

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

~~It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.~~

~~For an expedited hearing, the State, prior to the pre-hearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the State's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.~~

~~All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.~~

Sec. 5. 17 MRSA §1021, sub-§5-B is enacted to read:

5-B. Temporary possession ban. An owner or keeper of an animal that was lawfully seized or impounded pursuant to this section or section 1034 is prohibited from possessing or acquiring an animal prior to any hearing to determine possession of the animal that was lawfully seized or impounded. Notice of the prohibition under this subsection must be served to the owner or keeper subject to the prohibition. An owner or keeper who violates the prohibition under this subsection commits a civil violation for which a fine of not more than \$200 may be adjudged for each day of violation.

Sec. 6. 17 MRSA §1022, as amended by PL 1997, c. 690, §65, is further amended to read:

§1022. Prevention of cruelty

The commissioner, a humane agent, a state veterinarian or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence.

Sec. 7. 17 MRSA §1027, sub-§1, ¶A, as enacted by PL 2007, c. 439, §36, is amended to read:

A. "Authority" means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, person authorized to make arrests or animal control officer that seizes or impounds an animal pursuant to section 1021.

Sec. 8. 17 MRSA §1027, sub-§2, as amended by PL 2011, c. 559, Pt. A, §17, is repealed.

Sec. 9. 17 MRSA §1027, sub-§2-A is enacted to read:

2-A. Appeal of action or order. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest may appeal the action or order to the Superior Court pursuant to the Maine Rules of Civil Procedure.

Sec. 10. 17 MRSA §1031, sub-§1, ¶D, as amended by PL 2003, c. 452, Pt. I, §13 and affected by Pt. X, §2, is further amended to read:

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs, including, but not limited to, a scheduled drug as defined in Title 17-A, section 1101, subsection 11, to an animal with an intent to harm or intoxicate the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

See title page for effective date.

CHAPTER 238

H.P. 844 - L.D. 1155

An Act To Protect Patients and the Prudent Laysperson Standard

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

Sec. 1. 24-A MRSA §4301-A, sub-§§4-A and 4-B are enacted to read:

4-A. Emergency medical condition. "Emergency medical condition" means the sudden and, at the time, unexpected onset of a physical or mental health condition, including severe pain, manifesting itself by symptoms of sufficient severity, regardless of the final diagnosis that is given, that would lead a prudent laysperson, possessing an average knowledge of medicine and health, to believe:

A. That the absence of immediate medical attention for an individual could reasonably be expected to result in:

(1) Placing the physical or mental health of the individual or, with respect to a pregnant woman, the health of the pregnant woman or her unborn child in serious jeopardy;

(2) Serious impairment of a bodily function; or

(3) Serious dysfunction of any organ or body part; or

B. With respect to a pregnant woman who is having contractions, that there is:

(1) Inadequate time to effect a safe transfer of the woman to another hospital before delivery; or

(2) A threat to the health or safety of the woman or unborn child if the woman were to be transferred to another hospital.

4-B. Emergency service. "Emergency service" means a health care item or service furnished or required to evaluate and treat an emergency medical condition that is provided in an emergency facility or setting.

Sec. 2. 24-A MRSA §4304, sub-§5, as enacted by PL 1999, c. 742, §13, is amended to read:

5. Emergency services. When conducting utilization review or making a benefit determination for emergency services, a carrier shall provide benefits for emergency services consistent with the requirements of this subsection and any applicable bureau rule.

A. Before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier shall conduct a utilization review done by a board-certified emergency physician who is licensed in this State, including a review of the enrollee's medical record related to the emergency medical condition subject to dispute. If a carrier requests records related to a potential denial of or payment reduction for an enrollee's benefits when emergency services were furnished to an enrollee, a provider has an affirmative duty to respond to the carrier in a timely manner. This paragraph does not apply when a reduction in payment is made by a carrier based on a contractually agreed upon adjustment for health care service.

Sec. 3. 24-A MRSA §4320-C, as enacted by PL 2011, c. 364, §34, is amended to read:

§4320-C. Emergency services

~~If a carrier offering a health plan subject to the requirements of the federal Affordable Care Act provides or covers any benefits with respect to services in an emergency department of a hospital facility or setting, the plan must cover emergency services in accordance with the requirements of the federal Affordable Care Act, including requirements that emergency services be covered without prior authorization and that cost-sharing. Cost-sharing requirements, ex-~~

pressed as a copayment amount or coinsurance rate, for out-of-network services are the same as requirements that would apply if such services were provided in network. A carrier offering a health plan in this State shall also comply with the requirements of section 4304, subsection 5.

Sec. 4. Rulemaking. Notwithstanding the Maine Revised Statutes, Title 24-A, section 4309, any rules adopted by the Department of Professional and Financial Regulation, Bureau of Insurance to amend rule Chapter 850: Health Plan Accountability as necessary to conform to this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 239

S.P. 379 - L.D. 1217

An Act To Clarify the Oversight of the Family Development Account Program

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

Sec. 1. 5 MRSA §12004-I, sub-§18-F is enacted to read:

18-F.

<u>Education:</u>	<u>Advisory</u>	<u>Expenses</u>	<u>20-A</u>
<u>Financial</u>	<u>Committee</u>	<u>for mem-</u>	<u>MRSA</u>
<u>Aid</u>	<u>on Family</u>	<u>bers repre-</u>	<u>§10985</u>
	<u>Development</u>	<u>sents</u>	
	<u>Accounts</u>	<u>account</u>	
		<u>holders: not</u>	
		<u>authorized</u>	
		<u>for all other</u>	
		<u>members</u>	

Sec. 2. 5 MRSA §12004-I, sub-§25-B, as amended by PL 2003, c. 673, Pt. QQ, §1, is repealed.

Sec. 3. 10 MRSA c. 110, sub-c. 4-A, as amended, is repealed.

Sec. 4. 20-A MRSA c. 412-B is enacted to read:

CHAPTER 412-B

FAMILY DEVELOPMENT ACCOUNT PROGRAM

§10981. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.