

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1048

S.P. 351

In Senate, March 16, 2017

**An Act To Reclassify Certain Offenses and Increase the Efficiency
of the Criminal Justice System**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator VOLK of Cumberland.

Cosponsored by Senators: CARPENTER of Aroostook, DIAMOND of Cumberland, ROSEN of Hancock, Representatives: STEWART of Presque Isle, WHITE of Washburn.

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

2 **Sec. 1. 12 MRSA §10451**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
3 by Pt. D, §7 and c. 614, §9 and amended by c. 655, Pt. B, §55 and affected by §422, is
4 further amended to read:

5 **§10451. Fish and wildlife citation form**

6 **1. Form.** The commissioner shall designate the Uniform Summons and Complaint
7 as the citation form to be used by the warden service for criminal violations of this Title
8 and shall designate the Violation Summons and Complaint as the citation form to be used
9 by the warden service for civil violations of this Title.

10 **2. Responsibility for issuance and disposition.** ~~The commissioner is responsible~~
11 ~~for all fish and wildlife citation forms approved by the Chief Judge of the District Court~~
12 ~~prior to May 1, 1991.~~ The Department of Public Safety is responsible for all Uniform
13 Summons and ~~Complaints~~ Complaint forms issued to the warden service. The
14 commissioner or the commissioner's designee is responsible for the further issuance of
15 Uniform Summons and Complaint books to individual wardens and for the proper
16 disposition of those books.

17 **3. Lawful complaint.** If the ~~citation provided for in this section~~ or a Uniform
18 Summons and Complaint is duly sworn to as required by law and otherwise legally
19 sufficient in respect to the form of a complaint and charging an offense, it may be filed in
20 a court having jurisdiction and constitutes a lawful complaint for the purpose of the
21 commencement of any criminal prosecution ~~or civil violation proceeding.~~

22 **4. Lawful summons.** A ~~citation as provided for in this section~~ or a Uniform
23 Summons and Complaint, when served upon a person by a law enforcement officer, acts
24 as a summons to appear in court or to otherwise respond in accordance with law on or
25 before the date specified in the summons.

26 A. Any person who fails to appear in court as directed by the summons or to
27 otherwise respond in accordance with law on or before the date specified in the
28 summons commits a Class E crime.

29 B. Upon a person's failure to appear or respond in accordance with law, the court
30 may issue a warrant of arrest. It is an affirmative defense to prosecution under this
31 subsection that the failure to appear or respond resulted from just cause.

32 **5. Enforcement of civil violations.** Civil violations must be enforced as provided in
33 this subsection.

34 A. A warden who has probable cause to believe that a civil violation has been
35 committed by a person must issue or have delivered a written summons to that
36 person.

37 B. A law enforcement agency in this State shall use traffic summonses for civil
38 violations defined in this Title in the form known as the Violation Summons and
39 Complaint as described in Title 29-A, section 2601, subsection 3.

1 C. Any person to whom a law enforcement officer is authorized to issue or deliver a
2 summons pursuant to subsection 1 who intentionally fails or refuses to provide the
3 officer reasonably credible evidence of the person's correct name, address or date of
4 birth commits a Class E crime, if the person persists in that failure or refusal after
5 having been informed by the officer of the provisions of this subsection. If the
6 person furnishes the officer evidence of that person's correct name, address and date
7 of birth and the evidence does not appear to be reasonably credible, the officer shall
8 attempt to verify the evidence as quickly as is reasonably possible. During the period
9 that verification is being attempted, the officer may require the person to remain in
10 the officer's presence for a period not to exceed 2 hours. During this period, if the
11 officer reasonably believes that the officer's safety or the safety of others present
12 requires, the officer may search for any dangerous weapon by an external patting of
13 the person's outer clothing. If in the course of the search the officer feels an object
14 that the officer reasonably believes to be a dangerous weapon, the officer may take
15 such action as is necessary to examine the object, but may take permanent possession
16 of the object only if it is subject to forfeiture. The requirement that the person remain
17 in the presence of the officer does not constitute an arrest.

18 After informing the person of the provisions of this paragraph, the officer may arrest
19 the person either if the person intentionally refuses to furnish any evidence of that
20 person's correct name, address or date of birth or if, after attempting to verify the
21 evidence as provided for in this paragraph, the officer has probable cause to believe
22 that the person has intentionally failed to provide reasonably credible evidence of the
23 person's correct name, address or date of birth.

24 D. If, at any time subsequent to an arrest made pursuant to paragraph C, it appears
25 that the evidence of the person's correct name, address and date of birth was accurate,
26 the person must be released from custody and any record of that custody must show
27 that the person was released for that reason. If, upon trial for violating paragraph C, a
28 person is acquitted on the ground that the evidence of the person's correct name,
29 address and date of birth was accurate, the record of acquittal must show that that was
30 the ground.

31 E. A Violation Summons and Complaint, when issued or delivered to a person by a
32 law enforcement officer pursuant to paragraph B or served on the person in the
33 manner prescribed by rule of the Supreme Judicial Court, acts as an order to file
34 written answer to the complaint on or before the date specified in the summons.

35 F. A law enforcement officer issuing a Violation Summons and Complaint pursuant
36 to paragraph B charging the commission of a civil violation shall file the original of
37 the Violation Summons and Complaint with the violations bureau within 5 days of
38 the issuance of that Violation Summons and Complaint.

39 **Sec. 2. 12 MRSA §10452**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
40 by Pt. D, §7 and c. 614, §9 and amended by c. 655, Pt. B, §56 and affected by §422, is
41 further amended to read:

1 **§10452. Refusal to sign**

2 A person may not refuse to sign a ~~citation~~ Violations Summons and Complaint or
3 Uniform Summons and Complaint issued pursuant to section 10451 after having been
4 ordered to do so by a law enforcement officer. A person who violates this section
5 commits a Class E crime.

6 **Sec. 3. 12 MRSA §10453**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
7 by Pt. D, §7 and c. 614, §9 and amended by c. 655, Pt. B, §56 and affected by §422, is
8 further amended to read:

9 **§10453. Unlawful disposition of citations**

10 A warden or other public employee may not dispose of ~~an official citation form a~~
11 Violation Summons and Complaint or Uniform Summons and Complaint issued pursuant
12 to section 10451, except in accordance with law and as provided for in any applicable
13 official policy or procedure of the Bureau of Warden Service.

14 A person who violates this section commits a Class E crime.

15 **Sec. 4. 12 MRSA §10551**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
16 by Pt. D, §7 and c. 614, §9 and amended by c. 655, Pt. B, §61 and affected by §422, is
17 further amended to read:

18 **§10551. Prosecution by district attorney**

19 ~~Each~~ A district attorney shall prosecute all criminal violations of this Part occurring
20 within the district attorney's district when requested by the commissioner or a game
21 warden or other law enforcement officer authorized to enforce this Part.

22 **Sec. 5. 12 MRSA §10553**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
23 by Pt. D, §7 and c. 614, §9 and amended by c. 688, Pt. F, §2 and affected by §3, is further
24 amended to read:

25 **§10553. Jurisdiction**

26 The District Court has concurrent jurisdiction with the Superior Court in all criminal
27 prosecutions under this Part. The ~~District Court~~ violations bureau established pursuant to
28 Title 4, section 164, subsection 12 has jurisdiction in all civil prosecutions under this Part.
29 Any person arrested ~~or summoned~~ as a violator of this Part must with reasonable
30 diligence be taken before the District Court in the division nearest to where the offense is
31 alleged to have been committed for prosecution, and in such case jurisdiction is granted
32 to the District Court in adjoining divisions to be exercised in the same manner as if the
33 offense had been committed in that division. A warden issuing a Violation Summons and
34 Complaint issued pursuant to section 10451 charging the commission of a civil violation
35 shall file the original of the Violation Summons and Complaint with the violations bureau
36 within 5 days of the issuance of that Violation Summons and Complaint.

37 **Sec. 6. 17-A MRSA §17**, as amended by PL 2003, c. 657, §§3 and 4, is further
38 amended to read:

1 **§17. Enforcement of civil violations**

2 **1.** A law enforcement officer who has probable cause to believe that a civil
3 violation has been committed by a person must issue or have delivered a written
4 summons to that person ~~directing the person to appear in the District Court to answer the~~
5 ~~allegation that the person has committed the violation. The summons must include the~~
6 ~~signature of the officer, a brief description of the alleged violation, the time and place of~~
7 ~~the alleged violation and the time, place and date the person is to appear in court. The~~
8 ~~form used must be the Violation Summons and Complaint, as prescribed in Title 29-A,~~
9 ~~section 2601, for traffic infractions and the Uniform Summons and Complaint for other~~
10 ~~civil violations. A person to whom a summons is issued or delivered must give a written~~
11 ~~promise to appear. If the person refuses to sign the summons after having been ordered~~
12 ~~to do so by a law enforcement officer, the person commits a Class E crime. The law~~
13 ~~enforcement officer may not order a person to sign the summons for a civil violation~~
14 ~~unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title 28-~~
15 ~~A, section 2052; or Title 29-A.~~

16 ~~Every law enforcement officer issuing a Violation Summons and Complaint charging the~~
17 ~~commission of a traffic infraction shall file the original of the Violation Summons and~~
18 ~~Complaint with the violations bureau within 5 days of the issuance of that Violation~~
19 ~~Summons and Complaint. Every law enforcement officer issuing a Uniform Summons~~
20 ~~and Complaint that charges the commission of an offense shall file the original of the~~
21 ~~Uniform Summons and Complaint with the District Court having jurisdiction over the~~
22 ~~offense or in such other location as instructed by the Chief Judge of the District Court~~
23 ~~without undue delay and, in any event, within 5 days after the issuance of the Uniform~~
24 ~~Summons and Complaint.~~

25 **1-A.** A law enforcement agency in this State shall use traffic summonses for civil
26 violations defined in this Title in the form known as the Violation Summons and
27 Complaint as described in Title 29-A, section 2601, subsection 3. The law enforcement
28 officer may not order a person to sign the summons for a civil violation unless the civil
29 violation is an offense defined in Title 12; Title 17; this Title; Title 23, section 1980; Title
30 28-A, section 2052; or Title 29-A.

31 **2.** Any person to whom a law enforcement officer is authorized to issue or deliver a
32 summons pursuant to ~~subsection~~ subsections 1 and 1-A who intentionally fails or refuses
33 to provide the officer reasonably credible evidence of the person's correct name, address
34 or date of birth commits a Class E crime, if the person persists in that failure or refusal
35 after having been informed by the officer of the provisions of this subsection. If the
36 person furnishes the officer evidence of that person's correct name, address and date of
37 birth and the evidence does not appear to be reasonably credible, the officer shall attempt
38 to verify the evidence as quickly as is reasonably possible. During the period that
39 verification is being attempted, the officer may require the person to remain in the
40 officer's presence for a period not to exceed 2 hours. During this period, if the officer
41 reasonably believes that the officer's safety or the safety of others present requires, the
42 officer may search for any dangerous weapon by an external patting of the person's outer
43 clothing. If in the course of the search the officer feels an object that the officer
44 reasonably believes to be a dangerous weapon, the officer may take such action as is
45 necessary to examine the object, but may take permanent possession of the object only if

1 it is subject to forfeiture. The requirement that the person remain in the presence of the
2 officer does not constitute an arrest.

3 After informing the person of the provisions of this subsection, the officer may arrest the
4 person either if the person intentionally refuses to furnish any evidence of that person's
5 correct name, address or date of birth or if, after attempting to verify the evidence as
6 provided for in this subsection, the officer has probable cause to believe that the person
7 has intentionally failed to provide reasonably credible evidence of the person's correct
8 name, address or date of birth.

9 **3.** If, at any time subsequent to an arrest made pursuant to subsection 2, it appears
10 that the evidence of the person's correct name, address and date of birth was accurate, the
11 person must be released from custody and any record of that custody must show that the
12 person was released for that reason. If, upon trial for violating subsection 2, a person is
13 acquitted on the ground that the evidence of the person's correct name, address and date
14 of birth was accurate, the record of acquittal must show that that was the ground.

15 ~~4. Any person who fails to appear in court as directed by a summons served on that
16 person pursuant to subsection 1 or to otherwise respond in accordance with law on or
17 before the date specified in the summons commits a Class E crime. Upon that person's
18 failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative
19 defense to prosecution under this subsection that the failure to appear or respond resulted
20 from just cause.~~

21 5. A Violation Summons and Complaint, when issued or delivered to a person by a
22 law enforcement officer pursuant to subsection 1-A or served on the person in the manner
23 prescribed by rule of the Supreme Judicial Court, acts as an order to file written answer to
24 the complaint on or before the date specified in the summons.

25 6. It is unlawful and official misconduct for a law enforcement officer or other
26 officer or public employee to dispose of a Violation Summons and Complaint issued
27 pursuant to subsection 1-A or of the record of the issuance of a Violation Summons and
28 Complaint in a manner other than as required under this section or pursuant to rules
29 adopted by the Supreme Judicial Court. A person who solicits or aids in the disposition
30 or attempted disposition of a Violation Summons and Complaint or any portion in any
31 unauthorized manner commits a Class E crime.

32 7. A law enforcement officer issuing a Violation Summons and Complaint pursuant
33 to subsection 1-A charging the commission of a civil violation shall file the original of
34 the Violation Summons and Complaint with the violations bureau within 5 days of the
35 issuance of that Violation Summons and Complaint.

36 **Sec. 7. 29-A MRSA §2601, sub-§1,** as amended by PL 2013, c. 482, §6, is
37 further amended to read:

38 **1. Form of Uniform Summons and Complaint.** Every law enforcement agency in
39 this State shall use traffic summonses for ~~civil violations defined in this Title and~~ criminal
40 traffic offenses defined in Title 23, section 1980 or this Title in the form known as the
41 Uniform Summons and Complaint, which must be uniform throughout the State and must

1 be issued in books with summonses in no less than quadruplicate and meeting the
2 requirements of this chapter. The Uniform Summons and Complaint must include, at a
3 minimum, the signature of the officer, a brief description of the alleged offense, the time
4 and place of the alleged offense and the time, place and date the person is to appear in
5 court. The Uniform Summons and Complaint must also include a statement that signing
6 the summons does not constitute an admission or plea of guilty and that refusal to sign
7 after having been ordered to do so by a law enforcement officer is a separate Class E
8 crime. A person to whom a Uniform Summons and Complaint is issued or delivered
9 must give a written promise to appear. The form of the Uniform Summons and
10 Complaint must be approved by the Chief Judge of the District Court prior to its use.

11 **Sec. 8. 29-A MRSA §2601, sub-§3**, as enacted by PL 1993, c. 683, Pt. A, §2 and
12 affected by Pt. B, §5, is amended to read:

13 **3. Form of Violation Summons and Complaint.** Every law enforcement agency in
14 this State shall use traffic summonses for civil violations defined in this Title and traffic
15 infractions in the form known as the Violation Summons and Complaint, which must be
16 uniform throughout the State and must be issued in books with summonses in no less than
17 quadruplicate and meeting the requirements of this chapter. The form must include, at a
18 minimum, the signature of the officer, a brief description of the alleged offense, the time
19 and place of the alleged offense and the date on or before which the person is to file a
20 written answer with the violations bureau. The Violation Summons and Complaint must
21 also include a statement that signing the summons does not constitute an admission or
22 plea of guilty and that refusal to sign after having been ordered to do so by a law
23 enforcement officer is a separate Class E crime. The form of the Violation Summons and
24 Complaint must be approved by the Chief Judge of the District Court prior to its use.

25 **Sec. 9. 29-A MRSA §2601, sub-§8**, as amended by PL 2013, c. 482, §7, is
26 further amended to read:

27 **8. When a lawful complaint.** If the Uniform Summons and Complaint is duly
28 sworn to as required by law and otherwise legally sufficient in respect to the form of a
29 complaint and to charging commission of the offense alleged in the summons to have
30 been committed, then the summons when filed with a court having jurisdiction constitutes
31 a lawful complaint for the purpose of the commencement of any prosecution of ~~a civil~~
32 ~~violation under this Title~~ or a misdemeanor or Class D or Class E crime under Title 23,
33 section 1980 or this Title. When filed with the violations bureau, the Violation Summons
34 and Complaint is considered a lawful complaint for the purpose of the commencement of
35 a civil violation or traffic infraction proceeding.

36 **Sec. 10. 29-A MRSA §2601, sub-§9**, as enacted by PL 1993, c. 683, Pt. A, §2
37 and affected by Pt. B, §5, is amended to read:

38 **9. Responsibility of law enforcement officer to file summonses and complaints**
39 **with District Court.** A law enforcement officer issuing a Violation Summons and
40 Complaint charging the commission of a civil violation or traffic infraction shall file the
41 original of the Violation Summons and Complaint with the violations bureau within 5
42 days of the issuance of the Violation Summons and Complaint. A law enforcement
43 officer issuing a Uniform Summons and Complaint that charges the commission of an

1 offense shall file the original of the Uniform Summons and Complaint with the District
2 Court having jurisdiction over the offense or in such other location as instructed by the
3 Chief Judge of the District Court without undue delay and, in any event, within 5 days
4 after the issuance of the Uniform Summons and Complaint.

5 **Sec. 11. 29-A MRSA §2601, sub-§10**, as amended by PL 1997, c. 653, §12, is
6 further amended to read:

7 **10. Refusal to sign.** A person who refuses to sign a Uniform Summons and
8 Complaint or a Violation Summons and Complaint after having been ordered to do so by
9 a law enforcement officer commits a Class E crime. A law enforcement officer may not
10 order a person to sign the ~~Uniform~~ Violation Summons and Complaint for a civil
11 violation unless the civil violation is an offense defined in Title 12; Title 28-A, section
12 2052; or this Title. Notwithstanding any other provision of law, the venue for a violation
13 of this subsection is the same judicial division as for the Uniform Summons and
14 Complaint or Violation Summons and Complaint that the person refuses to sign.

15 SUMMARY

16 This bill requires the use of the Uniform Summons and Complaint form for criminal
17 violations of the Maine Revised Statutes, Titles 12, 17-A and 29-A and the Violation
18 Summons and Complaint for civil violations of those titles. This bill requires the
19 Violation Summons and Complaint form to be the same form as that currently used for
20 traffic infractions and standardizes the use, including the issuance and disposition, of that
21 form by law enforcement officers and the Maine Warden Service.

22 This bill specifies that district attorneys are required to prosecute only criminal
23 violations of the inland fisheries and wildlife laws and removes references to citations,
24 which are no longer used by the warden service.