

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

**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**  
**2016**

the Federal Bureau of Investigation and to a national information clearinghouse for missing and exploited children operated pursuant to 42 United States Code, Section 5773(b). Information disclosed pursuant to this paragraph is limited to information on missing or abducted children or youth that is required to be disclosed pursuant to 42 United States Code, Section 671(a)(35)(B).

**Sec. 4. 22 MRSA §4036-B, sub-§3-A**, as enacted by PL 2011, c. 402, §4, is amended to read:

**3-A. Notification to relatives.** Except as required by family or domestic violence safety precautions, the department shall exercise due diligence to identify and provide notice ~~to all known grandparents and other adult relatives,~~ within 30 days after the removal of a child from the custody of a parent or custodian, to the following relatives: all grandparents; all parents of a sibling of the child who have legal custody of the sibling; and other adult relatives of the child, including any other adult relatives suggested by the parents. For the purposes of this subsection, "sibling" includes an individual who would have been considered a sibling of the child but for a termination or other disruption of parental rights, such as the death of a parent. Failure to comply with this provision does not affect service on a parent or custodian.

**Sec. 5. 22 MRSA §4038-B, sub-§4, ¶C**, as enacted by PL 2005, c. 372, §6, is amended to read:

C. In the case of a child who is ~~16~~ 14 years of age or older, the permanency plan must determine the services needed to assist the child to make the transition from foster care to independent living.

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

Effective March 1, 2016.

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## CHAPTER 382

### H.P. 1029 - L.D. 1506

#### An Act To Make Additional Technical Changes to Recently Enacted Tax Legislation Concerning Pension Income

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

**Whereas**, state tax law needs to be updated before the 90-day period expires to ensure the proper filing and processing of income tax returns for 2015; and

**Whereas**, legislative action is immediately necessary to ensure continued and efficient administration of the state income tax; 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. 36 MRSA §5122, sub-§2, ¶M-1**, as amended by PL 2015, c. 328, §3, is further amended to read:

M-1. For tax years beginning on or after January 1, 2014 but before January 1, 2016, for each individual who is a primary recipient of retirement plan benefits under an employee retirement plan or an individual retirement account, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The social security benefits and railroad retirement benefits reduction does not apply to benefits paid under a military retirement plan.

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

(1) "Employee retirement plan" means a state ~~or~~ federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. "Employee retirement plan" does not include a military retirement plan or survivor benefits under such a plan.

(2) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(3) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(4) "Pension deduction amount" means \$10,000 ~~for tax years beginning on or after January 1, 2014.~~

(5) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.

(6) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

**Sec. 2. 36 MRSA §5122, sub-§2, ¶M-2,** as enacted by PL 2015, c. 267, Pt. DD, §10, is amended to read:

M-2. For tax years beginning on or after January 1, 2016:

(1) For each individual who is a primary recipient of retirement plan benefits, the reduction is the sum of:

(a) ~~Excluding military retirement plan benefits, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount. The amount claimed under this division must be reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and:~~

(i) The aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income; and

(ii) The pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0; and

(b) An amount equal to the aggregate of retirement benefits under military retirement plans included in the individual's federal adjusted gross income; and

(2) For purposes of this paragraph, the following terms have the following meanings.

(a) "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary.

(b) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(c) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(d) "Pension deduction amount" means \$10,000 ~~for tax years beginning in 2014.~~

(e) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.

(f) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

**Sec. 3. 36 MRSA §5122, sub-§2, ¶BB,** as amended by PL 2015, c. 300, Pt. A, §40, is further amended to read:

BB. The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M ~~¶~~ M-1 or M-2 that exceed the amount of military retirement plan pension benefits deducted under paragraph M ~~¶~~ M-1 or M-2 and that are received by a person who practices as a licensed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855;

**Sec. 4. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph M-1 applies retroactively to June 30, 2015.

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

Effective March 1, 2016.

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**CHAPTER 383**

**S.P. 567 - L.D. 1469**

**An Act To Promote Private Fund-raising for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf**

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

**Sec. 1. 20-A MRSA §7413** is enacted to read:

**§7413. Private support organization**

**1. Designation of private support organization.** The executive director shall designate a nonprofit organization as the private support organization for the school. The designated organization must be incorporated as a nonprofit corporation under the laws of the State, and its sole purpose, as reflected in its bylaws, must be to organize and foster support for the school and the school's programs.

**2. Nonvoting member on board of directors.** The executive director, or the executive director's designee, shall serve as a nonvoting ex officio member of the private support organization's board of directors.

**3. Plan of work.** The executive director shall negotiate an annual memorandum of understanding between the school and the private support organiza-

tion that outlines a plan of work identifying priority projects of mutual benefit and cooperation.

**4. Use of property.** The executive director may permit the appropriate use of fixed property, equipment and facilities of the school by the private support organization. Such use must be directly in keeping with the purpose of the private support organization as set out in subsection 1 and must comply with all appropriate state policies and procedures.

See title page for effective date.

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**CHAPTER 384**

**H.P. 690 - L.D. 995**

**An Act To Amend the Laws Governing Participating Local Districts in the Maine Public Employees Retirement System**

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

**Sec. 1. 5 MRSA §17103, sub-§6,** as amended by PL 2009, c. 322, §2, is further amended to read:

**6. Rights, credits and privileges; decisions.** The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service. The board has no jurisdiction to hear a matter or make an administrative decision regarding a claim of an employee of a local plan for which membership is optional pursuant to section 18252, if that claim applies to a time when the employee was not a member of the retirement system.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.

**Sec. 2. 5 MRSA §18251, sub-§§6 and 7** are enacted to read:

**6. Limitations on claims for participation.** If an employee claims that the employee was not offered participation in the program at the commencement of or during the course of employment with the participating local district, that claim must be commenced