may attend a meeting under subsection 3 by participating remotely through the means of telephone, electronic media or other device if the facilities allow for such participation. The council shall endeavor to install means by which a member may participate remotely pursuant to this subsection.

**Sec. 13. 22 MRSA §3739, sub-§6,** as enacted by PL 1993, c. 158, §2, is amended to read:

**6. Report.** By January 15th, the council shall submit an annual report to the commissioner, the co-chairs of the Maine Children's Growth Council established in Title 5, chapter 621 and the joint standing committee of the Legislature having jurisdiction over human resource services matters. The report must describe the council's activities for the year regarding its duties specified in subsection 5 and must outline policy changes recommended by the council, along with necessary implementing legislation.

**Sec. 14. 22 MRSA §3739, sub-§8** is enacted to read:

**8. Parliamentary authority.** Except as mandated by state law, a meeting under subsection 3 is governed by the current edition of Robert's Rules of Order Newly Revised.

See title page for effective date.

## CHAPTER 389

### S.P. 491 - L.D. 1541

#### An Act To Amend the Campaign Finance 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,** this legislation needs to take effect before the expiration of the 90-day period because it amends certain provisions of the campaign finance laws that take effect August 1, 2011 and September 1, 2011; 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. 5 MRSA §19, sub-§7,** as amended by PL 1991, c. 331, §3, is further amended to read:

**7. Disclosure of reportable liabilities.** Each executive employee shall include on the statement of income under subsection 2 all reportable liabilities incurred while employed as an executive employee. The executive employee shall file a supplementary statement with the Secretary of State Commission on Governmental Ethics and Election Practices of any reportable liability within 30 days after it is incurred. The report must identify the creditor in the manner of subsection 2.

**Sec. 2. 21-A MRSA §1002,** as repealed and replaced by PL 2007, c. 571, §5, is amended to read:

#### §1002. Meetings of commission

**1. Meeting schedule.** The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held ~~and every 2 weeks in the 60 days preceding an election.~~ In the 28 days preceding an election, the commission shall meet in Augusta within ~~one calendar day~~ 2 business days of the filing

of any complaint ~~or question~~ with the commission, unless the complainant and respondent agree otherwise. ~~Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise.~~ Regardless of whether the complainant or respondent agree, the commission may defer until after the election considering complaints determined by the chair to involve allegations of minor violations of this chapter or chapter 14, such as disclaimer statements omitted from campaign signs or transactions of less than \$100 omitted from campaign finance reports.

**2. Telephone meetings.** The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

A. During the 28 days prior to an election when the commission is required to meet within ~~24 hours~~ 2 business days of the filing of any complaint ~~or question~~ with the commission; or

B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.

**3. Other meetings.** The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

**4. Office hours before election.** The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election ~~and from 8 a.m. until at least 8 p.m. on election day.~~

**Sec. 3. 21-A MRSA §1003, sub-§1,** as amended by PL 2009, c. 524, §4, is further amended to read:

**1. Investigations.** The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, party committee, political action committee, ballot question committee or other political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer,