

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

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H.P. 1605

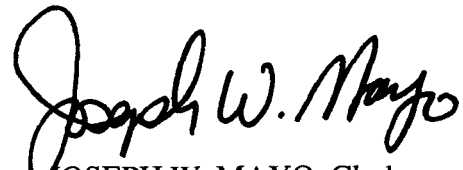
House of Representatives, June 4, 1999

**An Act to Make Additional Corrections of Errors and Inconsistencies in
the Laws of Maine.**

(EMERGENCY)

Reported by Representative THOMPSON for the Revisor of Statutes pursuant to the Maine Revised Statutes, Title 1, section 94.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

4
6 **Whereas,** Acts of this and previous Legislatures have
resulted in certain technical errors and inconsistencies in the
laws of Maine; and

8
10 **Whereas,** these errors and inconsistencies create
uncertainties and confusion in interpreting legislative intent;
and

12
14 **Whereas,** it is vitally necessary that these uncertainties
and this confusion be resolved in order to prevent any injustice
or hardship to the citizens of Maine; and

16
18 **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,

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

24 **Sec. 1. 4 MRSA §157, sub-§1, ¶A,** as amended by PL 1997, c. 10,
26 §1, is further amended to read:

28 A. The Governor, subject to review by the joint standing
committee of the Legislature having jurisdiction over
30 judiciary matters and to confirmation by the Legislature,
shall appoint to the District Court ~~27~~ 31 judges. At least
32 one judge must be appointed from each district who is a
resident of a county in which the district lies, except that
34 in District 3 there must be 2 judges appointed who are
residents of a county in which the district lies; in
36 District 6 there must be 2 judges appointed who are
residents of a county in which the district lies; and in
38 District 9 there must be 2 judges appointed who are
residents of a county in which the district lies. Each
40 District Court Judge has a term of office of 7 years.

42 To be eligible for appointment as a District Judge, a person
must be a member of the bar of the State. The term
44 "District Judge" includes the Chief Judge and Deputy Chief
Judge.

46 **Sec. 2. 10 MRSA §1320, sub-§2-B,** as repealed by PL 1999, c.
48 150, §9 and amended by c. 184, §11, is repealed.

2 **Sec. 3. 15 MRSA §101-B, sub-§1**, as amended by PL 1999, c. 373,
§1, is further amended to read:

4 **1. Court order; permissive.** The District Court or the
Superior Court having jurisdiction in any criminal case for cause
6 shown may order the defendant examined to determine the
defendant's mental condition with reference to the issues of
8 competency, criminal responsibility, abnormal condition of mind
and any other issue involving the mental or emotional condition
10 of the defendant. The examination may be conducted by the State
Forensic Service or by a psychiatrist or licensed clinical
12 psychologist independent of the State Forensic Service. If
additional examinations are ordered, the court shall ensure that
14 at least one examination is conducted by the State Forensic
Service. The court in selecting an independent practitioner and
16 the site of any examination shall consider proximity to the
court, availability of an examiner or examiners and the necessity
18 for security precautions. A person may not be presented for
examination under this subsection without arrangements for that
20 examination with the State Forensic Service or the independent
practitioner being first made by the court, clerk of courts or
22 sheriff. If the defendant is incarcerated, the examination is to
be completed within 45 days from the date of ~~arrest~~ the order.
24 The State Forensic Service shall notify the court upon the
completion of the examination. The opinion of the examiner or
26 examiners relative to the competence, criminal responsibility,
abnormal condition of mind or any other mental or emotional
28 condition of the respondent must be reported without delay to the
court following examination, together with copies to counsel for
30 the respondent and counsel for the State.

32 **Sec. 4. 17-A MRSA §210-A, sub-§3**, as enacted by PL 1995, c.
668, §3, is amended to read:

34 **3.** Stalking is a Class D crime for which the court shall
36 impose a sentencing alternative involving a term of imprisonment
of at least 60 days, of which 48 hours may not be suspended, and
38 may order the actor to attend an abuser education program
approved by the court, except that stalking is a Class C crime
40 when the actor has 2 or more prior convictions for violations of
this section, 2 or more convictions under Title 5, section 4659;
42 Title 15, section 321; or Title 19, section 769; or Title 19-A,
section 4011 or 2 or more prior convictions for violations of any
44 other temporary, emergency, interim or final protective order, an
order of a tribal court of the Passamaquoddy Tribe or the
46 Penobscot Nation, any similar order issued by any court of the
United States or of any other state, territory, commonwealth or
48 tribe or a court-approved consent agreement. The court shall
impose a sentencing alternative involving a term of imprisonment,

2 in the case of a Class C crime, of at least 6 months, of which 14
3 days may not be suspended, and may order the actor to attend an
4 abuser education program approved by the court. For purposes of
5 this subsection, the dates of both of the prior convictions must
6 precede the commission of the offense being enhanced by no more
7 than 10 years, although both prior convictions may have occurred
8 on the same day. Stalking is not a Class C crime if the
9 commission of the 2 prior offenses occurred within a 3-day
10 period. The date of the conviction is determined to be the date
11 that the sentence is imposed, even though an appeal was taken.
12 The date of a commission of a prior offense is presumed to be
13 that stated in the complaint, information, indictment or other
14 formal charging instrument, notwithstanding the use of the words
"on or about" or the equivalent.

16 **Sec. 5. 34-A MRSA §3809-A, sub-§1**, as enacted by PL 1997, c.
17 752, §38, is amended to read:

18
19 **1. Juvenile client.** The commissioner has all the power
20 over a juvenile client that a guardian has over a ward and that a
21 parent has over a child with regard to person, allowable property
22 that the juvenile client has at the Maine Youth Center, earnings
23 that the juvenile client receives during the juvenile client's
24 stay at the Maine Youth Center and the rehabilitation of every
25 juvenile client. If a juvenile client is or becomes 18 years of
26 age while still under commitment, the statutory guardianship of
27 the commissioner over the juvenile client terminates, but the
28 juvenile client remains subject to the control of the
29 commissioner, staff and rules of the center until the expiration
30 of the period of commitment or until discharge from the center.

32 **Sec. 6. PL 1999, c. 260, Pt. B, §18** is amended to read:

34 **Sec. B-18. Effective date.** This Act Part takes effect September
35 1, 2000.

36 **Sec. 7. P&SL 1999, c. 25, §1** is amended by amending the 10th
37 line to read:

40 Property Tax Assessment - Operations 533,947 553,947

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

46 **SUMMARY**

48 This bill corrects the number of District Court judges
49 consistent with additional funding already approved.

50

2 This bill repeals the Maine Revised Statutes, Title 10,
3 section 1320, subsection 2-B. Public Law 1999, chapter 184 was
4 L.D. 1434, "An Act to Make Minor Corrections to the Laws
5 Governing Financial Regulation and Debt Collection," which was
6 unanimously supported by the Joint Standing Committee on Banking
7 and Insurance. Legislative Document 1434 was submitted by the
8 Office of Consumer Credit Regulation and made several
9 corrections. It amended Title 10, section 1320, subsection 2-B
10 to correct the headnote and to insert the actual date for the
11 reference to the "effective date of this subsection." The
12 headnote read, "Consumer request for consumer report"; L.D. 1434
13 changed the headnote to read "User request for consumer report."
14 Public Law 1999, chapter 150, was L.D. 1608, "An Act to Conform
15 Maine's Consumer Credit Laws to Federal Law and Make Other
16 Changes," which was proposed by banks and supported by the Office
17 of Consumer Credit Regulation, and unanimously supported by the
18 Joint Standing Committee on Banking and Insurance. It repealed
19 subsection 2-B because it required a notice to a consumer that is
20 not required under federal law. Chapters 150 and 184 create a
21 conflict. The bill corrects the conflict by repealing subsection
22 2-B with reference to both chapters.

23 This bill amends the Maine Criminal Code in relation to the
24 crime of stalking to include an updated cross-reference to the
25 offense of violating a protection from abuse order.

26 This bill clarifies the Commissioner of Corrections' duties
27 with regard to juvenile clients. The bill restores language that
28 was inadvertently omitted when the provision was restructured.

29 This bill amends an effective date section in Public Law
30 1999, chapter 260. Legislative Document 1400, "An Act to Amend
31 Juvenile Corrections Laws and to Establish a Juvenile Records
32 Repository," was unanimously supported by the Joint Standing
33 Committee on Criminal Justice. The bill was proposed by the
34 Department of Corrections and the Department of Public Safety.
35 The bill contained 2 parts. Part A amended the Maine Juvenile
36 Code, and Part B established the State Bureau of Identification
37 of the Department of Public Safety as the central repository for
38 juvenile crime information. The last section of Part B is an
39 effective date section, stating that the Act is effective
40 September 1, 2000; however, only Part B was supposed to have a
41 delayed effective date and the changes to the Maine Juvenile Code
42 were supposed to take effect 90 days after adjournment. This
43 bill corrects the effective date section to state that Part B is
44 effective September 1, 2000.

45 This bill corrects a clerical mistake in Private and Special
46 Law, chapter 25, L.D. 1872, "An Act to Establish Municipal Cost
47 Components for Unorganized Territory Services to be Rendered in
48
49
50

2 Fiscal Year 1999-00." One figure, for Property Tax Assessment -
Operations, was printed incorrectly. This bill corrects that
figure.

4
6 This bill amends Public Law 1999, chapter 373. L.D. 1539,
"An Act to Require More Timely Court-ordered Psychological
Evaluations," was unanimously supported by the Joint Standing
8 Committee on Criminal Justice. The bill corrects misuse of the
word "arrest." A psychological evaluation must be completed
10 within 45 days from the date of the court order instead of the
date of the defendant's arrest.