

# 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  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
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(2) Placement under observation must be discontinued if the director, on the advice of the physician, determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and there is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours.

E. When placement under observation exceeds 24 hours, the director shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile.

F. Placement under observation may not exceed 72 hours without the commissioner's approval, which must:

- (1) Be in writing;
- (2) State the reasons for that approval; and
- (3) Be kept on file.

G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the director shall send a written justification to the commissioner.

H. A juvenile held under observation must be under constant sight and sound supervision by facility staff.

#### **§4109. Limit on number of juveniles**

The population of the Northern Maine Regional Juvenile Detention Facility may not exceed 40 juveniles, unless there are no other appropriate beds available for housing juveniles. Exceeding 40 juveniles in such an emergency situation may be done only for the length of time necessary to resolve the emergency.

#### **§4110. State responsible for detention**

Notwithstanding any other provision of law, on the date that the Northern Maine Regional Juvenile Detention Facility begins operating, the State is responsible for all physically restrictive juvenile detention statewide.

See title page for effective date.

## CHAPTER 401

H.P. 1087 - L.D. 1587

### An Act to Require Minimum Training Standards for Construction Flaggers

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

23 MRSA §707 is enacted to read:

#### **§707. Construction flaggers; minimum training standards**

All privately employed flaggers at highway construction sites on public ways must have training in controlling traffic at construction sites in a manner consistent with the standards set forth in the American National Standards Institute, Manual on Uniform Traffic Control Devices for Streets and Highways. That training may consist of video instruction, instruction in a classroom setting, distribution of informational handbooks or other educational materials or other training activities determined appropriate by the employer. Municipalities are encouraged to provide the same training as is required for privately employed flaggers to flaggers whom they employ.

See title page for effective date.

## CHAPTER 402

S.P. 672 - L.D. 1786

### An Act to Improve the Execution and Administration of Arrest Warrants and Implement the Recommendations of the Warrants Subcommittee of the Commission to Implement the Computerization of Criminal History Record Information

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

**Sec. 1.** 14 MRSA §5532, sub-§2, as enacted by PL 1987, c. 639, is amended to read:

**2. Other prisoners.** In the case of any prisoner other than a sentenced prisoner, the copy of the warrant or process, which need not be a true and attested copy, must be delivered within 4 hours of the demand.

**Sec. 2.** 15 MRSA Pt. 2, first 2 lines are repealed and the following enacted in their place:

**PART 2****PROCEEDINGS BEFORE TRIAL****CHAPTER 99****ARREST WARRANTS****§601. Applicability**

The procedures established by this chapter apply to all warrants for the arrest of individuals, including warrants for the arrest of persons charged with the commission of a criminal offense and warrants for the arrest of individuals who have failed to appear or pay a fine. The procedures established by this chapter do not apply to warrants issued by the Governor pursuant to the United States Constitution and the Uniform Criminal Extradition Act for the extradition of fugitives from justice, except that the provisions requiring law enforcement officers to be responsible for the execution of warrants are fully applicable to a Governor's warrant. This chapter does not apply to civil orders of arrest issued pursuant to Title 14, section 3135.

**§602. Responsibility to execute arrest warrants**

It is the responsibility of all police and sheriff departments and their officers to use all reasonable efforts to execute any outstanding arrest warrants of which they are aware. It is essential to the integrity of the judicial system that the execution of arrest warrants as orders of the court receive a high priority from all police and sheriff departments and their officers.

**§603. Warrant repository**

The district attorney of each court district shall designate, with the approval of the resident District Court Judge, at least one law enforcement agency that is responsible for the maintenance, administration and retention of attested copies of arrest warrants issued by the courts. If a court district encompasses more than one prosecutorial district, the respective district attorneys shall attempt to agree on the designation of an arrest warrant repository. If the district attorney of a court district fails to designate an arrest warrant repository or the district attorneys are unable to agree to the designation of an arrest warrant repository for a court district, the Attorney General shall make the designation for that court district. The district attorney or attorneys shall notify the District Court and the Superior Court of the location of the arrest warrant repository for arrest warrants in the jurisdiction covered by those courts. All attested copies of arrest warrants issued by the District Court and the Superior Court must be directed to the arrest warrant repository designated for those courts except as otherwise provided by this chapter or by the standards adopted by rule of the Attorney General pursuant to this chapter.

**§604. Criteria for selection of arrest warrant repository**

A district attorney shall select an agency that meets the following minimum characteristics to act as an arrest warrant repository.

1. Communications capability. The agency must have a 24-hour dispatch and communication capability and must connect to the Maine Telecommunications and Radio Operations System by means of certified terminal operators.

2. Verification. The agency must have the capability and willingness to verify records as requested and perform the mandated verification of National Crime Information Center warrants.

3. Monitor management. The agency must have the capability and willingness to properly monitor the management of warrants, including:

A. Immediately notifying the originating agency of an arrest on a warrant that the originating agency obtained;

B. Cooperating with any investigative agency that may hold a warrant for up to 5 days after its issuance; and

C. Immediately and properly entering and deleting warrant information in the pertinent data base as required.

4. Warrant management. The agency must have the capability and willingness to accept the burden and responsibility of warrant management as a full and equal element of its sworn public duty.

5. Review by district attorney. The agency must have the capability and willingness to accept regular monitoring and review of its warrant files and procedures by the district attorney or the district attorney's designee and by the court or the court's designee, pursuant to standards adopted by the Attorney General. The district attorney shall regularly review the arrest warrant repository's record of performance with a representative of the court.

6. Structured plan. The agency must develop a structured warrants management plan designed to maximize the execution of outstanding arrest warrants.

**§605. Standards by Attorney General**

The Attorney General, in accordance with the Maine Administrative Procedure Act, shall adopt standards for the operation of arrest warrant repositories. These standards must include or provide for, but are not limited to, the following.

1. Copies forwarded to repository. Except as otherwise provided, all attested copies of arrest warrants must be forwarded to the appropriate arrest warrant repository.

2. Limited physical possession by investigating agency. The investigating law enforcement agency must have the opportunity to physically possess the attested copy of an investigative arrest warrant for the express purpose of execution of the warrant for a period of 72 hours, after which time the attested copy of the warrant

must be forwarded to the appropriate arrest warrant repository. For purposes of this subsection and subsection 3, an "investigative arrest warrant" means a warrant for the arrest of a person charged with a criminal offense as distinguished from a bench warrant for failure to appear or pay a fine.

**3. Extended possession by agency.** The Attorney General, a district attorney or their designees may permit a law enforcement agency to possess the attested copy of an investigative arrest warrant for a period not to exceed 5 days for the express purpose of execution of the warrant if the Attorney General or the district attorney determines that the likelihood of warrant execution will be substantially increased by permitting a law enforcement agency to possess the warrant prior to forwarding it to the appropriate arrest warrant repository. The investigating agency may seek, and the Attorney General or district attorney or their designees may grant to the investigating agency, permission to possess the warrant for a further period of up to 5 days if the likelihood of warrant execution will be further increased.

**4. Content of warrant.** A warrant must contain available information concerning the identity and location of the subject, including, but not limited to, photographs of the subject, the subject's name and last known address identified by town, county and geographic codes, the subject's date of birth and any distinguishing physical characteristics that will aid in the location of the subject and the execution of the warrant.

**5. Computer entry.** Upon receipt by the arrest warrant repository, an arrest warrant must be promptly entered in the State's wanted and missing persons computer data base.

**6. National Crime Information Center.** A warrant may not be entered in the National Crime Information Center data base without authorization from the Attorney General, a district attorney or their designees, except that the Department of Corrections may enter warrants for violations of parole or probation or for escape.

**7. Storage.** Except as otherwise permitted under this chapter, an original warrant must be stored at the issuing court and an attested copy must be stored at the appropriate arrest warrant repository.

**8. Validation by court.** A procedure must be established whereby the courts shall validate arrest warrants.

**9. Removal from data base.** When arrest warrants are executed, cancelled or recalled, they must be immediately removed from the computer data base by the appropriate arrest warrant repository and the issuing court.

**10. State Police data base.** The State Police are responsible for maintaining a computerized data base, including computer entry standards, and administering the warrants data base, including printing and mailing geographical code lists to police agencies and printing and mailing repository validation lists.

**11. Periodic listing of warrants.** Each arrest warrant repository must periodically generate lists of all warrants stored at that location, including warrants entered on the State's wanted and missing persons data base, and provide them to the originating agencies and the issuing courts.

**12. Telecommunications system.** A procedure governing the entry of warrants through the State Police telecommunications system must be established to require entry when the established criteria are met.

#### **§606. Responsibility of court**

The court is responsible for:

**1. Complete information.** Issuing warrants with information that is as complete as possible and that maximizes the likelihood that the warrants will be successfully executed;

**2. Copy and original.** Issuing only one attested copy of a warrant and maintaining the original;

**3. Directing to repository.** Directing all warrants to the appropriate arrest warrant repository;

**4. Notice to repository.** Notifying the appropriate arrest warrant repository when arrest warrants have been directed to other agencies in accordance with instructions from the Attorney General or a district attorney in accordance with the standards adopted pursuant to section 605;

**5. Recall notice.** Immediately sending recall notices to the appropriate arrest warrant repository or the law enforcement agency holding an attested copy of an arrest warrant; and

**6. Outstanding warrant list.** Maintaining an outstanding warrant list.

#### **§607. Rulemaking**

The Supreme Judicial Court may adopt rules to provide that a person who is the subject of a warrant for the commission of a Class D or Class E crime, the failure to appear for a Class D or Class E crime, a civil violation, or the failure to pay a fine for any offense or for a civil violation who is arrested in a county or district other than the county or district whose court issued the warrant may waive the right to a trial and any objections to venue and return to the court that issued the warrant and plead guilty and be sentenced, pay a fine or otherwise have the matter disposed of by the appropriate court in the arresting district.

#### **§608. Bail commissioners in indigent cases**

The Chief Judge of the District Court may adopt procedures requiring a bail commissioner to appear and set bail regardless of whether the defendant is indigent and unable to pay the bail commissioner's fee. The Chief Judge of the District Court may also adopt procedures governing the manner in which a bail commissioner is paid in the

event an indigent person is released on bail and is unable to pay the bail commissioner's fee.

**Sec. 3. Implementation dates.** The Attorney General shall adopt standards as required by the Maine Revised Statutes, Title 15, chapter 99 no later than 6 months after the effective date of this Act.

District attorneys shall designate arrest warrant repositories as required by Title 15, chapter 99 and those repositories must be operational no later than June 1, 1992.

All law enforcement agencies holding attested copies or original arrest warrants issued prior to June 1, 1992 shall make a complete review of any outstanding warrants and shall transfer any outstanding warrants issued prior to June 1, 1992 to the appropriate arrest warrant repository no later than September 1, 1992, except that any original arrest warrant must be returned to the issuing court.

See title page for effective date.

## CHAPTER 403

H.P. 978 - L.D. 1421

### An Act to Provide for the Regulation of Massage Therapists

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

Sec. 1. 32 MRSA c. 125 is enacted to read:

#### CHAPTER 125

#### MASSAGE THERAPISTS

##### §14301. Definitions

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

**1. Commissioner.** "Commissioner" means Commissioner of Professional and Financial Regulation.

**2. Department.** "Department" means Department of Professional and Financial Regulation.

**3. Massage therapist.** "Massage therapist" means a person who provides or offers to provide massage therapy for a fee, monetary or otherwise. This definition includes the use of different forms of the term "massage therapist," such as "masseur" or "masseur."

**4. Massage therapy.** "Massage therapy" means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving

muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or its articulations and excludes sexual contact as defined in Title 17-A, section 251, subsection 1, paragraph D.

##### §14302. Commissioner; powers and duties

The commissioner or the commissioner's designee has the following powers and duties in addition to all other powers and duties set forth in this chapter.

**1. Standards.** The commissioner shall administer and enforce this chapter.

**2. Rules.** The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out the purposes of this chapter.

**3. Complaints.** The commissioner shall investigate or cause to be investigated all complaints concerning violations of this chapter or rules adopted by the department, made on the commissioner's own motion or on written complaint filed with the department, and all cases of noncompliance with or violation of this chapter or any rules adopted by the department.

**4. Contracts.** The commissioner may enter into contracts to carry out the commissioner's responsibilities under this chapter.

**5. Register.** The commissioner shall make available, at cost, a register that contains the names of all individuals registered.

**6. Hearings.** The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial of reregistration, suspension of registration or other action necessary to the fulfillment of the commissioner's responsibilities under this chapter.

**7. Advisory Council.** The commissioner, as necessary, may select members of the profession and other interested parties to serve on an advisory council to advise and consult with the commissioner concerning the regulation of massage therapists. Service on the council is not in itself a conflict of interest regardless of the occupations or associations of the members.

##### §14303. Employees

The commissioner may appoint, subject to the Civil Service Law, employees necessary to carry out this chapter. Any person so employed is considered to be in the de-