

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

S.P. 622 - L.D. 1802

**An Act To Implement Recommendations of the Commission To Study
Priorities and Timing of Judicial Proceedings in State Courts**

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

PART A

Sec. A-1. 1 MRSA §409, sub-§1, as amended by PL 2009, c. 240, §5, is further amended to read:

1. Records. If any body or agency or official who has custody or control of any public record refuses permission to inspect or copy or abstract a public record, this denial must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by denial may appeal, within 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-2. 1 MRSA §409, sub-§2, as amended by PL 2007, c. 695, Pt. C, §1, is further amended to read:

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-3. 4 MRSA §184, sub-§6, as amended by PL 2001, c. 471, Pt. D, §6, is further amended to read:

6. Emergency proceedings. The District Court has jurisdiction to revoke temporarily or suspend a license without notice or hearing upon the verified complaint or complaint accompanied by affidavits of a licensing agency or the Attorney General. The verified complaint or complaint accompanied by affidavits must demonstrate that summary action is necessary to prevent an immediate threat to the public health, safety or welfare. Upon issuance of an order revoking or suspending a license under this section, the District Court shall ~~promptly schedule an expedited a~~ hearing on the agency's complaint. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

This subsection may not be considered to abridge or affect the jurisdiction of the Superior Court or District Court to issue injunctive relief or to exercise such other powers as may be authorized by law or rule of the court.

Sec. A-4. 7 MRSA §3952, sub-§4-B, ¶B, as enacted by PL 1999, c. 350, §2, is amended to read:

B. The court shall hear and determine the motion ~~as expeditiously as possible, and~~ the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-5. 8 MRSA §230, as amended by PL 1985, c. 506, Pt. B, §§7 and 8, is further amended to read:

§230. Appeals

Any person aggrieved by any decision of the Commissioner of Public Safety may appeal the decision to the Superior Court within 30 days. The court shall ~~immediately~~, after notice and hearing, affirm or reverse the commissioner's decision. The finding of the Superior Court may be reviewed by appeal to the Supreme Judicial Court sitting as the Law Court.

Sec. A-6. 9-B MRSA §363-A, sub-§10, ¶A, as enacted by PL 2005, c. 83, §7, is amended to read:

A. The proceedings ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The person bringing the action has the burden of proof to show that the act or omission is unlawful or arbitrary and capricious. Only the financial institution may bring an action challenging the superintendent's order establishing the conservatorship. The court must uphold the superintendent's order establishing the conservatorship and the appointment of a conservator unless the court finds that the superintendent's action was unlawful or arbitrary and capricious.

Sec. A-7. 9-B MRSA §367-A, sub-§4, as enacted by PL 2005, c. 83, §10, is amended to read:

4. Proceedings generally. The superintendent, conservator or receiver may bring an action described in this chapter, or any other action as determined appropriate, in the county in which the financial institution is located or has its principal place of business or in the Superior Court of Kennebec County. The proceedings ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-8. 9-B MRSA §369, sub-§2, ¶A, as enacted by PL 2009, c. 228, §7, is amended to read:

A. Any proceedings under this section ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The person bringing the action has the burden of proof to show that the act or omission is unlawful or arbitrary and capricious.

Sec. A-9. 10 MRSA §1020-A, sub-§7, ¶D, as enacted by PL 2007, c. 464, §6, is amended to read:

D. Any responsible party may appeal a decision by the Department of Environmental Protection to the Kennebec County Superior Court pursuant to Title 5, section 9061 within 30 days of the date of the decision. An appeal under this paragraph is nontestimonial. The record consists solely of written materials reviewed by the Department of Environmental Protection and its decision. ~~The Superior Court shall issue its decision within 45 days of the date of filing of the appeal.~~

Sec. A-10. 10 MRSA §1104, sub-§2, ¶B, as enacted by PL 1987, c. 60, §1, is repealed and the following enacted in its place:

B. The action may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-11. 13-C MRSA §1604, sub-§2, as amended by PL 2007, c. 323, Pt. C, §38 and affected by Pt. G, §4, is further amended to read:

2. Court order. If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record pursuant to this Act, the shareholder who complies with section 1602, subsections 3 and 4 may apply to the Superior Court in the county where the corporation's principal office is located or, if none in this State, in Kennebec County for an order to permit inspection and copying of the records demanded. ~~The court shall dispose of an application under this subsection on an expedited basis.~~ An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-12. 13-C MRSA §1605, sub-§2, as amended by PL 2007, c. 323, Pt. C, §39 and affected by Pt. G, §4, is further amended to read:

2. Court order. The Superior Court of the county where the corporation's principal office is located or, if there is no principal office in this State, of Kennebec County may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused inspection rights under subsection 1, unless the corporation establishes that the director is not entitled to such inspection rights. ~~The court shall dispose of an application under this subsection on an expedited basis.~~ An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-13. 14 MRSA §556, first ¶, as enacted by PL 1995, c. 413, §1, is amended to read:

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. ~~The court shall advance the special motion so that it may be heard and determined with as little delay as possible.~~ The special motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

Sec. A-14. 15 MRSA §5826, sub-§5, as enacted by PL 1995, c. 421, §1, is amended to read:

5. Ancillary hearing of 3rd-party interests. A person not charged in the indictment may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property, within 30 days of the date of receipt of the notice, may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, ~~the court shall schedule the hearing as soon as practicable~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of

justice so require but in no event may the hearing be scheduled later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

Sec. A-15. 17 MRSA §1021, sub-§4, ¶C, as enacted by PL 1987, c. 383, §4, is amended to read:

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion ~~as expeditiously as~~ and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice requires so require.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

Sec. A-16. 17 MRSA §1021, sub-§5-A, as amended by PL 2009, c. 573, §1, is further amended to read:

5-A. Seizure by state humane agent or state veterinarian without court order.

A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or

the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and ~~that the hearing date must be within 21 days of the date the animal was seized~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

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 prehearing 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. A-17. 17 MRSA §1027, sub-§2, as enacted by PL 2007, c. 439, §36, is amended to read:

2. Show cause hearing. 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 must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing ~~within 10 days of receipt of the petition.~~ The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

Sec. A-18. 17 MRSA §2911, sub-§3, as enacted by PL 1977, c. 410, §2, is amended to read:

3. Procedure for adjudicating obscenity. Whenever the Attorney General, or any district attorney, reasonably believes a person is disseminating to minors matter ~~which~~ that is obscene, ~~he~~ the Attorney General or district attorney may petition the Superior Court to declare the matter obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General or district attorney may join all persons ~~he~~ the Attorney General or district attorney reasonably believes to be disseminating that matter to minors as parties to the action. The hearing on such petition ~~shall be held not more than 10 days from the filing of the petition~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

A. Trial on the issue of obscenity ~~shall~~ must be by jury.

B. Intervention by others disseminating the same matter ~~shall~~ must be freely allowed.

C. Determination by a court pursuant to this subsection that a matter is obscene ~~shall~~ does not bar relitigation of that issue in a criminal prosecution under this section.

Sec. A-19. 17 MRSA §2913, sub-§3, as enacted by PL 1983, c. 300, §7, is amended to read:

3. Procedure for adjudicating obscenity. Whenever the Attorney General, or any district attorney, reasonably believes a person is exhibiting at an outdoor motion picture theater a motion picture ~~which~~ that is obscene, ~~he~~ the Attorney General or district attorney may petition the Superior Court to declare the motion picture obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General, or district attorney, may join all persons ~~he~~ the Attorney General or district attorney reasonably believes to be exhibiting that motion picture to minors as parties to the action. The hearing on that petition ~~shall be held not more than 10 days from the filing of the petition~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

A. Trial on the issue of obscenity ~~shall~~ must be by jury.

B. Intervention by others exhibiting the same motion picture ~~shall~~ must be freely allowed.

C. Determination by a court, pursuant to this subsection, that a motion picture is obscene ~~shall~~ does not bar relitigation of that issue in a criminal prosecution under this section.

Sec. A-20. 17-A MRSA §959, sub-§3, ¶D, as enacted by PL 2001, c. 461, §2, is amended to read:

D. A court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

Sec. A-21. 17-A MRSA §960, sub-§5, as enacted by PL 2001, c. 461, §2, is amended to read:

5. A person not charged in an indictment under this section may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property within 30 days of the date of receipt of the notice may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. ~~Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable, but in no event later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment.~~ The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

Sec. A-22. 22 MRSA §1558, sub-§3, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

Sec. A-23. 22 MRSA §1559, sub-§3, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

Sec. A-24. 22 MRSA §1602, sub-§4, as amended by PL 2003, c. 673, Pt. AA, §1, is further amended to read:

4. Permit denied; appeal. An applicant who has been aggrieved by the department's decision to deny a permit under this chapter may file within 30 days of the notice of the denial a complaint with the District Court, as provided in Title 5, chapter 375. ~~Such an applicant must be granted a prompt~~ A hearing before the District Court for reconsideration of the denial may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-25. 22 MRSA §7933, sub-§3, ¶B, as enacted by PL 1983, c. 454, is amended to read:

B. A temporary receiver may be appointed with or without notice to the owner or licensee if it appears by verified complaint or affidavit that an emergency exists in the facility ~~which~~ that must be remedied immediately to insure the health, safety and welfare of the residents. The temporary appointment of a receiver without notice to the owner or licensee may be made only if the court is satisfied that the petitioner has made a diligent attempt to provide reasonable notice under the circumstances. Upon appointment of a temporary receiver, the department shall proceed forthwith to make service as provided in paragraph A, and a hearing ~~shall~~ must be held within 10 days, unless all parties agree to a later date. If the department does not proceed with the petition, the court shall dissolve the temporary receivership. On 2 days' notice to the receiver, all parties and the department, or on such shorter notice as the court may prescribe, the owner or licensee may appear and move the dissolution or modification of an order appointing a receiver ~~which~~ that has been entered without notice, and in that event the ~~court shall proceed to hear and determine such motion as expeditiously as the ends of justice require~~ motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-26. 26 MRSA §968, sub-§5, ¶F, as amended by PL 1993, c. 90, §2, is further amended to read:

F. Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the

public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof~~, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. A-27. 26 MRSA §979-H, sub-§7, as amended by PL 1993, c. 90, §5, is further amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided if~~ the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof~~, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. A-28. 26 MRSA §1029, sub-§7, as corrected by RR 1993, c. 1, §69, is amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided if~~ the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may

grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice of the hearing,~~ the court may enforce, modify, enforce as so modified, or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. A-29. 26 MRSA §1289, sub-§7, as amended by PL 1993, c. 90, §9, is further amended to read:

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided that~~ if the complaint ~~must be~~ is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health, safety or welfare or interference with the exercise of the judicial power. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof,~~ the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be ~~expedited in~~ the same ~~manner~~ as an appeal from an interlocutory order under section 6.

Sec. A-30. 26 MRSA §1329, sub-§6, as enacted by PL 1997, c. 472, §1, is amended to read:

6. Review. Either party may seek a review by the Superior Court of a decision or order of the board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall schedule the hearing ~~at the earliest possible time~~ and notify all interested

parties and the board. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of an interested party, the court may grant temporary relief or a restraining order and impose terms and conditions that the court determines just and proper, except that the board's decision is not stayed unless it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall immediately file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice,~~ the court may enforce, modify, enforce as modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. An appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

Sec. A-31. 28-A MRSA §803, sub-§2-A, as enacted by PL 1987, c. 342, §53 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

Sec. A-32. 28-A MRSA §805, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

Sec. A-33. 28-A MRSA §2221-A, sub-§4, ¶D, as enacted by PL 1987, c. 342, §128, is amended to read:

D. The court shall ~~promptly, but not less than 2 weeks after notice,~~ hold a hearing on the petition. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

Sec. A-34. 32 MRSA §1104, sub-§2, as enacted by PL 2009, c. 112, Pt. A, §4, is amended to read:

2. Order to correct deficiency; appeal. Any person ordered by a state electrical inspector to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Electricians' Examining Board by filing with that board within 30 days of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision thereof within a reasonable time after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with unless appealed as provided. Any person ordered by the board to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 by filing a petition for review within 48 hours of receipt of the order. ~~The court shall issue its written decision within 20 days after receipt of the petition for review.~~ The petition for review may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-35. 34-B MRSA §13003, sub-§3, ¶B, as enacted by PL 1997, c. 610, §3, is amended to read:

B. A temporary receiver may be appointed with or without notice to the owner or licensee if it appears by verified complaint or affidavit that an emergency exists in the facility or provider that must be remedied immediately to ensure the health, safety and welfare of the clients or residents. The appointment of a temporary receiver without notice to the owner or licensee may be made only if the court is satisfied that the petitioner has made a diligent attempt to provide reasonable notice under the circumstances. Upon appointment of a temporary receiver, the department shall proceed to make service as provided in paragraph A, and a hearing must be held within 10 days, unless all parties agree to a later date. If the department does not proceed with the petition, the court shall dissolve the receivership. On 2 days' notice to the temporary receiver, all parties and the department, or on such shorter notice as the court may prescribe, the owner or licensee may appear and move the dissolution or modification of an order appointing a temporary receiver that has been entered without notice, and in that event the ~~court shall proceed to hear and determine the motion as expeditiously as possible~~ motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

Sec. A-36. 38 MRSA §1022, first ¶, as amended by PL 1999, c. 215, §1, is further amended to read:

Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, shall apply in writing to the municipal officers of the city or town, stating the location of the weir, the boundaries of the cove in which the weir will be constructed as identified on a map prepared by the Commissioner of Marine Resources, limits and boundaries, as nearly as may be, of the intended erection or extension, and asking license for the intended erection or extension. The applicant must notify all parties that may be directly affected by the proposed construction. Upon receiving an application, the officers shall give at least 3 days' public notice of the application in a newspaper, published in the town, or, if there is no newspaper published in the town, in a newspaper published within the county, and shall designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested. If, following such examination and hearing of all parties interested, the officers decide that such erection or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain the same within the limits mentioned in such license. The applicant for license to build or extend a fish weir or trap shall first give bond to the town, with sureties, in the sum of \$5,000, conditioned that upon the termination of such license the applicant ~~shall remove~~ removes all stakes and brush from the location therein described. The municipal officers shall, within 10 days after the date of hearing, give written notice by mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as provided, may appeal to the Superior Court within 10 days after the mailing of such written notice. The court shall set a time

and place for hearing and give notice thereof in the same manner as provided for a hearing before the municipal officers. The decision of the court must be communicated ~~within 10 days after the date of hearing~~ to the appellant and to the municipal officers of the town in which the proposed wharf, weir or trap is to be located. This decision is binding on the municipal officers, who shall issue a license, if so directed by the decision of the court, within 3 days after the decision has been communicated to them. If the appeal is sustained by the court in whole or in part, the appellant will have costs against the appellee. If the appeal is not so sustained, the appellee will have costs against the appellant. If any owner to whom a license has been issued, or the owner's heirs or assigns, fail to remove all stakes and brush within a period of one year after the termination of the license, as provided in section 1023, any person can remove the same without charge against the owner or the owner's heirs or assigns.

PART B

Sec. B-1. 29-A MRSA §2603, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

PART C

Sec. C-1. 5 MRSA §4651, sub-§2, ¶A, as enacted by PL 1995, c. 650, §1, is amended to read:

A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to personal property and that do in fact cause fear, intimidation or damage to personal property; or

Sec. C-2. 5 MRSA §4651, sub-§2, ¶B, as enacted by PL 1995, c. 650, §1, is repealed.

Sec. C-3. 5 MRSA §4653, sub-§1, as corrected by RR 2003, c. 2, §7, is amended to read:

1. Filing. A person who has been a victim of harassment, including a business, may seek relief by filing ~~a sworn complaint~~ in an appropriate court ~~alleging that harassment~~:

A. A sworn complaint alleging harassment; and

B. If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or a statement of good cause why such a notice was not sought or obtained.

Sec. C-4. 5 MRSA §4654, sub-§2, ¶A, as amended by PL 2003, c. 658, §5, is further amended to read:

A. It appears clearly from a verified complaint or an affidavit accompanying the complaint that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct, or the plaintiff's business property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

~~(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and~~

(2-A) If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, the plaintiff has obtained a copy of a notification issued against the other person as described in Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or the plaintiff has filed a statement of good cause why such relief was not sought or why such a notice was not issued; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment; and

Sec. C-5. 5 MRSA §4654, sub-§2, ¶B, as amended by PL 1989, c. 164, is repealed.

Sec. C-6. 5 MRSA §4654, sub-§6, as enacted by PL 1987, c. 515, §1, is amended to read:

6. Dissolution or modification. Notwithstanding any statutory provision to the contrary, on 2 days' notice to the plaintiff or on such shorter notice as the court may order, a person who is subject to any order may appear and move the dissolution or modification of the order and in that event the court shall proceed to hear and determine the motion ~~expeditiously~~. The hearing on the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At that hearing, the plaintiff ~~shall have~~ has the burden of justifying any finding in the ex parte order ~~which~~ that the defendant has challenged by affidavit. Nothing in this section may be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor