

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

matters may report out legislation concerning electric industry restructuring to the Second Regular Session of the 118th Legislature or to the First Regular Session of the 119th Legislature or the Second Regular Session of the 119th Legislature.

See title page for effective date.

CHAPTER 317

H.P. 1058 - L.D. 1490

An Act Allowing Appellate Review by an Aggrieved Contemnor

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

PART A

Sec. A-1. 15 MRSA §1004, as enacted by PL 1987, c. 758, §20, is amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229 or post-conviction review proceedings under sections 2121 to 2132 or probation revocation proceedings under Title 17-A, sections 1205 to 1207, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively.

Sec. A-2. 15 MRSA §§1103 and 1104 are enacted to read:

§1103. Summary contempt proceeding involving a punitive sanction

The setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, including any appeal under section 2115-B, is a matter wholly within the discretion of the court. Subchapters IV and V apply.

§1104. Material witness; arrest and bail

If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the presence of that person by subpoena, the court may order the arrest of that person and may require that person to give bail for that person's appearance as a witness, utilizing the same standards for release as for a defendant preconviction bailable as of right under subchapter II. Subchapters IV and V also apply.

PART B

Sec. B-1. 15 MRSA §2115-B is enacted to read:

§2115-B. Appeal by aggrieved contemnor

1. Summary contempt proceedings involving punitive sanctions. In a summary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, before a Judge of the District Court, Probate Court or Administrative Court, a contemnor who is aggrieved by an order and imposition of a punitive sanction may appeal, as provided under section 2111 and the applicable Maine Rules of Criminal Procedure, to the Superior Court and, if unsuccessful, to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure. In a like proceeding, instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, before a Justice of the Superior Court or a Justice of the Supreme Judicial Court, any contemnor aggrieved by an order and imposition of a punitive sanction may appeal to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure.

2. Plenary contempt proceedings involving punitive sanctions. In a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction tried other than in the Superior Court or Supreme Judicial Court may appeal, as provided under section 2111 and the applicable Maine Rules of Criminal Procedure, to the Superior Court, and if unsuccessful, to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure. In a like proceeding instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction tried other than in the Superior Court or Supreme Judicial Court may appeal, as provided under section 2111 and the applicable Maine Rules of Criminal Procedure, to the Superior Court, and if unsuccessful, to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure. In a like proceeding instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction tried other than in the Superior Court or Supreme Judicial Court may appeal, as provided under section 2111 and the applicable Maine Rules of Criminal Procedure, to the Superior Court, and if unsuccessful, to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure.

66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction tried in the Superior Court or Supreme Judicial Court, may appeal to the Supreme Judicial Court, sitting as the Law Court, as provided under section 2115 and the applicable Maine Rules of Criminal Procedure.

See title page for effective date.

CHAPTER 318

H.P. 865 - L.D. 1182

An Act to Amend Coded Licenses

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

Sec. 1. 29-A MRSA §1404, sub-§2, as amended by PL 1995, c. 645, Pt. B, §14 and affected by §24, is further amended to read:

2. Prior convictions. A person convicted of operating under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as defined in section 2453, subsection 2, within 10 years of the date the license is issued, reissued or returned after a period of suspension bears a coded notation of that fact.

The Secretary of State may, at the request of a licensee, remove the coded notation from the license of a person convicted for a first operating-under-the-influence offense as defined in section 2453, subsection 2 after 6 years from the date of the conviction if the person has not been convicted or adjudicated of any traffic offense or had a license suspended or revoked within that 6-year period.

See title page for effective date.

CHAPTER 319

S.P. 59 - L.D. 169

An Act Concerning Theft of Rental Property

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

Sec. 1. 17-A MRSA §360, sub-§1, ¶C, as amended by PL 1975, c. 740, §56, is further amended to read:

C. Having custody of property pursuant to a rental or lease agreement with the owner thereof whereby such property is to be returned to the owner at a specified time and place, ~~he~~ the per-

son knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render ~~his~~ the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, a gross deviation may be presumed when the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail after the expiration of the rental period to the most current address known to the owner.

See title page for effective date.

CHAPTER 320

H.P. 1064 - L.D. 1502

An Act to Enable Victims to Benefit from the Profits from Crimes

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

Sec. 1. 14 MRSA §752-E is enacted to read:

§752-E. Crime victims; profits from crime

1. Limitation period. Actions based upon a criminal offense in which, as that offense is defined, there is a victim, as defined in Title 17-A, section 1171, subsection 2, brought by or on behalf of a victim against the offender must be commenced within the limitation period otherwise provided or within 3 years of the time the victim discovers or reasonably should have discovered any profits from the crime, whichever occurs later.

2. Notice to victims. A person or organization that knowingly pays or agrees to pay any profits from a criminal offense in which, as that offense is defined, there is a victim to a person charged with or convicted of that crime shall make reasonable efforts to notify every victim, as defined in Title 17-A, section 1171, subsection 2, of the payment or agreement to pay as soon as practicable after discovering that the payment or intended payment constitutes profits from the crime. Reasonable efforts must include, but are not limited to, seeking information about victims from court records and the prosecuting attorney and mailing notice by certified mail to victims whose address is known and publishing, at least once every 6 months for 3 years, in newspapers of general circulation in the area where the crime occurred a legal notice to unknown victims or victims whose address is unknown.