

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1587, L.D. 2236)  
(New Title)  
SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 2363

H.P. 1677

House of Representatives, April 10, 1986

Reported by Representative Paul from the Committee on Legal Affairs and printed under Joint Rule 2. Original bill sponsored by Representative Murphy of Kennebunk. Cosponsored by Senator Sewall of Lincoln, Representative Paul of Sanford and Representative Drinkwater of Belfast.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SIX

AN ACT to Authorize Certified Law Enforcement  
Officers to Prosecute Violations of  
Municipal Ordinances.

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

Sec. 1. 4 MRSA §807, first ¶, as amended by PL 1985, c. 124, §8, is further amended to read:

No person may practice law or hold himself out to practice law within the State or before its courts, or demand or receive any remuneration for those services rendered in this State, unless he has been admitted to the bar of this State and has complied with section 806-A, or unless he has been admitted to try cases in the courts of this State under section 802. Any person who practices law in violation of these requirements is guilty of the unauthorized practice of law, which is a Class E crime. This section shall

1 not be construed to apply to practice before any Fed-  
2 eral Court by any person admitted to practice there-  
3 in; nor to a person pleading or managing his own  
4 cause in court; nor to the officer or employee of a  
5 corporation, partnership, sole proprietorship or gov-  
6 ernmental entity, who is not an attorney, but is ap-  
7 pearing for that organization in an action cognizable  
8 as a small claim under Title 14, chapter 738; nor to  
9 a person who is not an attorney, but is representing  
10 a municipality under ~~Title 12, section 4312-C, sub-~~  
11 ~~section 2~~; Title 30, section 2361, subsection 3; sec-  
12 tion 3222, subsection 2; ~~or Title 30, section 4956,~~  
13 ~~subsection 1; or Title 38, section 441, subsection 2;~~  
14 nor to a person who is not an attorney, but is repre-  
15 senting the Department of Environmental Protection  
16 under Title 38, section 342, subsection 7. In all  
17 proceedings, the fact, as shown by the records of the  
18 Board of Overseers of the Bar, that that person is  
19 not recorded as a member of the bar shall be prima  
20 facie evidence that he is not a member of the bar li-  
21 censed to practice law in the State.

22 Sec. 2. 25 MRSA §2803, sub-§3-A is enacted to  
23 read:

24 3-A. Training and certification in court proce-  
25 dures. To establish certification standards and a  
26 program to certify law enforcement officers as being  
27 familiar with current court procedures. This program  
28 must include:

29 A. Sufficient instruction in the basic training  
30 course approved by the trustees under section  
31 2805 to satisfy certification standards upon suc-  
32 cessful completion of the course;

33 B. A method by which law enforcement officers  
34 whose basic training course did not contain the  
35 instruction required by paragraph A may satisfy  
36 the certification standards; and

37 C. A requirement that in-service training pro-  
38 grams required under section 2805 include in-  
39 struction on current court procedures;

40 Sec. 3. 30 MRSA §2361, sub-§3 is enacted to  
41 read:

1           3. Representation of the municipality in Dis-  
2 trict Court. The municipal officers may authorize a  
3 law enforcement officer certified by the Maine Crimi-  
4 nal Justice Academy under Title 25, section 2803,  
5 subsection 3-A, to represent the municipality in Dis-  
6 trict Court in the prosecution of alleged violations  
7 of ordinances which the officer may enforce. Under  
8 this subsection, the municipal officers may delegate  
9 their power to authorize law enforcement officers to  
10 represent the municipality to the municipality's  
11 full-time chief of police.

12                               STATEMENT OF FACT

13           The purpose of this new draft is to allow local  
14 law enforcement officers to prosecute alleged viola-  
15 tions of municipal ordinances in District Court. Cur-  
16 rently, municipal ordinances are not being enforced  
17 consistently because the district attorneys must  
18 prosecute the alleged violations and their time is  
19 often taken up with more serious offenses and crimes.

20           This new draft requires the trustees of the Maine  
21 Criminal Justice Academy to establish a certification  
22 program that includes standards that ensure that an  
23 officer is familiar with current court procedures. A  
24 law enforcement officer can satisfy the certification  
25 standards by one of the following methods:

26           1. Completing the basic training course at the  
27 Maine Criminal Justice Academy if the course contains  
28 the required instruction on court procedures; or

29           2. Completing an alternative method set up by  
30 the trustees for officers who completed the basic  
31 training course at a time when the course did not  
32 contain the appropriate instruction on court proce-  
33 dure.

34           Law enforcement officers will be kept  
35 knowledgeable about court procedures through the in-  
36 service training required of all full-time local law  
37 enforcement officers as a condition of employment.  
38 The trustees set the content of these in-service pro-  
39 grams and they will be responsible for ensuring that

1 updates on court procedures are included. As long as  
2 the officer completes the required in-service training,  
3 he will retain certification.

4 The municipal officers may authorize a certified  
5 law enforcement officer to represent the municipality  
6 in District Court to prosecute alleged violations of  
7 municipal ordinances. A law enforcement officer cannot  
8 represent the municipality without such authorization.  
9 The power to authorize includes the power to  
10 revoke that authority, so the municipal officers may  
11 stop a previously authorized law enforcement officer  
12 from representing the municipality in court. The municipal  
13 officers may delegate their authorization  
14 power to the municipality's full-time police chief.  
15 If the municipality's police chief is not full time,  
16 the municipal officers may not delegate that power.

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