

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Beginning January 1, 2021, the department shall provide annually by January 1st to the joint standing committee of the Legislature having jurisdiction over health and human services matters a report on the number of individuals and families who continue MaineCare coverage pursuant to the requirements of this section.

Sec. 2. Waiver request. No later than January 1, 2020, the Department of Health and Human Services shall submit a waiver request to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services that requests approval for Medicaid coverage of a parent who has one or more children removed from the home but remains engaged in reunification efforts as established in the Maine Revised Statutes, Title 22, section 3174-BBB. The department shall take all reasonable and necessary steps to seek approval of the waiver. Upon approval of the waiver request, the Commissioner of Health and Human Services shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes of that fact.

Sec. 3. Report. The Department of Health and Human Services shall report quarterly to the joint standing committee of the Legislature having jurisdiction over health and human services matters, beginning October 1, 2019, on the department's progress in seeking a waiver under section 2 and implementing rules under section 4 until the process is complete.

Sec. 4. Rulemaking. Within 180 days of receiving approval for coverage by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services pursuant to a request in accordance with section 2, the Department of Health and Human Services shall adopt rules to implement the Maine Revised Statutes, Title 22, section 3174-BBB. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Contingent effective date. That section of this Act that enacts the Maine Revised Statutes, Title 22, section 3174-BBB takes effect only if the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services approves a waiver request submitted in accordance with section 2 of this Act. In no event may this Act take effect until 90 days after the adjournment of the First Regular Session of the 129th Legislature.

See title page for effective date, unless otherwise indicated.

CHAPTER 131

S.P. 170 - L.D. 548

An Act Regarding Charging a Person under 18 Years of Age with the Crime of Engaging in Prostitution

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

Sec. 1. 17-A MRSA §853-A, sub-§1, as amended by PL 2007, c. 476, §29, is further amended to read:

1. A person who has in fact attained 18 years of age is guilty of engaging in prostitution if:

A. The person engages in prostitution as defined in section 851. Violation of this paragraph is a Class E crime, except that the sentencing alternative may include only the penalties provided in section 1301; or

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime.

See title page for effective date.

CHAPTER 132

H.P. 271 - L.D. 345

An Act To Help New Teachers Succeed

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

Sec. 1. 20-A MRSA §1055, sub-§10, as amended by PL 2011, c. 635, Pt. A, §1, is further amended to read:

10. Supervise school employees. The superintendent is responsible for implementing a performance evaluation and professional growth system for all teachers and principals pursuant to chapter 508 and an evaluation system for all other employees of the school administrative unit. The superintendent shall evaluate probationary teachers during, ~~but not limited to without limitation, their 2nd~~ each year of their employment as probationary teachers. The method of evaluation must be determined by the school board, be

in compliance with the requirements of chapter 508 and be implemented by the superintendent.

Sec. 2. 20-A MRSA §13201, as amended by PL 2017, c. 235, §36 and affected by §41, is repealed and the following enacted in its place:

§13201. Nomination and election of teachers; teacher contracts

1. Nomination; forfeiture. The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board makes. Upon the approval of nominations by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent determines proper, subject to the approval of the school board. Prior to May 15th before the expiration of a first, 2nd or 3rd year probationary teacher's contract, the superintendent shall notify the teacher in writing of the superintendent's decision to nominate or not nominate that teacher for another teaching contract. If, after receiving a complaint from a teacher, the commissioner finds that the superintendent has failed to notify a teacher of a decision not to nominate that teacher, the school administrative unit shall pay a forfeiture to the teacher. The amount of that forfeiture must be equal to the teacher's per diem salary rate times the number of days between the notification deadline and the date on which notification is made or on which the complaint is filed, whichever occurs first. In case the superintendent and the school board fail to legally elect a teacher, the commissioner has the authority to appoint a substitute teacher who serves until such election is made.

2. Contracts. This subsection applies to teacher contracts.

A. After a probationary period, subsequent contracts of duly certified teachers must be for not less than 2 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract must be extended automatically for one year and similarly in subsequent years, except for duly certified teachers who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. Unless a duly certified teacher who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year receives written notice to the contrary from the superintendent not later than May 15th, the contract must be extended automatically for one year.

B. Just cause for dismissal or nonrenewal is a negotiable item in accordance with the procedure set

forth in Title 26, chapter 9-A for teachers who have served beyond the probationary period.

C. After a probationary period, any teacher who receives notice in accordance with this section that the teacher's contract is not going to be renewed may, during the 15 days following such notification, request a hearing with the school board. The teacher may request reasons. The hearing must be private except by mutual consent and except that either or both parties may be represented by counsel. That hearing must be granted within 30 days of the receipt of the teacher's request.

For purposes of this subsection, "probationary period" means a period of 3 years, except that for any teacher hired for the 2020-2021 school year or any subsequent year, "probationary period" means a period not to exceed 2 years.

3. Termination upon elimination of a teaching position. The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall must include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

See title page for effective date.

**CHAPTER 133
S.P. 60 - L.D. 248**

An Act To Increase the Handling Fee for Beverage Containers Reimbursed to Redemption Centers

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 prohibits the issuance of new beverage container redemption center licenses to beverage redemption centers that were not previously issued a license prior to May 1, 2019; 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,