

# 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  
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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

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

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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in any county in this State, in all of its branches, but it ~~shall~~ does not authorize its holder to practice obstetrics so far as the same relates to parturition, nor to administer drugs nor perform surgical operations with the use of instruments, except as now allowed by statute. Nothing in this section may be construed to prohibit any legally registered licensed doctor of chiropractic in this State from practicing surgery after having passed a satisfactory examination therein before the State Board of Registration in Medicine.

**Sec. 12. Board terms; transition.** Any new appointment to the Board of Chiropractic Examination and Registration after the effective date of this Act is for a term of 3 years.

**Sec. 13. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1991-92

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Board of Chiropractic Examination and Registration**

All Other \$3,000

Provides funds for the costs associated with printing and rulemaking.

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

Effective June 20, 1991.

**CHAPTER 393**

**S.P. 440 - L.D. 1184**

**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**Sec. 1. 15 MRSA §1051, sub-§7,** as enacted by PL 1987, c. 758, §20, is repealed.

**Sec. 2. 15 MRSA §1051, sub-§7-A** is enacted to read:

**7-A. Revocation of post-conviction bail.** The attorney for the State, or the court on its own motion, may initiate a proceeding for the revocation of a defendant's post-conviction bail by complying with this subsection.

A. 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, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction 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. A defendant under arrest pursuant to this subsection must be brought before a judge or justice of the appropriate court. The judge or justice shall determine whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing.

B. An order of post-conviction bail entered by a judge or justice may be revoked by that judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon a determination made after notice and opportunity for hearing that:

(1) The defendant has violated a condition of bail as shown by a preponderance of the evidence;

(2) The defendant has been charged with a crime allegedly committed while the defendant was released under this section; or

(3) The defendant's appeal has been taken for purposes of delay as shown by a preponderance of the evidence.

C. If bail is revoked, the defendant may appeal to a single Justice of the Supreme Judicial Court who shall review the revocation pursuant to subsection 5.

**Sec. 3. 15 MRSA §1093, sub-§2,** as amended by PL 1989, c. 147, §6, is further 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. A defendant under arrest pursuant to this subsection ~~shall~~ must be brought before any judge or justice of the 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 the bail revocation proceeding~~ determine whether the existing preconviction bail order should be

modified or the defendant should be committed without bail pending the bail revocation hearing.

**Sec. 4. 15 MRSA §1094**, as enacted by PL 1987, c. 758, §20, is repealed and the following enacted in its place:

**§1094. Forfeiture of bail; enforcement**

When a defendant who has been admitted to either preconviction or post-conviction bail in a criminal case fails to appear as required, the court shall declare a forfeiture of the bail. The obligation of the defendant and any sureties may be enforced in such manner as the Supreme Judicial Court shall by rule provide and in accordance with section 224-A. The rules adopted by the Supreme Judicial Court must provide for notice to the defendant and any sureties of the consequences of failure to comply with the conditions of bail.

If the obligation of the defendant or any surety has been reduced to judgment pursuant to the Maine Rules of Criminal Procedure, Rule 46, the following provisions apply to the enforcement of the obligation.

**1. Execution.** The court shall issue an execution of the judgment once the judgment has become final by the expiration of the time for appeal, by dismissal of an appeal or on certificate of decision from the Supreme Judicial Court, unless the court that rendered judgment on the bail obligation has pursuant to rule ordered execution at an earlier time. The execution of the judgment is returnable within one year after issuance.

**2. Lien on real estate, personal property and motor vehicles.** An execution issued under this section creates the lien described in Title 14, section 4651-A, if properly filed according to that section. A filing or recording fee may not be charged for any execution issued under this section.

**3. Relation back of liens.** The effective date of any execution lien created on any property pursuant to this section and Title 14, section 4651-A relates back to the date when a bail lien, as described in section 1071, was first filed or recorded in the proper place for the perfection or attachment of the lien. The relation back applies only to that portion of the bail obligation that the bail lien secured when it was recorded or filed. The remainder of the execution lien and the full amount of any execution lien created when no bail lien was ever recorded or filed, is effective and perfected from the date of the recording or filing of the execution. Any lien created pursuant to this section and Title 14, section 4651-A continues as long as the judgment issued on the bail obligation or any part of the bail obligation, plus costs and interest, has not been paid, discharged or released.

**4. Enforcement.** The lien provided by this section may be enforced by a turnover or sale order pursuant to Title 14, section 3131.

**5. Application.** This section applies to all bail obligations in effect on or after October 1, 1991 and all bail liens recorded as of or after October 1, 1991.

See title page for effective date.

## CHAPTER 394

H.P. 969 - L.D. 1410

### An Act to Prevent Financial Gain by Convicted Drug Offenders

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

**17-A MRSA §1322, sub-§3, ¶D**, as amended by PL 1989, c. 872, §5 and c. 924, §13, is further amended to read:

D. "Property loss" means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss includes the value of taxes or other obligations due to the government that have not been paid. "Property loss" also includes, in cases involving a violation of chapter 45, the value of money or other consideration given or offered in exchange for scheduled drugs by a law enforcement officer or another at the direction of a law enforcement officer that are not, in fact, recovered by the State at the time of sentencing, regardless of whether other money or items of value are sought, acquired or forfeited pursuant to Title 15, chapter 515. In cases involving a violation of chapter 45, the court must make a finding that the property loss is specifically related to that case.

See title page for effective date.

## CHAPTER 395

H.P. 920 - L.D. 1317

### An Act to Revise the Law Protecting Farmers' Rights to Farm

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

**Sec. 1. 17 MRSA §2805, sub-§2**, as enacted by PL 1981, c. 472, is amended to read:

**2. Best management practices.** A farm or farm operation ~~shall~~ may not be considered a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to ~~generally accepted agricultural~~ best management practices, as determined by the Commissioner of Agriculture, Food and Rural Resources