

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

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND EIGHTH LEGISLATURE

1977

CHAPTER 383

AN ACT to Clarify the Criminal History Record Disclosure Law.

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

Whereas, the Central Police Recruitment and Testing Service was established in 1974 under the auspices of the Maine Municipal Association and in cooperation with the Maine Criminal Justice Planning and Assistance Agency, the Maine Criminal Justice Academy and the Maine Chief of Police Association; and

Whereas, the purpose of this service is to provide a systematic recruitment and testing program available to all municipal and county police departments at reasonable cost and capable of identifying qualified law enforcement candidates in a rapid and efficient manner; and

Whereas, it has been recently noted that the enactment of Public Law 1975, chapter 763 in the 1st Special Session of the 107th Legislature, inadvertently limited access by the service to background information on potential candidates, and this limitation is resulting in costly delays that could be avoided if the law were amended; and

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,

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

16 MRSA § 604, sub-§ 1, ¶ D, 1st sentence, as enacted by PL 1975, c. 763, § 3, is amended to read:

Persons and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement or to conduct investigations determining the employment suitability of prospective law enforcement officers.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 27, 1977

CHAPTER 384

AN ACT to Amend the Laws Relating to Criminal History Record Information.

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

Sec. 1. 16 MRSA § 602, sub-§ 2, ¶ B, as enacted by PL 1975, c. 763, § 3, is repealed and the following enacted in its place:

B. Original records of entry, such as police blotters, that are maintained by criminal justice agencies and that are compiled and organized chronologically;

Sec. 2. 16 MRSA § 606, sub-§ 2, 3rd ¶, as enacted by PL 1975, c. 763, § 3, is repealed and the following enacted in its place:

Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of such request, the agency shall notify the requesting person in writing either that the agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction, the reasons therefor, the procedure established by the agency for requesting persons to request a review of that refusal by the head of the agency and the name and business address of that official.

Sec. 3. 16 MRSA § 606, sub-§ 2-A is enacted to read:

2-A. Administrative appeal. If the requesting person chooses to request a review of the agency's refusal to make the requested amendment or correction, then not later than 30 days, excluding Saturdays, Sundays and legal public holidays, from the date on which the individual requests such review, the head of the agency shall complete such review and either make the requested amendment or correction or refuse to do so. If the head of the agency refuses to make the requested amendment or correction, he shall permit the requesting person to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection 2-B.

Dissemination of the disputed criminal history record information by that agency with which the requesting person has filed a statement of disagreement, occurring after the filing of such statement, shall clearly reflect notice of such dispute and a copy of the statement shall be included, along with, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendment or correction requested.

Sec. 4. 16 MRSA § 606, sub-§ 2-B is enacted to read:

2-B. Judicial review. If an administrative appeal brought pursuant to subsection 2-A is denied by the head of the agency, or the requesting person believes the decision of the head of the agency to be otherwise unsatisfactory, the person may, within 30 days of the decision rendered by the head of the agency, seek relief in the Superior Court.

Sec. 5. 17-A MRSA § 1157 is enacted to read:

§ 1157. Criminal history reports

When a person is convicted of a criminal homicide in the first or 2nd degree or of a Class A, B or C crime, the clerk of the court shall obtain and shall

furnish to the court, prior to the imposition of sentence on that person, a criminal history report on that person from the State Bureau of Investigation setting forth all available information of prior criminal prosecutions, if any, of that person and the disposition of each prosecution. This report, as furnished to the court, shall not contain any information of prior criminal prosecutions, if any, of that person in which that person was found not guilty by the court or jury. Each report furnished to the court pursuant to this section shall be certified as authentic by the Director of the State Bureau of Investigation or his designee and any report so certified shall be prima facie evidence that the contents of the report represent the criminal history of the defendant.

Prior to the imposition of sentence, any report furnished to a court under this section shall be made available to the defendant and his counsel for inspection.

Effective October 24, 1977

CHAPTER 385

AN ACT to Allow Escape of Sublegal Lobsters from Lobster or Crab Traps.

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

Sec. 1. 12 MRSA § 4468 is enacted to read:

§ 4468. Escape vents on lobster or crab traps

1. Vent required. It is unlawful to fish for or take lobsters by use of a lobster or crab trap unless the trap is equipped with:

A. A rectangular or oblong escape vent not less than $1\frac{3}{4}$ inches (44.5 mm) by 6 inches (152.5 mm);

B. Two circular escape vents not less than $2\frac{1}{4}$ inches (57.2 mm) in diameter;

C. A gap caused by raising both ends of a bottom lath in the parlor section by $1\frac{3}{4}$ inches;

D. A gap caused by separating both ends of 2 vertical laths on the end of the parlor section by $1\frac{3}{4}$ inches; or

E. A gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required under paragraphs A or B,

that will allow sublegal lobsters to escape. The escape vents or gaps shall be installed or made in the parlor section of the trap on the side or end next to the sill, or with the vertical gap, in the end of the parlor section.