

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 THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

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

Augusta, Maine
2023

~~claims related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter 7.~~

2-D. Report; adequacy of fund. Beginning on April 15, 2015 and every other year thereafter, the Clean-up and Response Fund Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the department's and the review board's experience administering the fund, clean-up activities and 3rd-party damage claims. The report must include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this subsection, the review board may order an independent audit of disbursements from the fund.

2-E. Staff support. The commissioner shall provide the Clean-up and Response Fund Review Board with staff support.

See title page for effective date.

Sec. 5. 37-B MRSA §792, sub-§1, ¶E, as enacted by PL 1989, c. 464, §3, is amended to read:

E. The Commissioner of Transportation or the commissioner's ~~permanent~~ designee;

Sec. 6. 37-B MRSA §792, sub-§1, ¶F, as enacted by PL 1989, c. 464, §3, is amended to read:

F. The Director of the Maine Emergency Management Agency or the director's designee, who ~~shall serve~~ serves as chair;

Sec. 7. 37-B MRSA §792, sub-§1, ¶G, as enacted by PL 1989, c. 464, §3, is amended to read:

G. The Chief of the State Police or the chief's ~~permanent~~ designee;

Sec. 8. 37-B MRSA §801, sub-§2, ¶A, as enacted by PL 1989, c. 464, §3, is amended to read:

A. Registering facilities, not to exceed ~~\$50~~ \$100 per facility; and

See title page for effective date.

CHAPTER 62

H.P. 63 - L.D. 95

An Act Concerning the Membership of the State Emergency Response Commission and Fees for Registering Facilities Required to Report to That Commission

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

Sec. 1. 37-B MRSA §792, sub-§1, ¶A, as enacted by PL 1989, c. 464, §3, is amended to read:

A. The Commissioner of Environmental Protection or the commissioner's ~~permanent~~ designee;

Sec. 2. 37-B MRSA §792, sub-§1, ¶B, as enacted by PL 1989, c. 464, §3 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

B. The Commissioner of Health and Human Services or the commissioner's ~~permanent~~ designee;

Sec. 3. 37-B MRSA §792, sub-§1, ¶C, as enacted by RR 1995, c. 2, §96, is amended to read:

C. The Director of Maine Emergency Medical Services, Department of Public Safety, or the director's ~~permanent~~ designee;

Sec. 4. 37-B MRSA §792, sub-§1, ¶D, as enacted by PL 1989, c. 464, §3, is amended to read:

D. The Commissioner of Labor or the commissioner's ~~permanent~~ designee;

CHAPTER 63

H.P. 82 - L.D. 136

An Act to Clarify Court Jurisdiction of Actions Involving Children Brought Under the Maine Uniform Probate Code

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

Sec. 1. 4 MRSA §152, sub-§5-A, as amended by PL 2017, c. 402, Pt. C, §3 and affected by PL 2019, c. 417, Pt. B, §14, is further amended to read:

5-A. Actions involving minors under Title 18-C. ~~Exclusive~~ Except as provided in paragraph C, exclusive, continuing jurisdiction of actions for guardianship, adoption, change of name or other matters involving custody or other parental rights with respect to a minor child brought under Title 18-C under the following circumstances: if proceedings under the Maine Juvenile Code brought against the minor child are pending in the District Court; if proceedings involving custody or other parental rights with respect to a the minor child, including but not limited to adoption, divorce, parental rights and responsibilities, grandparents' rights, protective custody, change of name, guardianship, ~~paternity, parentage or termination of parental rights and protection from abuse or harassment,~~ are pending in the District Court; or if the minor child is or was the subject of an order issued by the District Court terminating parental rights, appointing a guardian, including a permanency, emergency or interim guardian, awarding parental rights to a 3rd party or granting an adoption. This

subsection does not apply if the only proceedings pending in the District Court involving custody or other parental rights with respect to the minor child are protection from abuse or protection from harassment proceedings unless one of the other grounds for exclusive, continuing jurisdiction are met under this subsection. For purposes of this subsection, a proceeding is pending if a complaint, petition or post-judgment motion has been filed and the final judgment or final order on that complaint, petition or post-judgment motion has not yet been issued.

A. The District Court presiding over any matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

- (1) Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child;
- (2) Any proceeding under the Maine Juvenile Code brought against the minor child pending in the District Court or any proceeding involving custody or other parental rights with respect to the minor child ~~currently filed or~~ pending before any court of this State or another state, including before a probate court in this State; or
- (3) Any other related action ~~currently filed or~~ pending before any court of this State or another state, including before a probate court in this State.

B. If Except as provided in paragraph C, if the District Court presiding over any matter under the Maine Juvenile Code brought against a minor child and any matter involving custody or other parental rights with respect to a minor child becomes aware that a proceeding for guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to the minor child under Title 18-C is pending in a probate court in this State, the District Court shall notify the Probate Court and take appropriate action to facilitate a transfer of the matter from the Probate Court. If a matter is transferred to the District Court under this paragraph, the District Court has continuing, exclusive jurisdiction over the matter and over any future proceedings for guardianship, adoption or change of name or other matter involving custody or other parental rights with respect to the minor child brought under Title 18-C, except to the extent that the District Court's jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.

C. Notwithstanding any provision of law to the contrary, a probate court shall retain jurisdiction over an action for guardianship, adoption, change of name or other matter involving custody or other

parental rights with respect to a minor child brought under Title 18-C that would otherwise be within the exclusive, continuing jurisdiction of the District Court under this subsection and may not transfer that matter to the District Court under paragraph B if:

(1) At the time the proceeding under the Maine Juvenile Code or the proceeding involving custody or other parental rights with respect to the minor child that would otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated, the testimonial hearing on the Title 18-C matter has concluded and the Probate Court has that matter under advisement; and

(2) The Probate Court has not determined that the District Court is the more appropriate forum for the Title 18-C proceeding;

Sec. 2. 4 MRSA §251-A, as enacted by PL 2015, c. 460, §4, is amended to read:

§251-A. Other proceedings involving parental rights; transfer to District Court

1. Disclosure of orders and proceedings. The judge of probate presiding over any matter involving guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

A. Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child, including any order of the District Court terminating parental rights; appointing a guardian, including a permanency, emergency or interim guardian; awarding parental rights to a 3rd party; or granting an adoption;

B. Any proceeding under the Maine Juvenile Code brought against the minor child pending in District Court or any proceeding involving custody or other parental rights with respect to the minor child ~~currently filed or~~ pending before any court of this State or another state, including the District Court; or

C. Any other related action ~~currently filed or~~ pending before any court of this State or another state, including the District Court.

2. Transfer to District Court. If Except as provided in subsection 3, if in a matter before the Probate Court concerning a minor child a judge of probate becomes aware that a proceeding under the Maine Juvenile Code brought against the minor child or a proceeding involving custody or other parental rights with respect to the minor child is pending in the District Court or that the minor child is or was the subject of a District Court order terminating parental rights, appointing a guardian, including a permanency, emergency or interim guardian, awarding parental rights to a 3rd party

or granting an adoption, the judge shall notify the District Court and take appropriate action to facilitate a transfer of the matter to the District Court. If a matter is transferred to the District Court under this subsection, the District Court has continuing, exclusive jurisdiction over the matter and over any future proceedings for guardianship, adoption or change of name or other matter involving custody or other parental rights with respect to the minor child brought under Title 18-C, except to the extent that the District Court's jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.

3. Exception to transfer. Notwithstanding any provision of law to the contrary, a probate court shall retain jurisdiction over an action for guardianship, adoption, change of name or other matter involving custody or other parental rights with respect to a minor child brought under Title 18-C that would otherwise be within the exclusive, continuing jurisdiction of the District Court under section 152, subsection 5-A and may not transfer that matter to the District Court under subsection 2 if:

A. At the time the proceeding under the Maine Juvenile Code or the proceeding involving custody or other parental rights with respect to the minor child that would otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated, the testimonial hearing on the Title 18-C matter has concluded and the Probate Court has that matter under advisement; and

B. The Probate Court has not determined that the District Court is the more appropriate forum for the Title 18-C proceeding.

For purposes of this section, a proceeding is pending if a complaint, petition or post-judgment motion has been filed and the final judgment or final order on that complaint, petition or post-judgment motion has not yet been issued.

Sec. 3. 22 MRSA §4031, sub-§3, as amended by PL 2015, c. 296, Pt. C, §28 and affected by Pt. D, §1, is further amended to read:

3. Scope of authority. The court shall consider and act on child protection petitions regardless of other decrees regarding a child's care and custody. The requirements and provisions of Title 19-A, chapter 58 do not apply to child protection proceedings. If custody or parentage is an issue in another pending proceeding, the proceedings may be consolidated in the District Court with respect to the issue of custody, parentage or both. In any event, the court shall make an order on the child protection petition in accordance with this chapter. That order takes precedence over any ~~prior~~ other order regarding the child's care and custody. Nothing in this subsection may be construed to limit the authority of the District Court to determine parentage pursuant to section 4005-F during the pendency of a child protection

proceeding; to consolidate a child protection proceeding with another matter; or to resolve a child protection proceeding through the entry of a parental rights and responsibilities order, guardianship order or adoption order.

See title page for effective date.

**CHAPTER 64
H.P. 118 - L.D. 177**

**An Act to Amend the Authority
of the Public Utilities
Commission Regarding Access
to Information in Proceedings
Involving Special Rate
Contracts**

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

Sec. 1. 35-A MRSA §1311-A, sub-§1, ¶F, as enacted by PL 1997, c. 691, §5 and affected by §10, is amended to read:

F. Notwithstanding any other provision of this subsection:

(1) The commission may deny all parties, including the commission and its staff, access to information if the commission finds that the potential for harm from disclosure of the information outweighs its probative value in the proceeding; ~~and~~

(2) The commission may deny an attorney access to information under protective order if the commission finds that the attorney's request for access to the information is not made in good faith or that the attorney will not respect the terms of the protective order; ~~and~~

(3) The commission may deny or limit access by an attorney to information under protective order in a proceeding involving one or more special contracts under section 703 if:

(a) The information is customarily regarded as confidential business information and relates to the reasons for the parties' entering into the special contract; and

(b) The party represented by the attorney is not a party to the special contract with the utility.

The commission may deny or limit access to information by any attorney under this subparagraph after providing the attorney with an opportunity to be heard and upon finding that the