

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

D. To a private investigator licensed under Title 32, chapter 89:

(1) The Chief of the State Police.

Sec. 4. 32 MRSA §8120, as enacted by PL 1987, c. 602, §3, is repealed.

Sec. 5. 32 MRSA §8120-A is enacted to read:

§8120-A. Firearms

A private investigator licensed under this chapter may carry a firearm while performing the duties of a private investigator only after being issued a concealed weapons permit by the Chief of the State Police under Title 25, chapter 252 and passing the written firearms examination prescribed by the commissioner.

See title page for effective date.

CHAPTER 361

S.P. 364 - L.D. 1223

An Act to Expand the Monitoring of the Conversations of Prisoners

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

Sec. 1. 15 MRSA §709, sub-§4-A, as enacted by PL 1987, c. 680, §1, is further amended to read:

4-A. Investigative officer. "Investigative officer" means ~~a corrections officer employed by an employee of the Department of Corrections and designated by the Commissioner of Corrections as having the authority to conduct investigations of offenses relating to the security or orderly management of a correctional facility administered by the department.~~

Sec. 2. 15 MRSA §709, sub-§4-B is enacted to read:

4-B. County jail investigative officer. "County jail investigative officer" means an employee of a county jail designated by the county jail administrator as having the authority to conduct investigations of offenses relating to the security or orderly management of the county jail.

Sec. 3. 15 MRSA §712, sub-§2, as amended by PL 1995, c. 182, §1, is further amended to read:

2. Investigative officers. It is not a violation of this chapter for an investigative officer, as defined in this chapter, or for an employee of the Department of Corrections acting at the direction of an investigative

officer, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which that is a necessary incident to the administration of criminal justice, if:

~~A. Either the sender or receiver of that communication is a person committed to the custody of the Department of Corrections under a term of imprisonment which is being served residing in a an adult correctional facility administered by the department Department of Corrections; and~~

~~B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception; and, which includes:~~

~~(1) Providing the resident with a written notification statement;~~

~~(2) Posting written notification next to every telephone at the facility that is subject to monitoring; and~~

~~(3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.~~

~~C. Probable cause exists that a criminal offense related to the security of a correctional facility administered by the department has been, is in the process of being or is about to be committed by a party to the conversation.~~

~~(1) Prior to the interception, the grounds for that probable cause shall be documented in a sworn affidavit which shall be submitted to a Judge of the District Court or Justice of the Superior Court to determine if that probable cause exists.~~

~~(2) Prior authorization for the submission to the Judge or Justice must be given by the Commissioner of Corrections and the Attorney General.~~

This subsection ~~shall~~ does not authorize any interference with the attorney-client privilege.

Sec. 4. 15 MRSA §712, sub-§3 is enacted to read:

3. County jail investigative officer. It is not a violation of this chapter for a county jail investigative officer, as defined in this chapter, or for a county jail employee acting at the direction of a county jail investigative officer to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is a necessary incident to the administration of criminal justice if:

A. Either the sender or the receiver of that communication is a person residing in an adult section of the county jail; and

B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:

(1) Providing the resident with a written notification statement;

(2) Posting written notification next to every telephone at the jail that is subject to monitoring; and

(3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

Sec. 5. 15 MRSA §713, as amended by PL 1995, c. 182, §2, is further amended to read:

§713. Evidence

The contents of an interception are not admissible in court, except that the contents of an interception of any oral or wire communication that has been legally obtained under the laws of another jurisdiction in which the interception occurred or that has been legally obtained pursuant to section 712, subsection 2 or 3 is admissible in the courts of this State, subject to the Maine Rules of Evidence.

See title page for effective date.

CHAPTER 362

S.P. 372 - L.D. 1231

An Act Regarding the Leasing of Buildings

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Judicial Department may effect savings by subleasing property it currently holds under lease agreements; and

Whereas, these savings may be expeditiously brought about if the Judicial Department is authorized to enter into appropriate subleases; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 4 MRSA §17-B is enacted to read:

§17-B. Subleasing

Notwithstanding any other provision of law, the Judicial Department may sublease real property that it holds in the Town of York as tenant to any other government agency for a period of 5 years or less.

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

Effective May 31, 1997.

CHAPTER 363

H.P. 936 - L.D. 1283

An Act to Restrict Parental Rights of Convicted Sex Offenders

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

Sec. 1. 19-A MRSA §1658 is enacted to read:

§1658. Termination of parental rights and responsibilities upon conviction

The parental rights and responsibilities with respect to a specific child of a parent convicted of a crime involving the sexual intercourse that resulted in the conception of that child may be terminated in accordance with this section.

1. Petitioner. The petition for termination may be filed by the other parent or, if the other parent is a minor, the parent or guardian of the other parent.

2. Petition. The petitioner may file a petition with the District Court that requests the termination of the parental rights and responsibilities of the convicted parent and alleges:

A. That the parent was convicted of a crime involving sexual intercourse; and

B. That the sexual intercourse resulted in the conception of the child.

3. Termination. Except as provided in subsection 4, if the petitioner proves the allegations in