

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

with this Act is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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**CHAPTER 232**

**H.P. 633 - L.D. 856**

**An Act To Change Mandatory Minimum Sentences in Certain Cases**

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

**Sec. 1. 17-A MRSA §1252, sub-§5-A, ¶B,** as amended by PL 2001, c. 383, §151 and affected by §156, is further amended to read:

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

~~(a) The defendant has no prior criminal history; and~~

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

See title page for effective date.

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**CHAPTER 233**

**H.P. 361 - L.D. 469**

**An Act To Enhance the Powers of Law Enforcement Officers Authorized To Make Out-of-county or Out-of-municipality Arrests**

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

**Sec. 1. 30-A MRSA §405, sub-§1,** as enacted by PL 1993, c. 594, §1, is repealed.

**Sec. 2. 30-A MRSA §405, sub-§1-A** is enacted to read:

**1-A. Optional powers.** The county commissioners may authorize a county's sheriff and certified full-time deputy sheriffs who have met the requirements of Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while outside the jurisdiction in which they are appointed if, when possible, the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance or, when not possible, the law enforcement agency of the foreign municipality in which the arrest has been made is notified immediately after the arrest.

**Sec. 3. 30-A MRSA §405, sub-§2,** as enacted by PL 1993, c. 594, §1, is amended to read:

**2. Liability.** When a county sheriff or deputy sheriff makes an arrest, as authorized in subsection ~~1~~ 1-A, outside of jurisdictional limits of the county in which the sheriff or deputy sheriff is appointed, that sheriff or deputy sheriff has the same immunity from tort liability and all of the pension, relief, disability, worker's compensation, insurance and any other benefits the sheriff or deputy sheriff enjoys while performing duties within the sheriff or deputy sheriff's appointing county.