

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

B or Class C crime, with the exception of offenses involving marijuana.

A. ~~No property~~ Property may not be forfeited under this subsection, to the extent of an interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner. When an owner of property ~~which~~ that is that person's primary residence proves by a preponderance of the evidence that ~~he~~ the owner is the spouse or minor child of the coowner of the primary residence who has used or intended to use the residence, in any manner or part, to commit or facilitate the commission of a violation of Title 17-A, section 1103 or 1105, the State shall bear the burden of proving knowledge or consent of the spouse or minor child by a preponderance of the evidence; ~~and~~

**Sec. 2. 15 MRSA §5821, sub-§7-A** is enacted to read:

**7-A. Computers.** Except as provided in paragraph A, all computers, as defined in Title 17-A, section 431, subsection 2, and computer equipment, including, but not limited to, printers and scanners, that are used or are attempted to be used in violation of Title 17-A, section 259.

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; and

**Sec. 3. 17-A MRSA §259** is enacted to read:

**§259. Solicitation of child by computer to commit a prohibited act**

1. A person is guilty of soliciting a child by a computer to commit a prohibited act if the person:

A. Uses a computer knowingly to solicit, entice, persuade or compel another person to meet with that person;

B. Is 16 years of age or older; and

C. Knows or believes the other person is less than 14 years of age;

D. Is at least 3 years older than the expressed age of the other person; and

E. Has the intent to engage in the following prohibited act with the other person:

(1) A sexual act as defined in section 251, subsection 1, paragraph C;

(2) Sexual contact as defined in section 251, subsection 1, paragraph D; or

(3) Sexual exploitation of a minor as pursuant to Title 17, section 2922.

2. As used in this section, the term "computer" has the same meaning as in section 431, subsection 2.

3. Solicitation of a child by a computer to commit a prohibited act is a Class D crime.

See title page for effective date.

## CHAPTER 350

H.P. 433 - L.D. 575

### An Act to Provide for Increased Penalties and Enforcement Regarding Dangerous Dogs

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

**Sec. 1. 7 MRSA §3907, sub-§12-D** is enacted to read:

**12-D. Dangerous dog.** "Dangerous dog" means a dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use.

For the purposes of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.

**Sec. 2. 7 MRSA §3952**, as amended by PL 1997, c. 690, §§35 and 36, is further amended to read:

#### §3952. Keeping a dangerous dog

A person who owns or keeps a dangerous dog commits a civil violation for which a forfeiture of not more than \$1,000, plus costs, may be adjudged.

**1. Procedure.** Any person who is assaulted by a dog ~~without provocation~~ or any person witnessing an ~~unprovoked~~ assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within ~~40~~ 30 days of the assault, may make written complaint to the sheriff, local law

enforcement officer or animal control officer that the dog is a dangerous or vicious dog.

~~The~~ Upon investigation of the complaint, the sheriff, local law enforcement officer or animal control officer may file the complaint in District Court or Superior Court issue a civil violation summons for keeping a dangerous dog.

If, upon hearing, the court ~~is satisfied~~ finds that ~~an assault on a person or a domesticated animal has taken place the dog is a dangerous dog,~~ the court may impose a civil forfeiture and shall:

- A. Order the dog muzzled, restrained ~~or~~, confined to the premises of its owner or keeper or confined in a secure enclosure. The court may set standards for that enclosure; or
- B. Order the dog to be euthanatized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault.

~~The owner or keeper who keeps a dog in violation of this section commits a civil violation for which a forfeiture not to exceed \$100, plus costs, may be adjudged.~~

**2. Failure to abide by court order.** If the court order in subsection 1, paragraph B, is not complied with within the time set by the court, the court may, upon application by the complainant or other person, issue a warrant to the county sheriff or any of ~~his~~ the sheriff's deputies or to a police officer or constable in the municipality where the dog is found, commanding the officer to kill the dog immediately and make a return of the warrant to the court within 14 days from the date of the warrant.

The owner or keeper ~~shall~~ must be ordered to pay all costs of supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog.

**3. Dogs presenting immediate threat to public.** After ~~filing of complaint in District Court or Superior Court issuing a summons~~ and before hearing, if the dog poses an immediate or continuing threat to the public, ~~the dog is subject to muzzling, restraint or confinement to its premises upon order of the a sheriff, local law enforcement officer or animal control officer who filed the complaint shall order the owner or keeper of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog confined at the owner's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. Upon failure If the owner or keeper fails to comply, the sheriff, local law enforcement officer or animal control officer to whom complaint was made may apply to District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog~~

that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

**4. Court action; ex parte.** ~~An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that the dog is dangerous or vicious, its owner has failed to muzzle, restrain or confine it and that such failure poses an immediate threat of harm to the public.~~

~~A. Upon 2 days' notice or such shorter period as the court may prescribe, the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.~~

~~B. The court shall hear and determine such motion as expeditiously as justice requires.~~

~~C. The owner shall submit an affidavit setting forth specific facts to substantiate such findings as will serve to modify or dissolve the order. The applicant shall have the burden of presenting evidence to substantiate the original findings.~~

**4-A. Ex parte.** An order may be entered ex parte upon findings by the court or justice of the peace when:

A. The dog has inflicted a serious bodily injury as defined in Title 17-A, section 2, subsection 23; or

B. There is a reasonable likelihood that the dog is dangerous or vicious and:

(1) Its owner has failed to muzzle, restrain or confine the dog; and

(2) That failure poses an immediate threat of harm to the public.

**4-B. Modify order.** An order may be modified by the court.

A. Upon 2 days' notice or a shorter period the court may prescribe, the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

B. The court shall hear and determine the motion as expeditiously as possible.

C. The owner shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings.

**5. Lien.** Any person taking possession of a dog as provided in this section ~~shall have~~ has a lien on that dog in accordance with Title 17, section 1021, subsection 6.

**6. Treble damages.** If a dog, whose owner or keeper refuses or neglects to comply with the order, wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

**7. Class D crime.** If the owner refuses or neglects to comply with an order issued under subsection 1 or 4-A, the owner commits a Class D crime.

**Sec. 3. 22 MRSA §1313, sub-§1,** as enacted by PL 1993, c. 468, §23, is amended to read:

**1. Establishment of procedures.** The commissioner, in consultation with the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife shall adopt rules, in accordance with the Maine Administrative Procedure Act, establishing procedures for responding to a report of an animal suspected of having rabies. The procedures must include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies and, when that animal has bitten a person, provisions for the notification of the animal control officer in the locality where the bite occurred. The procedures may differ based on the perceived public health threat determined in part by consideration of the following factors:

- A. Whether the animal is a domesticated animal for which a known effective vaccine exists and, if so, can the animal's vaccination status be verified; and
- B. Whether the animal has bitten a person or exhibited other aggressive behavior.

See title page for effective date.

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## CHAPTER 351

H.P. 1250 - L.D. 1798

**An Act to Implement the  
Recommendations of the  
Commission to Study Providing  
Educators with More Authority to  
Remove Violent Students from  
Educational Settings**

**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. 20-A MRSA §254, sub-§11** is enacted to read:

**11. Statewide standards for behavior.** In consultation with organizations representing school boards, school administrators, teachers, parents and other interested local officials and community members, the commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the department by school administrative units. The department shall provide forms for reporting.

**Sec. 2. 20-A MRSA §1001, sub-§§15 and 16** are enacted to read:

**15. Adoption of student code of conduct.** With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

- A. Define unacceptable student behavior;
- B. Establish standards of student responsibility for behavior;
- C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate;
- D. Describe appropriate procedures for referring students in need of special services to those services;
- E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class;
- F. Establish policies and procedures concerning the removal of disruptive or violent students from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate; and
- G. Establish guidelines and criteria concerning the appropriate circumstances when the superin-