

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

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PUBLIC LAWS
OF THE
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1977

Sec. 2. 23 MRSA § 3411, as last repealed and replaced by PL 1971, c. 593, § 13, is amended by adding at the end of paragraph 2 a new paragraph to read:

Notwithstanding the preceding paragraph, the cost of reconstruction of railroad grade separation structures carrying the highway over the railroad, including the alterations to the approaches to said structure, on nonfederal aid state aid highways shall be apportioned as follows: 70% to the Department of Transportation, 10% to the railroad corporation and 20% to the municipality or the county having jurisdiction of the roads in any unorganized township in which said structure is located, provided that the Department of Transportation may vary the aforesaid percentages of cost as it may deem proper after due consideration of the relative benefits to be derived from such reconstruction.

Sec. 3. Effective Date. This Act shall become effective July 1, 1978.

Effective July 1, 1978

CHAPTER 113

AN ACT Pertaining to Funding the Central Licensing Division of the Department of Business Regulation.

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

10 MRSA § 8003, sub-§ 6, 1st sentence, as enacted by PL 1975, c. 767, § 9, is amended to read:

The commissioner is authorized to assess each bureau, board or commission, whose licenses are to be processed and issued by the licensing division, an amount sufficient to cover the cost of operating the division ~~provided such assessment does not exceed \$2 per license.~~

Effective October 24, 1977

CHAPTER 114

AN ACT to Revise the Laws Relating to State Financing of the Expenses of the Superior and Supreme Judicial Courts.

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

Sec. 1. 4 MRSA § 55 is repealed and the following enacted in its place:

§ 55. Preservation of briefs

The clerk of the Supreme Judicial Court shall preserve 3 complete sets of briefs filed in all cases in the Supreme Judicial Court sitting as the law court. Under the direction of the Chief Justice these briefs shall be arranged in order and bound as designated by the Chief Justice. One set each shall thereupon be delivered to the law libraries respectively of Cumberland and Penobscot Counties and to the State Law Library for preservation and reference. All expenses incurred in preparation and delivery of these briefs shall be paid by the State from the appropriation for expenses of the Supreme Judicial Court.

Sec. 2. 4 MRSA § 112 is repealed and the following enacted in its place:

§ 112. Sheriff or deputy to attend court

The sheriff of each of the counties shall attend the Superior Court thereof or the Supreme Judicial Court when either court is in session in that county or he shall specially designate a deputy, approved by the court, so to attend. When court is adjourned, actions brought shall be entered by the clerk and they, with all actions on the docket, shall be continued to the next court day.

Sec. 3. 4 MRSA § 173, sub-§ 3, 2nd ¶ is repealed and the following enacted in its place:

The court shall file a monthly report with the State Auditor itemizing the amount of fines imposed and to whom each is payable.

Sec. 4. 4 MRSA § 173, sub-§ 3, 3rd ¶ is repealed.

Sec. 5. 4 MRSA § 173, sub-§ 4, 1st ¶ is repealed.

Sec. 6. 4 MRSA § 173, sub-§ 4, 4th ¶, as amended by PL 1967, c. 244, is repealed.

Sec. 7. 4 MRSA § 173, sub-§ 4, 5th ¶, as last amended by PL 1975, c. 777, § 2, is repealed.

Sec. 8. 4 MRSA § 173, sub-§ 4, 6th ¶ is repealed.

Sec. 9. 4 MRSA § 173, sub-§ 5, as last amended by PL 1975, c. 623, § 3-E, is repealed and the following enacted in its place:

5. Disbursement to appointed counsel. In any proceeding where the court has appointed counsel, that appointed counsel shall be reimbursed by the court for reasonable disbursements made in behalf of the client, including but not limited to witness fees, sheriff's fees and travel, upon approval of these disbursements by the court.

Sec. 10. 4 MRSA § 501, 1st sentence, as last amended by PL 1975, c. 408, § 20, is further amended to read:

In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding 3, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services ~~upon a per diem~~ basis as determined by the Chief Justice or

his designee, shall be paid by the State on presentation of the proper certificate of the clerk of courts for the county in which such case is pending, or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court shall direct.

Sec. 11. 4 MRSA § 501, 3rd sentence is amended to read:

~~They~~ These referees, masters and auditors shall notify the parties of the time and place of hearing and shall have power to adjourn; ~~witnesses~~. Witnesses may be summoned and compelled to attend and may be sworn by the referees, masters or auditors.

Sec. 12. 4 MRSA § 501, as last amended by PL 1975, c. 408, § 20, is further amended by adding a new paragraph to read as follows:

No per diem fee, other than necessary expenses, shall be paid any Official Court Reporter for his services in these cases.

Sec. 13. 4 MRSA § 564, as last amended by PL 1975, c. 731, § 14, is repealed and the following enacted in its place:

§ 564. Record of criminal or traffic infraction cases; certain convictions or adjudications not criminal records

In indictments, clerks shall make records of the process, proceedings, judgment and sentence as the Supreme Judicial Court may prescribe by rule. In criminal prosecutions or civil violation proceedings brought up by appeal from inferior courts, clerks shall make records of the process, proceedings, judgment and sentence as the Supreme Judicial Court may prescribe by rule.

Convictions for violation of the fish and wildlife laws or motor vehicle traffic laws or municipal ordinances where the fine imposed does not exceed \$100 or adjudications for violations constituting traffic infractions shall not be deemed to constitute a criminal record against any person so convicted or adjudicated. This section shall not exempt any court from filing court abstracts as now required by law.

Sec. 14. 4 MRSA § 1052 is repealed.

Sec. 15. 14 MRSA § 1206, 2nd ¶ is amended to read:

"You, and each of you, swear that in all causes ~~between party and party~~ committed to you, you will give a true verdict therein according to the law and the evidence given you. So help you God."

Sec. 16. 14 MRSA § 1206, 3rd ¶ is amended to read:

When a juror is conscientiously scrupulous of taking an oath, the word "affirm" shall be used instead of "swear" and the words "this you do under the ~~pains and~~ penalties of perjury" instead of the words "so help you God."

Sec. 17. 14 MRSA § 1252, as last amended by PL 1975, c. 735, § 14, is repealed and the following enacted in its place:

§ 1252. Salaries

The jury commissioners for the several counties shall each receive for their services the following sums per year: Androscoggin, \$175; Aroostook, \$175; Cumberland, \$315; Franklin, \$125; Hancock, \$150; Kennebec, \$175; Knox, \$150; Lincoln, \$161; Oxford, \$150; Penobscot, \$125; Piscataquis, \$125; Sagadahoc, \$125; Somerset, \$161; Waldo, \$125; Washington, \$150 and York, \$300.

Salaries shall be paid by the State quarterly on a date to be determined by the State Controller.

Sec. 18. 14 MRSA § 1255, 1st sentence, as repealed and replaced by PL 1967, c. 336, is amended to read:

The jury commissioners of the several counties shall place in a master jury wheel the names of those persons selected in section 1254 and, upon receipt of written or verbal notice from the clerk or deputy clerk of their respective counties, designating the number of jurors required and the date on which they are to report for duty, said commissioners shall publicly draw from the master jury wheel the names of as many persons as may be required for jury service ~~at the prospective term~~, prepare an alphabetical list of the names drawn and submit the same to the clerk or deputy clerk of courts of their respective counties.

Sec. 19. 14 MRSA § 1255, 3rd sentence, as last repealed and replaced by PL 1967, c. 498, is amended to read:

Summonses for those so selected shall be prepared by said commissioners and may be mailed by ~~registered~~ first class mail, postage prepaid, to each person selected, at his regular place of abode.

Sec. 20. 14 MRSA § 1255, 4th sentence, as last repealed and replaced by PL 1967, c. 336, is repealed.

Sec. 21. 14 MRSA § 1255, 5th sentence, as last repealed and replaced by PL 1967, c. 366, is amended to read:

Additional jurors may be drawn and summoned at any time ~~during a term of court~~ by direction of the presiding justice, and they may be summoned to attend in a manner and at such time as the court may direct.

Sec. 22. 14 MRSA § 1255, 2nd ¶, 1st sentence, as repealed and replaced by PL 1967, c. 336, is amended to read:

Grand jurors shall be selected in like manner prior to the first ~~term~~ session of the Superior Court to be held for the transaction of criminal business on or after the first day of September annually, and grand jurors shall serve ~~at each criminal term~~ during the subsequent 12 months.

Sec. 23. 14 MRSA § 1255, last ¶, as last repealed and replaced by PL 1975, c. 735, § 15, is repealed.

Sec. 24. 15 MRSA § 104, 2nd ¶ from the end, as last repealed and replaced by PL 1973, c. 243, is amended to read:

Notice of any hearing under this section shall be given to the ~~county~~ district attorney and Attorney General at least 7 days before the hearing date.

Sec. 25. 15 MRSA § 104, last ¶, 3rd sentence, as last amended by PL 1973, c. 567, § 20, is repealed and the following enacted in its place:

Fees for court-appointed counsel for services rendered in connection with any hearing held under this section, or appeal from a decision therein, and the fees of any expert witnesses called by the district attorney, Attorney General or on behalf of the person whose release or discharge is in issue, if indigent, shall be paid by the State.

Sec. 26. 15 MRSA § 454, as amended by PL 1971, c. 264, is repealed and the following enacted in its place:

§ 454. First or 2nd degree homicide; filing copies of proceedings; expenses

Whenever any person is convicted of first or 2nd degree homicide, a copy of the Maine Rules of Criminal Procedure, Rule 11, if applicable, trial testimony and charge of the presiding justice, certified by the Official Court Reporter, shall be filed with the clerk of the court where that trial is held, and the expense thereof shall be paid by the State. A copy of the Maine Rules of Criminal Procedure, Rule 11, if applicable, trial testimony and charge of the presiding justice, certified by the Official Court Reporter, shall be furnished by the clerk of court to the Secretary of State at no charge for use in any pardon hearing before the Governor, when the individual is indigent.

Sec. 27. 15 MRSA § 1254 is repealed and the following enacted in its place:

§ 1254. Juror's oath or affirmation in cases punishable by imprisonment

The following oath shall be administered to jurors in criminal cases: "You swear, that in all causes committed to you, you will give a true verdict therein, according to the evidence given you. So help you God." Any juror, conscientiously scrupulous of taking an oath, may affirm in the mode described in section 1253.

Sec. 28. 15 MRSA § 1707 is repealed and the following enacted in its place:

§ 1707. Record to warden

Whenever a person shall be convicted of a crime and sentenced to imprisonment, the clerk of the court shall make and forward to the warden of the prison a record containing a copy of the information or complaint, the sentence pronounced by the court, the name of the justice presiding at the trial, prosecuting attorney and sheriff, together with a statement of any fact or facts which the presiding justice may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. Such record shall be delivered to the warden within 10 days of the date the prisoner is received into the prison. Prisoners shall not be received until a copy of the warrant of commitment is given to the receiving officer at the State Prison.

Sec. 29. 15 MRSA § 1941, as last repealed and replaced by PL 1975, c. 735, § 16, is repealed and the following enacted in its place:

§ 1941. Duties of clerks as to certificates of fines

Clerks of court shall attest triplicate copies of certificates of all fees, fines and bail forfeitures imposed and accruing to the State at such intervals as the Chief Justice of the Supreme Judicial Court or his designee may direct, and deliver one of these copies to the State Auditor, to the Chief Justice or his designee and retain one in the clerk's office.

Sec. 30. 15 MRSA § 1981, 1st ¶, as last repealed and replaced by PL 1975, c. 735, § 17, is amended to read:

Sheriffs, jailers and constables who by virtue of their office receive any fines or forfeitures ~~or bills of costs~~, shall forthwith pay them to the Treasurer of State.

Sec. 31. 15 MRSA § 1981, 2nd ¶, 1st sentence, as last repealed and replaced by PL 1975, c. 735, § 17, is amended to read:

If any such officer neglects to pay over such fine or forfeiture ~~or costs~~ for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine or forfeiture ~~or bill of costs~~ and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after the escape pay the amount thereof to the ~~Treasurer of State~~ clerk of the court, he forfeits to the State double the amount.

Sec. 32. 30 MRSA § 2, 19th ¶, last sentence, as repealed and replaced by PL 1975, c. 735, § 22, is repealed and the following enacted in its place:

Without limiting the generality of the foregoing, they shall allow to sheriffs the costs of boarding, guarding and transporting prisoners, whether awaiting trial, during trial or after conviction, or juveniles, whether awaiting hearing, during hearing or after adjudication that a juvenile offense has been committed, and whether acting within or outside the county.

Sec. 33. 30 MRSA § 951, 2nd and 3rd sentences are amended to read:

Their appointment and discharge shall be in writing, signed by him, and recorded in the office of the ~~clerk of courts~~ county commissioners in his county and are not valid until so lodged and recorded, except by operation of law or by vacancy in the office of sheriff. He shall furnish to the ~~clerk of courts~~ county commissioners in each county the names of the deputies by him appointed from time to time, with the residence and postoffice address of each.

Sec. 34. 34 MRSA § 138, as last amended by P & SL 1973, c. 53, is repealed.

Effective October 24, 1977

CHAPTER 115

AN ACT to Extend the School Budget Adoption Date until June 15th.