

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

J.S. McCarthy Company
Augusta, Maine
1995

SUBCHAPTER III

NOTIFICATION

§11141. Risk assessment

The department shall establish and apply a risk assessment instrument to each sex offender under its jurisdiction for the purpose of notification to law enforcement agencies and to the public.

§11142. Mandatory notification of conditional release or discharge of sex offenders

The department and the Department of Public Safety, State Bureau of Identification are governed by the following notice provisions when a sex offender is conditionally released or discharged.

1. Duties of the department. The department shall give the Department of Public Safety, State Bureau of Identification notice of the following:

- A. The address where the sex offender will reside;
- B. The address where the sex offender will work, if applicable;
- C. The geographic area to which a sex offender's conditional release is limited, if any; and
- D. The status of the sex offender when released as determined by the risk assessment instrument.

2. Duties of the Department of Public Safety, State Bureau of Identification. Upon receipt of the information concerning the conditional release or discharge of a sex offender pursuant to subsection 1, the Department of Public Safety, State Bureau of Identification shall forward the information in subsection 1 to all law enforcement agencies that have jurisdiction in those areas where the sex offender may reside or work.

§11143. Public notification

1. Department. Upon the conditional release or discharge of a sex offender from a state correctional institution, the department shall give notice of the information under section 11142, subsection 1 to members of the public who the department determines appropriate to ensure public safety.

2. Law enforcement agencies. Upon receipt of the information concerning the conditional release or discharge of a sex offender pursuant to section 11142, subsection 2, a law enforcement agency shall notify members of that municipality who the law enforcement agency determines appropriate to ensure public safety.

§11144. Risk assessment assistance

Upon request, the department shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of notification to the public of a sex offender's conditional release or discharge.

Sec. 14. Report. The Department of Corrections shall report its findings and recommendations regarding the implementation and application of the risk assessment and relapse prevention program for sex offenders, including the department's work assisting law enforcement agencies with risk assessment for the purpose of public notification, to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 1, 1998.

Sec. 15. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1996-97

**CORRECTIONS,
DEPARTMENT OF
Correctional Services**

All Other	\$200,000
Provides for the allocation of funds to provide relapse prevention training and sex offender treatment services to Department of Corrections' clients.	

See title page for effective date.

CHAPTER 681

H.P. 918 - L.D. 1294

An Act to Prohibit Home Repair Fraud

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

Sec. 1. 17-A MRSA §908 is enacted to read:

§908. Home repair fraud

1. A home repair seller is guilty of home repair fraud if that seller knowingly enters into an agreement or contract, written or oral, with any person for home repair services and the seller, at the time of entering into that agreement or contract:

A. Intentionally misrepresents a material fact relating to the terms of the agreement or contract or misrepresents a preexisting or existing condition of any portion of the property that is the subject of the home repair services;

B. Intentionally creates or reinforces an impression relating to the terms of the agreement or contract that is false and that the seller does not believe to be true or fails to correct such an impression that the seller had previously created or reinforced;

C. Intentionally promises performance under the terms of the agreement or contract that the seller does not intend to perform or that the seller knows will not be performed;

D. Intentionally uses or employs deception, false pretense or false promise in securing the agreement or contract; or

E. Knows that the property that is the subject of the home repair services was previously damaged or destroyed by the seller with the intent to obtain the agreement or contract.

2. In a prosecution under subsection 1, paragraph A, whether a fact relating to the terms of the agreement or contract is material is a question of law to be determined by the court.

3. As used in this section, unless otherwise indicated, the following terms have the following meanings.

A. "Home repair services" means fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence. "Home repair services" includes the construction, installation, replacement, improvement and cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fall-out shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings and other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming.

B. "Home repair seller" or "seller" means a person, partnership, corporation, business, trust or other legal entity that sells or provides home repair services.

C. "Residence" means a single-family or multi-family dwelling, including a single-family home, apartment building, condominium, duplex or

townhouse that is used or intended to be used by its occupants as a dwelling place.

4. Home repair fraud is a Class D crime, except that a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section is a Class C crime. 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. Home repair fraud 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 deemed to be the date that 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 or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 2. 32 MRSA §4667, as amended by PL 1987, c. 202, §3, is repealed and the following enacted in its place:

§4667. Criminal penalties

A violation of section 4662, section 4664-A or section 4666 is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 4662, section 4664-A or section 4666 is a Class D crime if the State pleads and proves that the act or omission was intentional.

Sec. 3. 32 MRSA §4682-A, sub-§3, as amended by PL 1991, c. 714, §11, is repealed.

Sec. 4. 32 MRSA §4688, as amended by PL 1985, c. 763, Pt. A, §94, is repealed and the following enacted in its place:

§4688. Violations and penalties

1. Criminal penalty. Violation of section 4682, section 4682-A, subsection 2 or section 4682-B is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 4682, section 4682-A, subsection 2 or section 4682-B is a Class D crime if the State pleads and proves that the act or omission was intentional.

2. Unfair trade practice. A person who fails to comply with this chapter commits a violation of Title 5, chapter 10.

Sec. 5. 32 MRSA §14512, sub-§1, as enacted by PL 1993, c. 444, §1, is repealed and the following enacted in its place:

1. Criminal penalty. Violation of section 14504 or section 14506 is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 14504 or

14506 is a Class D crime if the State pleads and proves that the act or omission was intentional.

See title page for effective date.

CHAPTER 682

S.P. 613 - L.D. 1617

An Act to Establish the Penobscot County Budget Committee

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

Sec. 1. 30-A MRSA c. 3, sub-c. I, art. 14 is enacted to read:

ARTICLE 14

PENOBSCOT COUNTY BUDGET COMMITTEE

§900-F. Definitions

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

1. Budget committee. "Budget committee" means the Penobscot County Budget Committee.

2. Municipal officials. "Municipal officials" means any elected member of a municipal government in Penobscot County.

§900-G. Budget; appropriations and approval

Notwithstanding sections 2, 701 and 702, in Penobscot County the county commissioners may appropriate money, according to a budget that must be prepared and finalized in accordance with this article.

§900-H. Budget committee

There is established the Penobscot County Budget Committee to carry out the purposes of this article.

1. Membership. The budget committee consists of 15 members as follows:

A. Three members elected from each commissioner district as provided in subsection 2;

B. One municipal official appointed by each county commissioner from the commissioner's district; and

C. Three members of the county legislative delegation selected by the delegation.

2. Municipal official elections. Before September 30th of every year, the county commissioners shall notify all municipal officials to caucus by county commissioner district at a specified date, time and place for the purpose of electing 3 municipal officials from each district as members of the county budget committee. Each county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The 3 nominees receiving the most votes are the budget advisory committee members. The names of those elected by the caucus must be recorded and forwarded to the county commissioners.

3. Term; vacancy; replacement. Budget committee members serve 2-year terms. If a budget advisory committee member ceases to be a municipal official during the term of membership, the committee member vacates membership and a replacement must be appointed by the county commissioner from the district in which the vacancy occurred.

§900-I. Budget process

1. Public hearing. The Penobscot County commissioners shall hold one or more public hearings on the budget at times convenient for the residents of the county and before November 1st of each year.

2. Budget; submission to budget committee. The Penobscot County commissioners shall submit a budget for the coming year to the budget committee no later than November 1st of each year. The budget committee shall review the budget and make additions or deletions to the budget by a majority vote of the committee. The budget must be presented to the county commissioners by December 1st of each year. The county commissioners shall act on the budget no later than December 15th of the year preceding the budget year. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership no later than December 31st of that year. Those actions are final and not subject to further action by either the county commissioners or the budget committee.

3. Budget presentation to legislative delegation. Before December 15th annually, the county commissioners, in conjunction with the budget committee, shall present the proposed budget to the Penobscot County legislative delegation at a meeting called by the chair of the legislative delegation for that purpose. Copies of the proposed budget must be submitted to the chair of the legislative delegation at least 7 days prior to the meeting.

4. Assessment of taxes. The budget adopted under subsection 2 is the final authorization for the assessment of county taxes. The county tax authorized is apportioned and collected in accordance with section 706.