

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**  
**1995**

**4. Education and promotion.** Methods for supporting private sporting groups throughout the State with program education and promotion efforts; and

**5. Limits.** Limiting the distribution of wild game meat to certain types of facilities.

**§7483. Food donations; exemption from civil liability**

A person who donates lawfully obtained wild game meat that is apparently fit for human consumption to the program and a charitable, nonprofit or other organization authorized by the department to receive and distribute meat donated under the program are immune from civil liability arising from injury or death due to the condition of the donated food, unless the injury or death is a direct result of the intentional misconduct of the donor or the organization.

**Sec. C-3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Office of the Commissioner**

Personal Services	\$4,141
Appropriates funds for the per diem costs of the Advisory Board for the Licensing of Whitewater Guides and the Inland Fisheries and Wildlife Advisory Council.	

**Savings Fund Program**

All Other	25,697
Appropriates funds to be used only to avoid future license fee increases.	

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

<b>TOTAL</b>	\$29,838
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**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 11, 1996, unless otherwise indicated.

**CHAPTER 668**

**H.P. 1286 - L.D. 1766**

**An Act to Prohibit Stalking**

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

**Sec. 1. 4 MRSA §1057**, as amended by PL 1991, c. 733, §3, is further amended to read:

**§1057. Government Operations Surcharge Fund**

**1. Fund established.** There is hereby established a fund to be known as the Government Operations Surcharge Fund. This fund must be maintained by the Treasurer of State for the ~~sole~~ purpose purposes of reimbursing counties for costs associated with operations of the jail system and, until January 1, 2001, for funding infrastructure improvements to the Maine Criminal Justice Information System described in Title 16, section 631 and for funding the operation of the Judicial Department's computer system.

**2. Surcharge imposed.** A surcharge of ~~40%~~ 12% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. Five-sixths of the surcharge collected must be earmarked for counties and disbursed pursuant to subsection 3 for the costs of jails. One-twelfth of the surcharge collected must be paid to the State Court Administrator for funding the operation of the Judicial Department's computer system and 1/12 of the surcharge must be paid to the Department of Public Safety for infrastructure improvements to the Maine Criminal Justice Information System pursuant to subsection 4 to provide instant access to all available and existing criminal records, including stalking or harassment convictions and protective orders. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection is repealed January 1, 2001.

**2-A. Surcharge imposed.** A surcharge of 10% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection takes effect January 1, 2001.

**3. Reimbursement to counties.** Monthly, the Treasurer of State shall make payments from ~~this fund~~ the Government Operations Surcharge Fund to each

county in the same proportion as the total amount paid to that county from the total amount deposited into the fund during the fiscal year ending June 30, 1991 bears to the total amount deposited into the fund during the fiscal year ending June 30, 1991, except that a county may not receive an amount greater than the prior year's expenditures on its jail. The amount of total payments made to counties must equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund.

**4. Payment for infrastructure improvements to the Maine Criminal Justice Information System and for operation of the Judicial Department's computer system.** Monthly, the Treasurer of State shall make payments from the Government Operations Surcharge Fund to the State Court Administrator and to the Department of Public Safety. The amount of the total payments made to fund the Maine Criminal Justice Information System must equal 1/12 of the surcharges received by the Treasurer of State, and the amount of the total payments made to fund the operations of the Judicial Department's computer system must equal 1/12 of the surcharges received by the Treasurer of State. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund. This subsection is repealed January 1, 2001.

**Sec. 2. 17-A MRSA §15, sub-§1, ¶A,** as amended by PL 1995, c. 224, §1 and c. 356, §20, is repealed and the following enacted in its place:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;
- (6) Theft, as defined in section 357, when the value of the services is \$2,000 or less, if

the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A; or

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

**Sec. 3. 17-A MRSA §210-A** is enacted to read:

**§210-A. Stalking**

**1. A person is guilty of stalking if:**

**A. The person intentionally or knowingly engages in a course of conduct directed at another specific person that would in fact cause a reasonable person:**

(1) To suffer intimidation or serious inconvenience, annoyance or alarm;

(2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or

(3) To fear death or to fear the death of a member of that person's immediate family; and

**B. The person's course of conduct in fact causes the other specific person:**

(1) To suffer intimidation or serious inconvenience, annoyance or alarm;

(2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or

(3) To fear death or to fear the death of a member of that person's immediate family.

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

A. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct directed at or toward a person. For purposes of this section, "course of conduct" also includes, but is not limited to, gaining unauthorized access to personal, medical, financial or other identifying information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute.

B. "Immediate family" means a spouse, parent, child, sibling, stepchild, stepparent or any person who regularly resides in the household or who within the prior 6 months regularly resided in the household.

C. "Repeatedly" means on 2 or more occasions.

3. Stalking is a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of at least 60 days, of which 48 hours may not be suspended, and may order the actor to attend an abuser education program approved by the court, except that stalking is a Class C crime when the actor has 2 or more prior convictions for violations of this section, 2 or more convictions under Title 5, section 4659; Title 15, section 321; or Title 19, section 769 or 2 or more prior convictions for violations of any other temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation, any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe or a court-approved consent agreement. The court shall impose a sentencing alternative involving a term of imprisonment, in the case of a Class C crime, of at least 6 months, of which 14 days may not be suspended, and may order the actor to attend an abuser education program approved by the court. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the

offense being enhanced by no more than 10 years, although both prior convictions may have occurred on the same day. Stalking is not a Class C crime if the commission of the 2 prior offenses occurred within a 3-day period. The date of the conviction is determined to be the date that the sentence is imposed, even though an appeal was taken. The date of a commission of a prior offense is presumed to be that stated in the complaint, information, indictment or other formal charging instrument, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 4. 19 MRSA §769, sub-§3 is enacted to read:

3. **Notice to law enforcement.** To assist in the enforcement of protective orders issued by tribunals outside this State, the person who obtained the order may provide a copy to a Superior Court clerk or a District Court clerk who, in cooperation with the Department of Public Safety, shall file the order in the Maine Criminal Justice Information System described in Title 16, section 631.

Sec. 5. **Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

**JUDICIAL DEPARTMENT**

**Judicial - Computer Criminal Record System**

All Other	\$173,721
Provides for the allocation of funds for the operation of the Judicial Department's computer system.	

**JUDICIAL DEPARTMENT**

<b>TOTAL</b>	173,721
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**PUBLIC SAFETY, DEPARTMENT OF**

**State Police**

All Other	173,721
Provides for the allocation of funds to maintain the Maine Criminal Justice Information System.	

**DEPARTMENT OF PUBLIC SAFETY**

<b>TOTAL</b>	173,721
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TOTAL ALLOCATIONS \$347,442

See title page for effective date.

**CHAPTER 669**

**H.P. 1313 - L.D. 1797**

**An Act to Implement the  
Recommendations of the Task Force  
on Tax Increment Financing**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 30-A MRSA §5252, sub-§8,** as amended by PL 1991, c. 431, §§4 and 5, is further amended to read:

**8. Project costs.** "Project costs" means any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred ~~by the municipality which that are listed included in a project plan development program~~ as costs of improvements, including public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to, or use by, commercial or industrial users, within a development district plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the municipality in connection with the implementation of this plan.

A. The term "project costs" does not include the cost of buildings, or portions of buildings, used predominantly for the general conduct of government. These buildings include, but are not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other State Government and local government office buildings.

B. The term "project costs" includes, but is not limited to:

(1) Capital costs, including, but not limited to:

(a) The actual costs of the construction of public works or ~~other~~ improvements, ~~new~~ buildings, structures and fixtures;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) The acquisition of equipment; ~~and~~

(d) ~~The clearing and grading of land~~ Site preparation and finishing work; ~~and~~

(e) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expense, planning, engineering, architectural, testing, legal and accounting expenses.

(2) Financing costs, including, but not limited to, ~~all closing costs, issuance costs,~~ and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs, ~~meaning any deficit incurred resulting from the sale or lease as lessor by the municipality of real or personal property within a development district for consideration which is less than its cost to the municipality;~~

(4) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice and services;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan development program;

(6) Relocation costs, including, but not limited to, those relocation payments made following condemnation;

(7) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the