

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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J.S. McCarthy Company
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PUBLIC LAWS
OF THE
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AS PASSED AT THE
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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 223

H.P. 1035 - L.D. 1508

An Act to Clarify the Scope of Review Obtainable by the State When the Defendant Has Appealed to the Law Court in a Criminal Case**Be it enacted by the People of the State of Maine as follows:****15 MRSA §2115-A, sub-§3**, as amended by PL 1979, c. 541, Pt. B, §22, is further amended to read:

3. When defendant appeals. When the defendant appeals from a judgment of conviction, it is not necessary for the State to appeal. It may argue that error in the proceedings at trial in fact supports the judgment. The State may also establish that error harmful to it was committed prior to trial or in the trial resulting in the conviction from which the defendant has appealed, which error should be corrected in the event that the law court reverses on a claim of error by the defendant and remands the case for a new trial. If the case is so reversed and remanded, the law court shall also order correction of the error established by the State.

See title page for effective date.

CHAPTER 224

H.P. 879 - L.D. 1270

An Act to Establish a Home-release Monitoring Program for Certain Inmates Sentenced to County Jails

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

Whereas, county jails continue to be overcrowded; and

Whereas, home detention would give counties an additional option to relieve overcrowding; 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:**30-A MRSA §1659** is enacted to read:**§1659. Home-release monitoring program**

The sheriff of each county may establish and maintain a home-release monitoring program to permit certain inmates, approved by the court in which they were sentenced, to be released and monitored electronically by the county and to live at their residences as a portion of the term of incarceration.

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a home-release monitoring program and recommended by the jail administrator, may petition the court in which the inmate was sentenced for authorization to electronically monitor and to release the inmate to participate in a home-release monitoring program established in that county. Unless the court expressly grants the privilege of home release, the inmate is sentenced to ordinary confinement. The court may withdraw the privilege of home release at any time by order entered with or without notice of hearing. At the time of granting this privilege, the court shall determine whether the inmate is responsible for the cost of participating in the home-release program based on the inmate's ability to pay.

2. Eligibility. Inmates are eligible to participate in a home-release monitoring program if:

A. The inmate's residence is located in a county in which a home-release monitoring program is established;

B. The offense for which the inmate is serving a sentence is a Class C, D or E crime or an offense under the inland fisheries and wildlife or motor vehicle laws;

C. The inmate has no history of escape or violent behavior and has a verified security classification level of medium or minimum;

D. For sentences less than 30 days, the inmate serves a minimum of 2/3 of that inmate's sentence prior to participating in a home-release monitoring program. For sentences of 30 days or more, the inmate serves a minimum of 1/2 of that inmate's sentence prior to participating in a home-release monitoring program. In calculating the amount of time served, good time earned under Title 17-A, section 1253 and time reductions earned for charitable or public works projects under section 1606 must be counted; and

E. The inmate agrees to abide by the conditions of release pursuant to this section and any additional conditions imposed by the sheriff or jail administrator.

3. Participation requirements. The following requirements apply to any inmates participating in a home-release monitoring program.

A. Each inmate released pursuant to this section must be involved in a structured program of work, education or treatment. Participation in a home-release monitoring program may not be solely for the purpose of living at home.

B. At a minimum, an inmate must be supervised at least 3 times per week or monitored electronically during release or curfew hours when the inmate must be at that inmate's residence or place of employment as determined by the jail administrator.

C. The jail administrator, or a designee, shall restrict in advance any travel or movement, limiting the inmate's travel to specific times and places directly related to approved employment, formal education, job search, public service work, treatment or other specific purposes.

D. The inmate must agree to searches of the inmate's person, residence, electronic monitoring equipment, papers and effects without a warrant and without probable cause, for items prohibited by law or by condition of participation in the program or otherwise subject to seizure or inspection, upon the request of the jail administrator, or designee, without prior notice. The sheriff or jail administrator may prohibit the inmate from residing with anyone who does not consent to a search or inspection of the residence to the extent necessary to search or inspect the inmate's person, residence, electronic equipment, papers and effects.

E. The inmate may not use illegal drugs or other substances and may not abuse alcohol or any other legal substance.

F. The inmate must submit to urinalysis, breath testing or other chemical test without probable cause, at the request of the jail administrator or a designee.

G. If stopped or arrested by a law enforcement officer, the inmate shall notify that officer of the inmate's participation in a home-release monitoring program. Within 12 hours of having been stopped or arrested, the inmate shall notify the jail administrator or designee.

H. The inmate may not violate state or federal criminal law or any conditions of the inmate's release.

I. When required by the court, an inmate must pay the cost for the inmate's participation in a home-release monitoring program.

J. The inmate must sign a statement verifying that the inmate understands and agrees to all of the conditions of release and participation in a home-release monitoring program.

4. Termination of the privilege. The sheriff, jail administrator or a designee may terminate an inmate's participation in a home-release monitoring program at any time and return the inmate to confinement for any violation of the conditions of the inmate's release. Any inmate whose participation is terminated may petition the District Court or the Superior Court for a review of that termination. The court, after review, shall make an order that the court considers appropriate.

5. Violation. An inmate who willfully violates a condition of that inmate's release pursuant to this section may be punished by imprisonment for not more than 60 days for each violation and that period of time must be served consecutively to any other period of confinement. An inmate who leaves or fails to return within 12 hours to that inmate's residence or other designated area in which that inmate is electronically monitored or supervised is guilty of escape under Title 17-A, section 755.

6. Minimum standards for electronic monitoring. The Commissioner of Corrections shall establish minimum standards for electronic monitoring and may enforce those standards as provided under Title 34-A, section 1208.

7. Program funding. Funds generated pursuant to this section must be used to support the home-release monitoring program. The county treasurer shall establish a home-release monitoring program account for all revenues generated and expenditures made. Funds in this account unexpended at the end of the year may not lapse, but must be carried forward. Home-release monitoring program funds must be accounted for through the normal budget process.

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

Effective May 31, 1991.

CHAPTER 225

H.P. 1007 - L.D. 1475

An Act to Amend the Mechanic Lien Laws

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

10 MRSA §3802, as amended by PL 1983, c. 117, is further amended to read:

§3802. Filing in office of Secretary of State; inaccuracy does not invalidate lien

The liens mentioned in section 3801 ~~shall be~~ are dissolved unless the claimant within ~~30~~ 90 days after the labor is performed, or storage furnished, files in the office of the Secretary of State a true statement of the amount due ~~him~~ the claimant for the labor and materials or for storage, with all just credits given, together with a description of the vehicle manufactured or repaired sufficiently accurate to identify it and the name of the owner, if known, which ~~shall~~ must be subscribed and sworn to by the person claiming the lien or by someone in ~~his~~ that person's behalf, and recorded by the Secretary of State, who is entitled to the same fees therefor as for filing, indexing and furnishing filing data for an original financing statement under Title 11, section 9-403, subsection (5). No inaccuracy in the statement relating to the property, if the same can be reasonably recognized, or in stating the amount due for labor or materials, or for storage, invalidates the