

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2012 to July 10, 2013**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 9, 2013**

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

---

---

**Augusta, Maine**  
**2013**

1. Nine dollars per plate to the Secretary of State for the costs associated with production and issuance of the plates; and

2. Sixteen dollars per plate to ~~the Maine Acadian Heritage Council~~ be retained by the World Acadian Congress; and be it further

; and be it further

**Sec. 2. Retroactivity. Resolved:** That that section of this resolve that amends Resolve 2011, chapter 156, section 2 applies retroactively to August 30, 2012.

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

Effective April 9, 2013.

---

---

**CHAPTER 5  
H.P. 230 - L.D. 321**

**Resolve, Directing the Probate and Trust Law Advisory Commission To Review Maine's Probate Code and the Uniform Probate Code**

**Preamble. Whereas,** the current Probate Code was enacted in 1980 based on the Uniform Probate Code in effect at that time; and

**Whereas,** since its original adoption in 1980 the Uniform Probate Code has been substantially revised by the Uniform Law Commission, including an update adopted in 1990, technical and substantive amendments adopted in 2008 and technical amendments adopted in 2010 and refined in 2011; and

**Whereas,** it is in the best interest of Maine citizens and residents to have up-to-date statutes consistent with those of other states and that address issues that arise in today's social and technological environment; and

**Whereas,** the Probate and Trust Law Advisory Commission is authorized to examine and evaluate the operation of the Probate Code and recommend changes; now, therefore, be it

**Sec. 1. Review. Resolved:** That the Probate and Trust Law Advisory Commission established under the Maine Revised Statutes, Title 5, section 12004-I, subsection 73-B is directed to conduct a review of the current Probate Code and the latest Uniform Probate Code and develop legislative recommendations based on the review. The Probate and Trust Law Advisory Commission shall invite the participa-

tion of interested parties in the review and in the development of recommendations; and be it further

**Sec. 2. Report. Resolved:** That the Probate and Trust Law Advisory Commission shall submit a report regarding the review in section 1 to the Joint Standing Committee on Judiciary no later than December 1, 2013, together with any necessary implementing legislation, for presentation to the Second Regular Session of the 126th Legislature. The Probate and Trust Law Advisory Commission is authorized to submit a bill related to its report to the Second Regular Session of the 126th Legislature.

See title page for effective date.

---

---

**CHAPTER 6  
H.P. 18 - L.D. 14**

**Resolve, Directing the Department of Transportation To Name a Bridge between Kennebunk and Kennebunkport the Mathew J. Lanigan Bridge**

**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 resolve names a bridge in honor of a beloved local citizen who recently passed away; and

**Whereas,** it is important to the local community to honor the late Mathew J. Lanigan, a prominent citizen, and to keep his memory alive through the naming of this bridge between the Town of Kennebunk and the Town of Kennebunkport to honor his memory for all his contributions to the community; 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

**Sec. 1. Bridge between Kennebunk and Kennebunkport named. Resolved:** That the Department of Transportation shall designate Bridge No. 2230 on State Route 9, which crosses the Kennebunk River between the Town of Kennebunk and the Town of Kennebunkport, the Mathew J. Lanigan Bridge.

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

Effective April 9, 2013.

## CHAPTER 7

### H.P. 387 - L.D. 568

#### **Resolve, To Name Bridge Number 2975 in Kenduskeag the Kenduskeag Veterans Bridge**

**Sec. 1. Bridge in Kenduskeag named. Resolved:** That the Department of Transportation shall designate bridge number 2975, which carries the Stetson Road over the Kenduskeag Stream in the Town of Kenduskeag, as the Kenduskeag Veterans Bridge.

See title page for effective date.

## CHAPTER 8

### S.P. 79 - L.D. 243

#### **Resolve, To Direct the Department of Education To Amend Its Rules Regarding Restraint of Students**

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

**Whereas,** significant revisions to Department of Education Rule Chapter 33 governing the restraint and seclusion of students took effect July 1, 2012; and

**Whereas,** educators, administrators and parents have expressed concern with the limitations on the use of restraint and seclusion; and

**Whereas,** because Rule Chapter 33 is a major substantive rule, changes to the rule require legislative review before the changes may be made; and

**Whereas,** the Legislature has authority to direct the Department of Education to amend its rule to reflect legislative policy determinations; and

**Whereas,** educators and administrators need tools immediately to restore order to classrooms through limited additional uses of restraint or seclusion; 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 preserva-

tion of the public peace, health and safety; now, therefore, be it

**Sec. 1. Amendment of rule. Resolved:** That the Department of Education shall amend portions of Chapter 33: Rule Governing Physical Restraint and Seclusion as follows.

1. The rule must be amended in Section 2 to replace the definition of physical escort with language that provides that physical escort is temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted.

2. The rule must be amended to modify the threshold for the use of physical restraint as follows:

A. In the summary of the rule to provide that physical restraint and seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others;

B. In Section 1 of the rule to provide that physical restraint and seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others;

C. In Section 2, subsection 6 of the rule to provide that dangerous behavior is behavior that presents a risk of injury or harm to a student or others;

D. In Section 2, subsection 9 of the rule to provide that risk of injury or harm describes a situation in which a student has the means to cause physical harm or injury to self or others and such injury or harm is likely to occur such that a reasonable and prudent person would take steps to protect the student and others against the risk of such injury or harm;

E. In Section 5, subsection 1, paragraph A to provide that seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others and only after other less intrusive interventions have failed or been determined inappropriate;

F. In Section 5, subsection 2, paragraph B to provide that seclusion may not be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm;

G. In Section 5, subsection 3, paragraph A to provide that a student in seclusion must be continuously monitored until the student no longer presents a risk of injury or harm to self or others;

H. In Section 5, subsection 4, paragraph A to provide that the staff involved in the use of seclusion shall continually assess the student for signs