

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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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
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treasurer's office. The deputy treasurer shall give bond to the county for the faithful discharge of duties in the sum ordered by the county commissioners and with such sureties as they approve in writing on the bond, the premium of the bond to be met by the county. The deputy treasurer shall act as treasurer in the event of a vacancy until a treasurer is chosen and qualified under section 151. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in the sum ordered by the commissioners is deemed to comply with the requirements of this section.

Sec. 3. 30-A MRSA §372, sub-§§1 to 5, as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

1. Bond required. Every person elected or appointed sheriff for the Counties of York, Cumberland, Kennebec or Penobscot, before receiving that commission, must give bond to the Treasurer of State with at least 3 sufficient sureties or with the bond of a surety company authorized to do business in this State as surety in the sum of \$40,000 and for any of the other counties in the sum of \$25,000, conditioned for the faithful performance of the duties of the office and to answer for all neglect and misdoings of the chief deputy. Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in the sum ordered by the commissioners is deemed to comply with the requirements of this section.

2. Approval of bond. After executing the required bond, every sheriff shall file it in the office of the county clerk, to be presented to the county commissioners at their next meeting for approval. After the bond has been approved by the commissioners, the clerk shall record it and certify the fact of approval on the bond. ~~The clerk shall retain a copy of the bond and deliver the original to the sheriff who shall deliver it to the State Auditor within 20 days after its approval to be filed in the State Auditor's office.~~

3. Annual examination of bonds. The county commissioners of each county, at their first meeting after the 3rd Tuesday of June, on motion of the district attorney, shall annually examine the sufficiency of the bond of the sheriff of their county and have their clerk make a record of their determination. ~~The clerk shall report the commissioner's findings to the State Auditor within 30 days.~~

4. New bond when insufficient. If the bond of any sheriff is found to be insufficient, the clerk shall certify that fact to the sheriff within 10 days. Within 20 days after that notice is given, the sheriff must give a new bond with sufficient sureties, to be filed in the office of the county clerk and approved by the county

~~commissioners, and then filed in the State Auditor's office.~~

5. Forfeiture for neglect to give bond. A sheriff forfeits \$150 to the State for each month's neglect to give the security required in this section. ~~The State Auditor shall report that neglect to the Treasurer of State.~~ The Attorney General shall prosecute a civil action for the Treasurer of State to recover the forfeiture. The clerk of courts of the sheriff's county shall certify the sheriff's name to the Governor and the Attorney General. Unless reasonable cause for this neglect is shown or, within 20 days after the clerk certifies the sheriff's name, the sheriff gives or renews the security to the satisfaction of the Governor, the sheriff ~~thereby~~ vacates the office.

Sec. 4. 30-A MRSA §384, as amended by PL 1991, c. 748, is further amended to read:

§384. Chief deputy, deputies, bond; approval and filing

Before receiving a commission, every person appointed chief deputy under section 383, or appointed a deputy under section 381, shall give bond to the Treasurer of State with at least 3 sufficient sureties, or with the bond of a surety company authorized to do business in this State as surety, in the sum required by the county commissioners of that county, conditioned for the faithful performance of the duties of that office. The bond of the chief deputy must be filed and approved in the same manner as is required for the bond of a sheriff under section 372, subsection 2, and all of that subsection applies to these bonds. The county may furnish a bond for all full-time and part-time deputies that complies with this section. That bond must be recorded in the county records ~~and delivered to the State Auditor to be filed.~~ Surety and fidelity insurance coverage provided by a public sector self-funded risk pool organized pursuant to section 2253 in a sum equal to or exceeding the sum required by this section is deemed to comply with the requirements of this section.

See title page for effective date.

CHAPTER 23

H.P. 545 - L.D. 766

**An Act to Clarify the Criminal Code
Relative to Strict Liability Crimes**

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

Sec. 1. 17-A MRSA §2, sub-§23-A is enacted to read:

23-A. "Strict liability crime" has the meaning set forth in section 34.

Sec. 2. 17-A MRSA §34, as amended by PL 1981, c. 470, Pt. B, §6, is further amended to read:

§34. Culpable state of mind as an element

1. A person is not guilty of a crime unless ~~he~~ that person acted intentionally, knowingly, recklessly or negligently, as the law defining the crime specifies, with respect to each other element of the crime, except as provided in subsection ~~5~~ 4. When the state of mind required to establish an element of a crime is specified as "willfully," "corruptly," "maliciously" or by some other term importing a state of mind, that element is satisfied if, with respect thereto, the person acted intentionally or knowingly.

2. When the definition of a crime specifies the state of mind sufficient for the commission of that crime, but without distinguishing among the elements thereof, the specified state of mind ~~shall apply~~ applies to all the other elements of the crime, ~~unless a contrary purpose plainly appears~~ except as provided in subsection 4.

3. When the law provides that negligence is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally, knowingly or recklessly. When the law provides that recklessness is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally or knowingly. When the law provides that acting knowingly is sufficient to establish an element of the crime, that element is also established if, with respect thereto, a person acted intentionally.

4. Unless otherwise expressly provided, a culpable mental state need not be proved with respect to:

- A. Any fact ~~which that~~ that is solely a basis for sentencing classification; ~~or~~
- B. Any element of the crime as to which it is expressly stated that it must "in fact" exist;
- C. Any element of the crime as to which the statute expressly provides that a person may be guilty without a culpable state of mind as to that element;
- D. Any element of the crime as to which a legislative intent to impose liability without a culpable state of mind as to that element otherwise appears;
- E. Any criminal statute as to which it is expressly stated to be a "strict liability crime" or otherwise expressly reflects a legislative intent to impose criminal liability without proof by the

State of a culpable mental state with respect to any of the elements of the crime; or

F. Any criminal statute as to which a legislative intent to impose liability without a culpable state of mind as to any of the elements of the crime otherwise appears.

~~4-A. As used in this section, "strict liability crime" means a crime that, as legally defined, does not include a culpable mental state element with respect to any of the elements of the crime and thus proof by the State of a culpable state of mind as to that crime is not required.~~

~~5. If a statute defining a crime does not expressly prescribe a culpable mental state with respect to some or all of the elements of the crime, a culpable mental state is nevertheless required, pursuant to subsections 1, 2 and 3, unless:~~

- ~~A. The statute expressly provides that a person may be guilty of a crime without a culpable state of mind as to those elements; or~~
- ~~B. A legislative intent to impose liability without a culpable state of mind as to those elements otherwise appears.~~

See title page for effective date.

CHAPTER 24

H.P. 570 - L.D. 791

An Act to Clarify Sentencing Alternatives Involving Probation and Unconditional Discharge Under the Criminal Code

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

Sec. 1. 17-A MRSA §1152, sub-§2, ¶A, as repealed and replaced by PL 1985, c. 821, §3, is amended to read:

A. Unconditional discharge as authorized by chapter ~~49~~ 54-D;

Sec. 2. 17-A MRSA §1201, as amended by PL 1987, c. 361, §3, is further amended to read:

§1201. Eligibility for a sentence alternative that includes a period of probation

1. A person who has been convicted of a crime may be sentenced to a section 1152 sentencing alternative ~~which that~~ which includes a period of probation ~~or to the sentencing alternative of unconditional discharge, unless:~~