

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

the time this notification is sent. Beneficiaries in a will shall ~~must~~, upon application to the register of probate, be furnished with a copy of ~~so much of any the~~ probated will as relates to them, upon payment of a fee of \$1, ~~provided the copy does not exceed 10 lines of legal cap paper of not less than 10 words in each line, and 10¢ for each additional line of 10 words per page.~~

See title page for effective date.

CHAPTER 15

H.P. 183 - L.D. 224

An Act to Amend the Maine Bail Code as Recommended by the Criminal Law Advisory Commission

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

Sec. 1. 15 MRSA §1003, sub-§5-A, as enacted by PL 1995, c. 356, §1, is amended to read:

5-A. Failure to appear. "Failure to appear" includes a failure to appear at the time or place required by a release order and the failure to surrender into custody at the time and place required by a release order or by the Maine Rules of Criminal Procedure, Rule 32(a) and Rule 38(c).

Sec. 2. 15 MRSA §1075 is enacted to read:

§1075. Attorney not to act as surety or deposit cash bail for client

An attorney, while representing a defendant, may not act as surety for or deposit cash bail for the client.

See title page for effective date.

CHAPTER 16

H.P. 182 - L.D. 223

An Act To Amend the Maine Juvenile Code as Recommended by the Criminal Law Advisory Commission

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

Sec. 1. 15 MRSA §3304, sub-§8 is enacted to read:

8. Authority of juvenile community corrections officer to issue and serve summons. The Commissioner of Corrections, at the commissioner's

discretion, may authorize a juvenile community corrections officer to issue and serve a summons, subject to conditions the commissioner may impose as to when and under what circumstances such authority may be exercised.

See title page for effective date.

CHAPTER 17

H.P. 216 - L.D. 273

An Act To Modify Certain Criminal Appeal Statutes in View of the New Maine Rules of Appellate Procedure

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

Sec. 1. 15 MRSA §210-A, as amended by PL 1997, c. 181, §2, is further amended to read:

§210-A. Procedure at hearing

At the hearing on the petition contesting extradition, if the Governor's warrant and the demand comply with the provisions of this chapter, the petitioner has the burden of proving by clear and convincing evidence that the petitioner has not been charged with a crime in the demanding state and that the petitioner is not a fugitive from justice. If the name of the petitioner is the same as that of the person named in the Governor's warrant, the petitioner has the burden of proving, by clear and convincing evidence, that the petitioner is not the person whom the demanding state is seeking to extradite. If the names are not identical, the ~~respondent~~ State has the burden of proving by a preponderance of the evidence that the petitioner is the person sought to be extradited by the demanding state. The following are conclusive on the issue of probable cause:

1. Indictment. An indictment or an information issued upon a waiver of indictment; or

2. Judicial determination of probable cause. An information or other formal charging instrument or an arrest warrant issued on a determination of probable cause by a judicial officer in the demanding state.

Affidavits, including any affidavits supplied pursuant to the provisions of section 203 or in support of an application for requisition, and any other hearsay evidence that may be deemed reliable by the court, are admissible at the hearing on the petition contesting extradition, for the purpose of showing that the petitioner is charged with a crime in the demanding state, that there is probable cause, that the petitioner is

in fact the person charged with the crime and that the petitioner is a fugitive from justice.

~~The order or judgment making final disposition of the petition constitutes a final judgment for the purpose of review. A final judgment entered under this section may be reviewed by the Supreme Judicial Court sitting as the Law Court. An appeal may be taken within 10 days after entry of the order or judgment appealed from. An appeal by the petitioner may not proceed unless the Law Court issues a certificate of probable cause. The filing of the notice of appeal is deemed to constitute a request for a certificate of probable cause. Upon the filing of a notice of appeal, the presiding judge shall prepare a statement of the facts of the proceedings in the District Court, which must be forwarded to the Law Court. In the presiding judge's discretion and upon a finding that special circumstances exist, the presiding judge, in lieu of preparing a statement of facts, may order that a transcript of all or part of the proceedings in the District Court be prepared and transmitted to the Law Court. The statement of facts or the transcript must be returned to the District Court with the order of the court. Denial of the certificate constitutes finality of the proceedings. An appeal after the issuance of a certificate of probable cause to the petitioner or an appeal taken by the State, in which case no certificate of probable cause is necessary, may be taken in the same manner as an appeal of a criminal conviction by a defendant except that the appeal must be made directly to the Law Court. The provisions of section 2115-A do not apply.~~

Sec. 2. 15 MRSA §210-B is enacted to read:

§210-B. Review of final judgment by Law Court

The order making final disposition of the petition contesting extradition constitutes a final judgment for the purpose of review. A final judgment entered under this section may be reviewed by the Supreme Judicial Court sitting as the Law Court. An appeal must be taken within 7 days after entry of the order that is being appealed.

1. Appeal by petitioner. A petitioner aggrieved by the order may not appeal as of right. The manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule.

2. Appeal by State. The State aggrieved by the order may appeal as of right and no certificate of approval by the Attorney General is required. The manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule.

Sec. 3. 15 MRSA §2115-B, as corrected by RR 1999, c. 2, §16 and affected by §17, is amended to read:

§2115-B. Appeal by aggrieved contemnor

1. Summary contempt proceedings involving punitive sanctions. In a summary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, before a Judge of the District Court or Probate Court or a Justice of the Superior Court or the Supreme Judicial Court, a contemnor who is aggrieved by an order and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Criminal Appellate Procedure.

2. Plenary contempt proceedings involving punitive sanctions. In a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under either the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Criminal Appellate Procedure.

Sec. 4. 15 MRSA §2131, as amended by PL 1981, c. 238, §§7 and 8, is repealed and the following enacted in its place:

§2131. Review of final judgment

A final judgment entered under section 2130 may be reviewed by the Supreme Judicial Court sitting as the Law Court.

1. Appeal by petitioner. A petitioner aggrieved by the final judgment may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

2. Appeal by State. The State aggrieved by the final judgment may appeal as of right and no certificate of approval by the Attorney General is required. The time for taking the appeal and the manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule.

Sec. 5. 17-A MRSA §1207, sub-§2, as enacted by PL 1997, c. 273, §3, is amended to read:

2. Superior Court proceeding. In a probation revocation proceeding in the Superior Court, a person whose probation is revoked may not appeal as of right. ~~The time, manner and specific conditions for taking that appeal to the Law Court are as the Supreme Judicial Court provides in the Maine Rules of Criminal Procedure. The time for taking the appeal~~

and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

See title page for effective date.

CHAPTER 18

H.P. 542 - L.D. 736

An Act To Specify Information Required in a Divorce Decree

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

Sec. 1. 19-A MRSA §953, sub-§7, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

7. Decree or abstract as deed. All rights acquired under former Title 19, section 721 or 723 on or before December 31, 1971 and all rights acquired under this section by a party in the real estate of the other party are effective against a person when the decree of divorce or an abstract of the decree is filed in the registry of deeds for the county or registry district where the real estate is situated. The decree or abstract, at a minimum, must contain:

A. The caption of the case, including the names of the parties, and any changes to the parties' names after the decree;

B. The date the judgment is final and the court that issued the decree;

C. An adequate description of the real estate, such as by reference to the volume and page number of an instrument recorded in the registry of deeds or the probate court record, or an adequate description by metes and bounds or by reference to the volume and page number of the registry of deeds' records of a survey plan of the property;

D. Any provision of the decree intended by the court to constitute an encumbrance against real estate, including any conditions pertaining to the encumbrance, in the verbatim language used by the court. If the abstract does not contain the provision required by this paragraph, an encumbrance may not be considered effective against a 3rd party unless the encumbrance has been memorialized in a separate, duly recorded instrument; and

E. A clear statement of the ownership interest of the parties in the real estate intended by the court to result from that decree.

An inconsequential failure to provide all the details required pursuant to paragraphs A to E does not create an invalid abstract for purposes of this section.

The failure of a party to record the decree or an abstract of the decree within a time period prescribed by former Title 19, section 725 does not affect the rights of that party as against the other party or the other party's heirs or devisees. The recording of the decree or abstract of the decree has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract of the decree, whether the interest is in fee or by statute.

See title page for effective date.

CHAPTER 19

S.P. 74 - L.D. 151

An Act Concerning Full-time Law Enforcement and Corrections Officers

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

Sec. 1. 25 MRSA §2801-A, sub-§§3 and 4, as enacted by PL 1989, c. 521, §§2 and 17, are amended to read:

3. Full-time corrections officer. "Full-time corrections officer" means a person who is employed as a corrections officer with a reasonable expectation of ~~earning at least \$10,000~~ working at least 1,040 hours in any one calendar or fiscal year for performing corrections officer duties.

4. Full-time law enforcement officer. "Full-time law enforcement officer" means a person who is employed as a law enforcement officer with a reasonable expectation of ~~earning at least \$10,000~~ working at least 1,040 hours in any one calendar or fiscal year for performing law enforcement officer duties.

See title page for effective date.