

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

J.S. McCarthy Company
Augusta, Maine
1995

petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable but in no event later than 6 months or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

6. Final order of disposition of property.

Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 5822, subsection 4 and section 5824.

§5827. Construction

The provisions of this chapter must be liberally construed to effectuate its remedial purposes.

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

Effective July 3, 1995.

CHAPTER 422

H.P. 152 - L.D. 200

An Act to Allow the Imposition of Any Term of Years or Life for Certain Attempted Murders

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

Sec. 1. 17-A MRSA §152, sub-§4, as amended by PL 1977, c. 510, §§33 and 34, is further amended to read:

4. Criminal attempt is an offense classified as one grade less serious than the classification of the offense attempted, except that an attempt to commit a Class E crime is a Class E crime, and an attempt to commit murder is a Class A crime. The sentence for attempted murder is as authorized for a Class A crime if the court finds that the person engaged in the conduct constituting the substantial step while under the influence of extreme anger or extreme fear brought about by adequate provocation. Adequate provocation has the same meaning as in section 201, subsection 4. Absent that finding by the court, the sentence for attempted murder is as authorized for a Class A crime except that, notwithstanding section 1252, subsection 2, paragraph A, the court is authorized to set a definite period of imprisonment of any term of years or, with proper findings, life. The special penalty provision of life imprisonment may be imposed only if the court finds one or more of the following aggravating circumstances is in fact present:

A. The person's intent to kill was accompanied by premeditation-in-fact;

B. The person, at the time of the crime, intended to cause multiple deaths;

C. The person was previously convicted of criminal homicide or any other crime involving the use of deadly force against a person;

D. The attempted murder was accompanied by torture, sexual assault or other extreme cruelty inflicted upon the victim;

E. The attempted murder was committed in a penal institution by an inmate of that institution against another inmate or against prison personnel;

F. The attempted murder was committed against a law enforcement officer while the officer was acting in the performance of that officer's duties; or

G. The attempted murder was committed against a hostage.

See title page for effective date.

CHAPTER 423

H.P. 67 - L.D. 103

An Act to Grant Certain Federal Officers Limited Authority to Enforce Maine Law

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

Sec. 1. 25 MRSA §1502-A is enacted to read:

§1502-A. Cooperation of federal officers

1. Definition. For purposes of this section, "federal officers" means the following persons who are authorized to carry firearms in the performance of their duties as federal law enforcement employees or officers:

A. Special Agents of the Immigration and Naturalization Service of the Department of Justice;

B. Immigration Inspectors, including Deportation Officers and Immigration Examiners when acting in the capacity of Immigration Inspectors of the Immigration and Naturalization Service of the Department of Justice;

C. Border Patrol Agents of the Immigration and Naturalization Service of the Department of Justice;

D. Officers of the United States Customs Service of the Department of the Treasury; and

E. Any of the officers listed in this subsection who are assigned to or are acting in concert with a task force, but only if that task force meets the following requirements:

(1) The task force is a task force of the Maine Drug Enforcement Agency authorized under this Title; or

(2) The task force is a joint federal-state task force operating primarily within the territorial boundaries of this State and:

(a) An arrest is part of or related to an investigation of that federal-state task force; or

(b) An arrest occurs in a prosecutorial district and either:

(i) The district attorney of that district or the district attorney's written designee actively participates in and oversees the activities of the task force; or

(ii) The arrest occurs anywhere within the State and the Attorney General or the Attorney General's written designee actively participates in and oversees the activities of the task force.

Federal officers are law enforcement officers for the purposes of Title 17-A, section 2, subsection 17.

2. Powers. Subject to suspension or revocation, without hearing, by the Attorney General or the Board of Trustees of the Maine Criminal Justice Academy, a federal officer has the power to enforce state law when one or more of the following situations exist.

A. The federal officer has an articulable and reasonable suspicion to believe that the person to be stopped has committed, is committing or is about to commit a state crime or has probable cause to believe that the person to be arrested has committed or is committing a state crime.

B. The federal officer is providing assistance to a state, county or municipal law enforcement officer in an emergency or at the request of the state, county or municipal law enforcement officer.

C. The federal officer has received information from an authoritative source that a state, county or municipal law enforcement officer holds a warrant for the person's arrest.

This section is not intended to limit the authority to enforce state law of any other federally employed, federal law enforcement officer or law enforcement officer of another state who, with the written consent of the Attorney General, has been sworn or otherwise cross-designated or cross-deputized as a state law enforcement officer.

3. Discretion to act. Federal officers may, but are not required to, enforce state law. This section is not intended to limit the existing authority of federal officers under federal law or to interfere with the performance of federal duties by federal officers.

4. Liability. A federal officer who is acting pursuant to this section has the same immunity from and limitation on tort liability as the State Police.

5. Training and policies. Before a federal officer may exercise the powers conferred by this section: