

# 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**

or crimes for which any person may file a postjudgment of conviction motion for DNA analysis under this section. The evidence must be preserved for the period of time that any person is incarcerated in connection with that case.

**15. Report.** Beginning January 2003 and annually thereafter, the Department of Public Safety shall report on post-conviction DNA analysis to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. The report must include the number of postjudgment of conviction analyses completed, costs of the analyses and the results. The report also may include recommendations to improve the postjudgment of conviction analysis process.

See title page for effective date.

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## CHAPTER 470

H.P. 1352 - L.D. 1809

### An Act Concerning the Penalties for Late Filing of Accelerated Campaign Reporting Under the Maine Clean Election Act

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** to ensure the uniform application of the law for calendar year 2001, it is necessary that this Act take effect immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 1 MRSA §1002, sub-§1, ¶F** is enacted to read:

F. This subsection is repealed January 1, 2002.

**Sec. 2. 1 MRSA §1002, sub-§1-A** is enacted to read:

**1-A. Membership.** The Commission on Governmental Ethics and Election Practices, established by Title 5, section 12004-G, subsection 33 and referred to in this chapter as the "commission," consists of 5 members appointed as follows.

A. By December 1, 2001 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives jointly shall establish and advertise a 30-day period to allow members of the public and groups and organizations to propose qualified individuals to be nominated for appointment to the commission.

B. By January 1, 2002 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives each shall present a list of 3 qualified individuals to the Governor for appointment of 4 members to the commission. The appointed leadership from each party in both bodies of the Legislature jointly shall present a list of 3 qualified individuals to the Governor for appointment of a 5th member to the commission.

C. By March 15, 2002, the Governor shall appoint the members of the commission selecting one member from each of the lists of nominees presented in accordance with paragraph A. These nominees are subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature. No more than 2 commission members may be enrolled in the same party.

D. Two initial appointees are appointed for one-year terms, 2 are appointed for 2-year terms and one is appointed for a 3-year term, according to a random lot drawing under the supervision of the Secretary of State. Subsequent appointees are appointed to serve 3-year terms. A person may not serve more than 2 terms.

E. The commission members shall elect one member to serve as chair for at least a 2-year term.

F. Upon a vacancy during an unexpired term, the term must be filled as provided in this paragraph for the unexpired portion of the term only. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee who created the vacancy. If the vacancy during an unexpired term was created by the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature.

G. Upon a vacancy created by an expired term, the vacancy must be filled as provided in this paragraph. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee whose term expired. When a vacancy is created by an expired term of the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature.

H. For the purposes of this subsection, "political party" has the same meaning as "party" as defined by Title 21-A, section 1, subsection 28.

**Sec. 3. 1 MRSA §1002, sub-§5**, as enacted by PL 1975, c. 621, §1, is amended to read:

**5. Employees.** The commission may shall employ an administrative director and such other assistance as may be necessary to carry out its duties. The commission also shall retain a general counsel as an employee of the commission. The general counsel may not hold any other state office or otherwise be employed by the State. Compensation paid to the commission's general counsel must be paid using funds from the Maine Clean Election Fund established by Title 21-A, section 1124. The commission shall select the administrative director and general counsel by an affirmative vote of at least 4 commission members.

**Sec. 4. 21-A MRSA §1002**, as enacted by PL 1985, c. 161, §6, is amended to read:

### **§1002. Meetings of commission**

The commission shall meet in Augusta for the purposes of this chapter at least ~~4 times during~~ once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise. Meetings may be held over the telephone if necessary, as long as the commission office remains open for attendance by complainants, witnesses and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted only during the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission. The commission office must be open

with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election and from 8 a.m. until at least 8 p.m. on election day. The commission shall meet at other times on the call of the Secretary of State, the Speaker of the House, the President of the Senate, the ~~chairman~~ chair or a majority of the members of the commission, provided that as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

**Sec. 5. 21-A MRSA §1003, sub-§4**, as enacted by PL 1985, c. 161, §6, is amended to read:

**4. Attorney General.** The Upon the request of the commission, the Attorney General is the counsel for the commission and may shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

**Sec. 6. 21-A MRSA §1017, sub-§3-B**, as enacted by IB 1995, c. 1, §12, is repealed and the following enacted in its place:

**3-B. Accelerated reporting schedule.** Additional reports are required from nonparticipating Maine Clean Election Act candidates pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, obligations and expenditures to date.

B. A nonparticipating candidate with a Maine Clean Election Act opponent shall file the following additional reports detailing the candidate's total campaign contributions, obligations and expenditures to date, unless that candidate signs an affidavit by the date the report is due, attesting that the candidate has not received, spent or obligated an amount sufficient to require a report under paragraph A:

(1) A report filed not later than 5 p.m. on the 42nd day before the date on which an election is held and complete as of the 49th day before that date;

(2) A report filed no later than 5 p.m. on the 21st day before the date on which an election is held and complete as of the 28th day before that date; and

(3) A report filed no later than 5 p.m. on the 12th day before the date on which an election is held and complete as of the 19th day before that date.

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.

**Sec. 7. 21-A MRSA §1020-A, sub-§4,** as amended by IB 1995, c. 1, §15, is further amended to read:

**4. Basis for penalties.** The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

~~Notwithstanding any other provisions of this section, a candidate who fails to file~~ The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B must be assessed a penalty at least is equivalent to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate,

whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

This subsection is repealed August 1, 2002.

**Sec. 8. 21-A MRSA §1020-A, sub-§5,** as enacted by PL 1995, c. 483, §15, is amended to read:

**5. Maximum penalties.** Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraphs B, C, D, E or H; section 1017, subsection 3-A, paragraphs B, C, D or F; section 1017, subsection 4; and section 1019;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4, paragraphs A and C and section 1018, subsection 2;

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F; section 1017, subsection 3-A, paragraphs A and E; and state party committee reports required to be filed under section 1017-A, subsection 4, paragraph B; ~~or~~

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4, paragraphs A, B and C and section 1018, subsection 2; or

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

This subsection is repealed August 1, 2002.

**Sec. 9. Commission on Governmental Ethics and Election Practices; terms beginning prior to January 1, 2002.** The term of any member of the Commission on Governmental Ethics and Election Practices appointed prior to January 1, 2002 ends upon the confirmation by the Legislature of

nominees to the Commission on Governmental Ethics and Election Practices made after January 1, 2002 according to the Maine Revised Statutes, Title 1, section 1002, subsection 1-A.

**Sec. 10. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
<b>ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL</b>		
<b>Commission on Governmental Ethics and Election Practices</b>		
Positions	(1,000)	(1,000)
Personal Services	\$39,560	\$55,576
All Other	(\$39,560)	(\$55,576)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>
Allocates funds for one General Counsel position and deallocates funds from the Maine Clean Election Fund to fund the position.		
<b>Commission on Governmental Ethics and Election Practices</b>		
All Other	\$20,900	\$20,900
Allocates funds from the Maine Clean Election Fund for the per diem and other expenses associated with increasing the number of meetings of the commission and for increased overtime costs associated with extending the office hours of the commission prior to elections.		
<b>COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES</b>		
<b>TOTAL</b>	<b>\$20,900</b>	<b>\$20,900</b>

**Sec. 11. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 21-A, section 1020-A, subsections 4 and 5 applies retroactively to January 1, 2000.

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

Effective June 29, 2001.

**CHAPTER 471**

**H.P. 30 - L.D. 30**

**An Act to Correct Errors and Inconsistencies in the Laws of Maine**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**PART A**

**Sec. A-1. 4 MRSA §152, sub-§4,** as amended by PL 1999, c. 731, Pt. ZZZ, §4 and affected by §42 and amended by c. 778, §1, is repealed and the following enacted in its place:

**4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter IV, mental retardation certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted, youth in need of services actions under Title 22, chapter 1071, subchapter XIV and small claims actions under Title 14, chapter 738;

**Sec. A-2. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 4, section 152, subsection 4 applies retroactively to May 10, 2000.

**Sec. A-3. 5 MRSA §3307-C, sub-§2,** as amended by PL 1999, c. 758, §1, is further amended to read: