

# MAINE STATE LEGISLATURE

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yes ✓  
July 7, 1965

William J. Shaw, Dep. Chief Warden

Inland Fisheries & Game

George C. West, Deputy

Attorney General

**Jurisdiction of District Courts in Fish and Game Cases**

Reference is made to your memo of June 28, 1965.

**FACTS:**

P. L. 1965, ch. 431, § 4, repealed and replaced 12 M.R.S.A. 3052.

**QUESTION:**

Does P.L. 1965, ch. 431, § 4, change the jurisdiction of the District Courts? If so, how?

**ANSWER:**

Yes. See opinion for change effected.

**OPINION:**

12 M.R.S.A. 3052, reads in part as it relates to jurisdiction:

"Any officer authorized to enforce the inland fish and game laws . . . and shall . . . cause him to be taken before the District Court in the division in which the offense is alleged to have been committed for a warrant and trial; or if the District Court in an adjoining division is the nearest court to the place of violation, concurrent jurisdiction is given to such District Court to hear and try such case."

This section clearly indicates that two different divisions of the District Court have concurrent jurisdiction to hear violations of inland fish and game laws. (1) The division of the court where the act was committed and (2) an adjoining division if it is the nearest court to the place of violation. Thus, an officer has a possible choice of two divisions in which to secure a warrant and have a hearing, until September 3, 1965.

The 102nd Legislature by P.L. 1965 ch. 431, § 4, repealed and replaced 12 M.R.S.A. 3052. It now reads:

"Any officer authorized to enforce the inland fish and game laws may arrest any violator of said laws . . . . Any person so arrested shall be taken without unnecessary delay before the division of the District Court nearest to the place of violation."

Clearly this legislation changes the jurisdiction of the District Court relating to enforcement of inland fish and game laws. After September 3, it is the division nearest the place of violation that has jurisdiction.

The general statute relating to venue is 4 M.R.S.A. section 155, subsection 1, which provides that "a juvenile proceeding or criminal prosecution, . . . shall be brought in the division in which the offense charged took place, . . . ." However, 12 M.R.S.A. 3052, as repealed and replaced, simply reaffirms section 155, subsection 1, by the use of different language.

We must realize that by 4 M.R.S.A. § 153, the State is divided into 31 judicial divisions. Hence, every place in the state is in a division of the District Court. Obviously, the "division of the District Court nearest to the place of violation" is the place where the violation occurred. One in an area is nearer to the area than a person just outside the area.

This provision and interpretation applies alike to District Courts, Municipal Courts and trial justices. See P.L. 1965, ch. 425, § 28.

As was stated in State v. Millett, 160 Me. 357 @ 360,

"We are ascertaining here not what the Legislature may have meant by what it said but rather are deciding what that which the Legislature said means."

This opinion advises you and the wardens of our interpretation of this law. It is not binding on the courts and does not have to be followed by them. If the courts do disagree with this opinion, you will be required to follow the decision of the court.

George C. West  
Deputy Attorney General