

# 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**

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-

censed child-placing agency shall submit the report to the court within 60 days.

(i) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(ii) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

(2) The court shall request a background check for each prospective adoptive parent who is not the biological parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of Maine conviction data.

(ii) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(iii) Each prospective parent who is not the biological parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(iv) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record

information pursuant to Title 16, section 620.

(v) State and federal criminal history record information may be used by the court for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interests of the child.

(vi) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the court are for official use only and may not be disseminated outside the court except as required under Title 22, section 4011.

(vii) The expense of obtaining the information required by this paragraph is incorporated in the adoption filing fee established in section 9-301. The Probate Court shall collect the total fee and transfer the appropriate funds to the Department of Public Safety and the department.

This subsection does not authorize the court to request a background check for the biological parent who is also the current legal parent of the child.

**Sec. 4. 25 MRSA §1542-A, sub-§1, ¶G**, as amended by PL 1999, c. 260, Pt. B, §7 and affected by §18, is further amended to read:

G. Who is a teacher or educational personnel applicant subject to Title 20-A, section 6103; ~~or~~

**Sec. 5. 25 MRSA §1542-A, sub-§1, ¶H**, as enacted by PL 1999, c. 260, Pt. B, §8 and affected by §18, is amended to read:

H. Charged with the commission of a juvenile crime;~~or~~

**Sec. 6. 25 MRSA §1542-A, sub-§1, ¶I** is enacted to read:

I. Who is a prospective adoptive parent not the biological parent as required under Title 18-A, section 9-304, subsection (a-1).

**Sec. 7. 25 MRSA §1542-A, sub-§3, ¶H** is enacted to read:

H. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph I, at the request of that person and upon payment of the expenses specified under Title 18-A, section 9-304, subsection (a-1), paragraph (2), subparagraph (iii).

**Sec. 8. 25 MRSA §1542-A, sub-§4**, as amended by PL 1999, c. 791, §7, is further amended to read:

**4. Duty to submit to State Bureau of Identification.** It is the duty of the law enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B and G to transmit immediately to the State Bureau of Identification the criminal fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless an express request is made by the commanding officer of the State Bureau of Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Education. The bureau may not use the fingerprints for any purpose other than that provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints, except as provided under Title 20-A, section 6103, subsection 9. Fingerprints taken pursuant to subsection 1, paragraph I must be transmitted immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the court.

**Sec. 9. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
<b>PUBLIC SAFETY, DEPARTMENT OF</b>		
<b>State Police</b>		
All Other	\$21,600	\$28,800
Allocates funds to conduct background checks for prospective adoptive parents.		

See title page for effective date.

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**CHAPTER 53**

**H.P. 312 - L.D. 390**

**An Act to Require Telephone Utility Participation in Enhanced 9-1-1**

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

**Sec. 1. 25 MRSA §2921, sub-§§10 and 11** are enacted to read:

**10. Local exchange carrier.** "Local exchange carrier" means any person that is engaged in:

A. Service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, that is covered by the exchange service charge;

B. Service comparable to that described in paragraph A provided through a system or combination of switches or transmission equipment or other facilities by which a subscriber can originate and terminate a telecommunications service;  
or

C. The offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

**11. Public switched telephone network.** "Public switched telephone network" means the network of equipment, lines and controls assembled to establish communication paths between calling and called parties in North America.

**Sec. 2. 25 MRSA §2933** is enacted to read:

**§2933. Local exchange carrier participation**

**1. Implementation of E-9-1-1 by local exchange carrier.** Each local exchange carrier offering service over the public switched network, in accordance with rules and procedures adopted by the bureau, shall implement the E-9-1-1 system and provide the universal emergency telephone number 9-1-1 for use by the public in seeking emergency services assistance through the E-9-1-1 system.

**2. Required information for E-9-1-1 database.** Each local exchange carrier shall provide to the bureau or its designee the automatic number identification, automatic location identification and any other information required to establish and maintain the E-9-1-1 database and service in accordance with the rules adopted by the bureau.

**3. Coordination of E-9-1-1 service; coordinator.** Each local exchange carrier and cellular or wireless telecommunications service provider within the State shall coordinate all implementation, operation and maintenance directly relating to E-9-1-1 through the bureau and shall designate a primary contact person, who may delegate the authority to one or more other persons, to coordinate with and provide all relevant information to the bureau to carry out the purposes of the chapter.

**4. Penalties.** On petition by the bureau, the Public Utilities Commission, in an adjudicatory proceeding, may impose the following penalties for a violation by a local exchange carrier of subsection 2 or