

# 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**

**8. Compensation.** Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission.

**9. Commission meetings.** Meetings of the commission are public proceedings and records of the commission are public records as defined in the laws governing freedom of access, Maine Revised Statutes, Title 1, chapter 13.

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

Effective June 9, 1999.

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## CHAPTER 444

H.P. 1116 - L.D. 1575

### An Act to Criminalize Internet Dissemination of Child Pornography

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

**Sec. 1. 17 MRSA §2921, sub-§2,** as enacted by PL 1977, c. 628, §1, is amended to read:

**2. Disseminate.** "Disseminate" means, ~~for consideration,~~ to manufacture, publish, send, promulgate, distribute, exhibit, ~~print~~ issue, furnish, sell or transfer possession or to offer or agree to do any of these acts.

**Sec. 2. 17 MRSA §2921, sub-§4,** as enacted by PL 1977, c. 628, §1, is amended to read:

**4. Photograph.** "Photograph" means to make, capture, generate or save a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.

**Sec. 3. 17 MRSA §2923, sub-§1,** as repealed and replaced by PL 1983, c. 223, is amended to read:

**1. Offense.** A person is guilty of dissemination of sexually explicit material if ~~he~~ the person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material ~~which~~ that depicts any minor, who the person knows or has reason to know is a minor, engaging in sexually explicit conduct.

**Sec. 4. 17 MRSA §2923, sub-§2,** as enacted by PL 1977, c. 628, §1, is amended to read:

**2. Presumption.** For the purposes of this section, possession of 10 or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, videotape or other mechanically, electronically or chemically reproduced visual image or material ~~shall give~~ gives rise to a presumption that the person possesses those items with intent to disseminate.

**Sec. 5. 17 MRSA §2925** is enacted to read:

#### **§2925. Forfeiture of equipment used to facilitate violations**

**1. Motion; notice.** Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an attorney for the State may, in writing, move the court for an order requiring the forfeiture to the State of any equipment, including computers, that may have facilitated the commission of the offense. Notice of the motion may be made by the State to the defendant and any party of interest by registered mail.

**2. In rem forfeiture proceeding.** If contesting the forfeiture, the defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding must be before the court.

**3. Burden of proof.** At the jury trial or court hearing, the State has the burden of proving to the fact finder by a preponderance of the evidence that the equipment was used in violation of this chapter.

**4. Order of forfeiture; distribution.** Upon a finding by a preponderance of the evidence that the equipment was used to facilitate the commission of a violation of this chapter, the court shall order the equipment forfeited and may, upon the written recommendation of the attorney for the State, provide in its order for the disposition or use of the equipment by any state, county or municipal law enforcement agency that made a substantial contribution to the investigation or prosecution of the case. Any equipment forfeited that is not transferred to an investigating or prosecuting agency must be sold and the proceeds deposited in the General Fund.

**5. Rules.** The Attorney General may adopt by rule guidelines regulating the disposition and use of property forfeited or sought for forfeiture under this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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