

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

that disease during the 6 months prior to importation.

~~3. Restrictions. Upon receipt of shipment, importers of mallard ducks, quail or Chukar partridge shall attach securely to each bird a metallic leg band.~~

~~B. The leg band shall remain attached to the birds until they are finally prepared for consumption.~~

**Sec. 6. 12 MRSA §7404**, as enacted by PL 1979, c. 420, §1, is amended to read:

**§7404. Commercial shooting areas**

Hunting on commercial shooting areas is governed by the license provisions of ~~sections 7104 and 7105~~ section 7105-A.

**Sec. 7. 12 MRSA §7407**, as amended by PL 1985, c. 304, §17, is further amended to read:

**§7407. Migratory waterfowl hunting**

Migratory waterfowl hunting is governed by the license and permit provisions of ~~sections 7105~~ 7105-A and 7109.

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

Effective April 12, 2001.

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**CHAPTER 50**

**H.P. 47 - L.D. 56**

**An Act to Provide the Right to a Jury Trial in Civil Actions for Civil Rights Violations**

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

**Sec. 1. 5 MRSA §4681**, as amended by PL 1995, c. 417, §1, is repealed and the following enacted in its place:

**§4681. Violations of constitutional rights; civil action by Attorney General**

**1. Interference with rights; action by Attorney General.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with

the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

**2. Place and name of action.** A civil action under subsection 1 must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred.

**3. Jury trial.** There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

**4. Civil penalty for violation.** Each violation of this section is a civil violation for which a civil penalty of not more than \$5,000 for each defendant may be adjudged. These penalties must be applied by the Attorney General in carrying out this chapter.

**5. Service of order or injunction.** Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

**6. Violation of restraining order or injunction.** A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.

**Sec. 2. 5 MRSA §4682**, as amended by PL 1995, c. 417, §2, is repealed and the following enacted in its place:

**§4682. Violations of constitutional rights; civil actions by aggrieved persons**

**1. Interference with rights; private actions.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence

against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief.

**2. Place of action.** The action under subsection 1 must be instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business.

**3. Jury trial.** There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

**4. Service of order or injunction.** Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

**5. Violation of restraining order or injunction.** A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.

See title page for effective date.

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## CHAPTER 51

S.P. 32 - L.D. 130

### An Act to Amend the Law Pertaining to the Maine Community Policing Institute Surcharge Fund

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

**Sec. 1. 4 MRSA §1057-A, sub-§4,** as enacted by PL 1999, c. 357, §3, is amended to read:

**4. Sunset.** This section is repealed September 30, ~~2001~~ 2003.

See title page for effective date.

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## CHAPTER 52

H.P. 815 - L.D. 1070

### An Act to Require Background Checks for Adoptions

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

**Sec. 1. 18-A MRSA §9-301,** as amended by PL 1997, c. 18, §3 and affected by §6, is further amended to read:

**§9-301. Petition for adoption and change of name; filing fee**

A husband and wife jointly or an unmarried person, resident or nonresident of the State, may petition the Probate Court to adopt a person, regardless of age, and to change that person's name. The fee for filing the petition is \$50- plus:

(a) The fee for a national criminal history record check for noncriminal justice purposes set by the Federal Bureau of Investigation for each prospective adoptive parent who is not the biological parent of the child; and

(b) The fee for a state criminal history record check for noncriminal justice purposes established pursuant to Title 25, section 1541, subsection 6 for each prospective adoptive parent who is not the biological parent of the child.

**Sec. 2. 18-A MRSA §9-304, sub-§(a),** as amended by PL 1997, c. 239, §5 and affected by §6, is repealed.

**Sec. 3. 18-A MRSA §9-304, sub-§(a-1)** is enacted to read:

(a-1) Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

(1) The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or li-