

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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tion or other judicial process may be a lien upon its property held pursuant to the provisions of this chapter; provided that the authority shall not lease, sell or otherwise convey, or allow to be used, any of its real or personal property or easements therein, franchises, buildings or structures, with access to any part of the turnpike or its approaches, for commercial purposes, with the exception of such kiosks at rest areas, gasoline filling stations, service and repair stations, automatic teller machines and restaurants as it deems necessary to service the needs of the traveling public while using the turnpike, except that the authority may permit the erection or installation of electric power, telegraph, telephone, water, sewer or pipeline facilities; and provided also that the leasehold interests in such kiosks, gasoline filling stations, service and repair stations, automatic teller machines and restaurants shall be subject to taxation as provided in section 1971.

See title page for effective date.

## CHAPTER 146

S.P. 422 - L.D. 1133

### An Act to Require a County Jailer to Return List of Prisoners

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

**30-A MRSA §1504**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§1504. Jailer to return list of prisoners at each criminal session of court**

~~At the opening of every criminal term of the Superior Court for a county, every~~ Every jailer shall return a list of prisoners in custody to the Superior Court for a county on the first business day of every month, and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed, and shall have the calendar of prisoners in court for its inspection. The jailer shall also provide lists of prisoners in custody to the Superior Court or to a District Court upon receipt of a request for an additional or updated list. If the jailer fails to do so, the court may impose a reasonable fine.

See title page for effective date.

## CHAPTER 147

S.P. 426 - L.D. 1137

### An Act to Amend Certain Provisions of the Maine Bail Code

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

**Sec. 1. 15 MRSA §1023, sub-§7**, as enacted by PL 1987, c. 758, §20, is amended to read:

**7. Mandatory training.** As a condition of appointment and continued service, a bail commissioner must successfully complete a bail training program, as prescribed and scheduled by the Chief Judge of the District Court, not later than one year following appointment. The Maine Criminal Justice Academy shall provide assistance to the Chief Judge of the District Court in establishing an appropriate training program for bail commissioners. The program shall include instruction on the provisions of this chapter, the relevant constitutional provisions on bail and any other matters pertinent to bail that the Chief Judge of the District Court considers appropriate and necessary. The Chief Judge of the District Court may establish a continuing education program for bail commissioners.

**Sec. 2. 15 MRSA §1026, sub-§6** is enacted to read:

**6. Initial appearance in court.** Nothing contained in this chapter may be construed as limiting the authority of a judge or justice to consider the issue of preconviction bail at a defendant's initial appearance in court.

**Sec. 3. 15 MRSA §1029, sub-§2**, as enacted by PL 1987, c. 758, §20, is amended to read:

**2. Standard of review.** With respect to the finding of probable cause to believe that the defendant committed a formerly capital offense, the finding of the lower court shall be upheld, unless it is clearly erroneous provided there is an adequate record for purposes of review. With respect to all other issues or with respect to the issue of probable cause when the record is inadequate for review, the review shall be de novo. The parties shall cooperate to expeditiously assemble a record for review.

**Sec. 4. 15 MRSA §1071, sub-§1, ¶B**, as enacted by PL 1987, c. 758, §20, is amended to read:

B. The certificate shall remain on file with the original papers in the case and a certified copy shall be transmitted by the ~~magistrate~~ judicial officer taking the bail to the clerk of court before which the defendant is to appear.

**Sec. 5. 15 MRSA §1072, sub-§1**, as enacted by PL 1987, c. 758, §20, is amended to read:

**1. Preconviction.** Each surety for a defendant admitted to preconviction bail is responsible for the appearance of the defendant at all times until a verdict or finding or plea of guilty, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.

In no case may a preconviction surety be responsible for the appearance of a defendant after conviction, unless the surety

has agreed anew to act as postconviction surety following conviction.

**Sec. 6. 15 MRSA §1093, sub-§2**, as repealed and replaced by PL 1987, c. 870, §10, is amended to read:

**2. Arrest.** A law enforcement officer may arrest with a warrant or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail, or has been charged with a crime allegedly committed while released on preconviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter. Any A defendant under arrest pursuant to this subsection shall be brought before a any judge or justice of the same appropriate court. The judge or justice shall make a determination as to whether or not the setting of bail upon the violation is appropriate pending a the bail revocation proceeding.

See title page for effective date.

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## CHAPTER 148

S.P. 152 - L.D. 272

### An Act to Implement the Aroostook Band of Micmacs Settlement Act

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

**Sec. 1. 3 MRSA §601**, as enacted by PL 1983, c. 497, §1, is amended to read:

#### **§601. Approval of legislation**

When approval of legislation by an Indian tribe or Indian nation is required by the United States Code, Title 25, Section 1725(e), or other act of Congress, certification of that approval shall be made to the Secretary of State by the officer of the affected Indian tribe or Indian nation designated in section 602 or 603. The certification shall state the date and manner of approval of the legislation and shall be prima facie evidence of approval. The Secretary of State shall forthwith transmit certified copies of the certification of approval to the Secretary of the Senate and the Clerk of the House of Representatives.

**Sec. 2. 3 MRSA §603** is enacted to read:

#### **§603. Designation of officer; Aroostook Band of Micmacs**

The council of the Aroostook Band of Micmacs shall designate, by name and title, the officer authorized to execute the certificate of approval of legislation required by section 601. The designation shall be in writing and filed with the Secretary of State no later than the first Wednesday in January in the First Regular Session of the Legislature. The

Secretary of State shall forthwith transmit certified copies of the designation to the Secretary of the Senate and the Clerk of the House of Representatives. The designation shall remain in effect until the council of the Aroostook Band of Micmacs makes a new designation.

**Sec. 3. 30 MRSA c. 603** is enacted to read:

### CHAPTER 603

#### MICMAC SETTLEMENT ACT

#### §7201. Short title

This Act shall be known and may be cited as "The Micmac Settlement Act."

#### §7202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Aroostook Band of Micmacs.** "Aroostook Band of Micmacs" means the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this subsection, as to lands within the United States by the Aroostook Micmac Council.

**2. Aroostook Band Trust Land.** "Aroostook Band Trust Land" means land or natural resources acquired by the secretary in trust for the Aroostook Band of Micmacs, in compliance with the terms of this Act, with money from the original \$900,000 congressional appropriation and interest thereon deposited in the Land Acquisition Fund established for the Aroostook Band of Micmacs pursuant to federal legislation concerning the Aroostook Band of Micmacs or with proceeds from a taking of Aroostook Band Trust Land for public uses pursuant to the laws of this State or the United States.

**3. Land or other natural resources.** "Land or other natural resources" means any real property or other natural resources, or any interest in or right involving any real property or other natural resources, including, but without limitation, minerals and mineral rights, timber and timber rights, water and water rights and hunting and fishing rights.

**4. Laws of the State.** "Laws of the State" means the Constitution and all statutes, rules or regulations and the common law of the State and its political subdivisions, and subsequent amendments thereto or judicial interpretations thereof.

**5. Secretary.** "Secretary" means the Secretary of the Interior of the United States.

**6. Transfer.** "Transfer" includes, but is not limited to, any voluntary or involuntary sale, grant, lease, allotment, partition or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition or other conveyance; and any act, event or circumstance that