

# MAINE STATE LEGISLATURE

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

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

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**January 3, 1990 to April 14, 1990**

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3. "Computer information" means a representation of information, knowledge, facts, concepts or instructions that are confidential or proprietary, are being prepared or have been prepared from an organized set of data and are located in computer memory or on magnetic, optical or mechanical media transferable directly to or useable directly by a computer as a source of data or instructions.

4. "Computer network" means a combination of one or more computers and communication facilities with the capability to transmit information among the devices or computers.

5. "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

6. "Computer software" means a set of computer programs, procedures and associated documentation used in the operation of a computer system.

7. "Computer system" means any combination of a computer or computers with the documentation, computer software or physical facilities supporting the computer.

8. "Computer resource" means a computer program, computer software, computer system, computer network, computer information or any combination thereof.

9. "Computer virus" means any computer instruction, information, data or program that degrades the performance of a computer resource; disables, damages or destroys a computer resource; or attaches itself to another computer resource and executes when the host computer program, data or instruction is executed or when some other event takes place in the host computer resource, data or instruction.

10. "Damage" means to destroy, alter, disrupt, delete, add, modify, or rearrange any computer resource by any means.

11. "Not authorized" and "unauthorized" mean not having consent or permission of the owner, or person licensed or authorized by the owner to grant consent or permission, to access or use any computer resource, or accessing or using any computer resource in a manner exceeding the consent or permission.

#### §432. Criminal invasion of computer privacy

1. A person is guilty of criminal invasion of computer privacy if the person intentionally accesses any computer resource knowing that the person is not authorized to do so.

2. Criminal invasion of computer privacy is a Class D crime.

#### §433. Aggravated criminal invasion of computer privacy

1. A person is guilty of aggravated criminal invasion of computer privacy if the person:

A. Intentionally makes an unauthorized copy of any computer program, computer software or computer information, knowing that the person is not authorized to do so;

B. Intentionally or knowingly damages any computer resource of another person, having no reasonable ground to believe that the person has the right to do so; or

C. Intentionally or knowingly introduces or allows the introduction of a computer virus into any computer resource, having no reasonable ground to believe that the person has the right to do so.

2. Aggravated criminal invasion of computer privacy is a Class C crime.

See title page for effective date.

## CHAPTER 621

### H.P. 822 - L.D. 1150

#### An Act to Strengthen the State Forensic Service

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

**Sec. 1. 15 MRSA §101-B, sub-§§1 and 3, as enacted by PL 1987, c. 402, Pt. A, §109, are amended to read:**

**1. Court order; permissive.** The District Court or the Superior Court having jurisdiction in any criminal case for cause shown may order the defendant examined to determine ~~his~~ the defendant's mental condition with reference to the issues of competency, criminal responsibility and competence to stand trial, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted at the ~~Augusta Mental Health Institute, Bangor Mental Health Institute, Pineland Center or at a mental health clinic of, or recommended by, the Commissioner of Mental Health and Mental Retardation and, when conducted at any such facility,~~ shall be the responsibility of by the State Forensic Service or by a psychiatrist or licensed clinical psychologist independent of the State Forensic Service. The examination may be conducted by a psychiatrist or licensed clinical psychologist independent from any such facility, employed for that purpose by the court. If additional examinations are ordered, the court shall ensure that at least one examination is conducted by the State Forensic Service. The court in selecting ~~the examination site an independent practitioner and the site of any examination~~ shall consider proximity to the court, availability of an exam-

iner or examiners and the necessity for security precautions. No person may be presented for examination under this subsection without arrangements ~~therefor for that examination with the head of the institution or clinic or with the individual examiner~~ State Forensic Service or the independent practitioner being first made by the court, clerk of courts or sheriff. If the defendant is incarcerated, the examination is to be completed within 90 days. The opinion of the examiner or examiners relative to the competence, criminal responsibility, abnormal condition of mind or any other mental or emotional condition of the respondent shall must be reported forthwith without delay to the court following examination, together with copies to counsel for the respondent and counsel for the State.

**3. Availability of reports.** The court may order that observations, interviews and investigative reports regarding the behavior of the defendant made by law enforcement officials be made available to the designated psychiatrist and licensed clinical psychologist of the State Forensic Service for the limited purpose of this examination. If the defendant is incarcerated, an initial examination to determine whether commitment to the custody of the Commissioner of Mental Health and Mental Retardation is necessary shall be made within 90 days. If the defendant is incarcerated and it is determined that no long-term observation for the purpose of diagnosis is needed, ~~his~~ the defendant's examinations shall be completed within 30 days. If the examination by the designees can be completed without admission, a report of the results of the completed examination shall be forwarded to the court ~~forthwith~~ without delay. If the designated examiners of the Commissioner of Mental Health and Mental Retardation determine that admission to an appropriate institution for the mentally ill or mentally retarded is necessary for complete examination, the examiners shall so notify the court which may order the defendant committed to the custody of the Commissioner of Mental Health and Mental Retardation to be placed in an appropriate institution for the mentally ill or the mentally retarded, to be there detained and observed by the superintendent, or ~~his~~ the superintendent's delegate, and professional staff for a period of time not to exceed 60 days, for the purpose of ascertaining the mental condition of the defendant. When further detention for observation is deemed no longer necessary by the State Forensic Service, the commissioner shall report this fact to the court. The court shall then order the person returned to the appropriate court for disposition; if the court ordering commitment for observation has provided for remand to the county jail following completion of the observation in the commitment order, the sheriff or any one or more of ~~his~~ the sheriff's deputies shall execute the remand order upon advice from the commissioner of completion of the observation. A report of the results of the observation shall be forwarded promptly to the court by the commissioner. Subsection 1 governs the distribution of reports of examination pursuant to this subsection.

**Sec. 2. 15 MRSA §101-B, sub-§4, ¶A**, as enacted by PL 1987, c. 402, Pt. A, §109, is amended to read:

A. Commit the defendant to the custody of the Commissioner of Mental Health and Mental Retardation to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. The commitment shall not exceed one year in duration. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the ~~superintendent of the institution in which the defendant is placed~~ State Forensic Service shall forward a report to the Commissioner of Mental Health and Mental Retardation relative to the defendant's competence to stand trial and ~~his~~ its reasons therefor. The commissioner shall ~~forthwith~~ without delay file the report with the court having jurisdiction of the case. The court shall ~~forthwith~~ without delay set a date for; and ~~shall~~ hold; a hearing on the question of the defendant's competence to stand trial and shall receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the custody of the Commissioner of Mental Health and Mental Retardation to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. If the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that ~~he will~~ the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and notify the appropriate authorities who may institute civil commitment procedures for the individual; or

**Sec. 3. 15 MRSA §101-B, sub-§4, ¶B**, as amended by PL 1987, c. 758, §11, is further amended to read:

B. Issue a bail order in accordance with chapter 105-A, with or without the further order that the defendant undergo observation at a state mental hospital or mental health facility approved by the Department of Mental Health and Mental Retardation, or by arrangement with a private psychiatrist or licensed clinical psychologist and treatment when it is deemed appropriate by the ~~head of the hospital or clinic or by the private psychiatrist~~ State Forensic Service. When ~~such~~ the outpatient observation and treatment is ordered, the ~~head of the hospital or clinic or the psychiatrist shall~~ State Forensic Service, within the time specified in subsection 1, shall forward a report to the court containing the opinion of the ~~head of the hospital or clinic or of the psychiatrist,~~ State Forensic Service relative to the defendant's competence to stand trial and ~~his~~ its reasons therefor. The court shall ~~forthwith~~ without delay set a date for and ~~shall~~ hold a hearing on the question of the defendant's competence to stand trial, which shall be held pursuant to and consistent with the standards set out in paragraph A.

**Sec. 4. 15 MRSA §101-B, sub-§6**, as enacted by PL 1987, c. 402, Pt. A, §109, is amended to read:

**6. No release during commitment period; violation.** ~~Any~~ No person ordered or committed for examination, observation, care or treatment pursuant to this section ~~shall not may~~ be released from the ~~examining~~ designated institution during the period of examination. Any individual responsible for or permitting the release of a respondent from the ~~examining~~ designated institution who has been committed pursuant to this section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

**Sec. 5. 15 MRSA §101-B, sub-§7** is enacted to read:

**7. Examination after conviction.** If the issue of criminal responsibility, mental competence, abnormal condition of mind or any other issue involving the mental or emotional condition of the defendant is raised after conviction, the court may order the convicted person to be examined by the State Forensic Service. If at the time an examination order is entered by the court the convicted person is in execution of any sentence imposed for any criminal conduct, the time limits and bail provisions of this section do not apply.

**Sec. 6. 15 MRSA §101-C, sub-§4**, as enacted by PL 1987, c. 402, Pt. A, §109, is amended to read:

**4. Definition.** "Records" means information about a person, in whatever medium preserved. It includes, but is not limited to, medical histories, social histories, military histories, government histories, educational histories, drug and alcohol treatment histories, criminal record histories, penal institution histories and documentation pertaining to diagnosis or treatment.

**Sec. 7. 15 MRSA §105**, as amended by PL 1981, c. 493, §2, is repealed.

**Sec. 8. 15 MRSA §3318, sub-§1, ¶B**, as amended by PL 1987, c. 402, Pt. A, §113, is further amended to read:

B. Order that the juvenile be examined by a physician or psychologist and refer the juvenile to a suitable facility or program for the purpose of examination, the costs of such examination to be paid by the court. If the report of such an examination is that the juvenile is mentally ill or incapacitated to the extent that short-term or long-term hospitalization or institutional confinement is required, the ~~juvenile court~~ Juvenile Court shall initiate proceedings for voluntary or involuntary commitment as provided in section 101-B and in Title 34 ~~34-B, sections 2290 and 2333~~ chapter 3, subchapter IV. The court shall continue the proceedings when a juvenile is voluntarily or involuntarily committed.

**Sec. 9. 34-B MRSA §1212**, as amended by PL 1989, c. 487, §§16 and 17, is further amended to read:

## §1212. State Forensic Service

**1. Establishment and membership.** The Commissioner of Mental Health and Mental Retardation shall establish a State Forensic Service and appoint its members. Members shall be psychiatrists and licensed clinical psychologists experienced in forensic service and not directly involved in the treatment of persons committed to the department under Title 15, chapter 5. These psychiatrists and ~~psychologist~~ psychologists may be employed by the department directly or as independent contractors.

**2. Duties.** The State Forensic Service shall have the following duties:

A. To perform examinations of the mental condition of a defendant ~~with reference to competency to stand trial and criminal responsibility under~~ pursuant to Title 15, section 101-B and to do the evaluations or examinations on behalf of any court of record, pursuant to agreement between the commissioner and the jurisdiction requesting that the evaluation be performed;

B. To perform examinations of the mental condition of persons committed to the custody of the commissioner under Title 15, section 103, for the purposes specified in Title 15, section 104-A; and

C. To perform examinations of the mental condition of persons pursuant to Title 22, chapter 250.

**3. Professional education program.** The State Forensic Service may establish and maintain a professional education program designed to assist licensed psychologists and psychiatrists in developing expertise in the forensic aspects of each profession, with emphasis on the assessment of competency, criminal responsibility and abnormal condition of mind under the laws of the State.

See title page for effective date.

## CHAPTER 622

S.P. 786 - L.D. 2032

### An Act Prohibiting Chlorofluorocarbons in Automobile Air Conditioners

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

**38 MRSA §1606** is enacted to read:

#### §1606. Motor vehicle air conditioning

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Motor vehicle" has the same meaning as defined in Title 29, section 1, subsection 7.