

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

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

See title page for effective date.

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.

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-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.

Sec. 4. 30-A MRSA §2671, sub-§2-A, as enacted by PL 1993, c. 594, §2, is amended to read:

2-A. Optional powers. Notwithstanding subsection 2, municipal officers may authorize a municipality's police officers who have met the requirements of Title 25, section 2804-C to perform any of the following acts described in Title 17-A, section 15 while the police officers are 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.

~~A. Arrest without a warrant a person who has committed in the officer's presence or is committing in the officer's presence a Class A, B or C crime defined in Title 17-A, chapters 9, 11, 13, 17, 27 or 33 while the officer is on or off duty; or~~

~~B. Arrest without a warrant a person for a crime committed in the municipality in which the officer is appointed;~~

~~(1) If that municipality authorizes the officers it appoints to make arrests under this paragraph;~~

~~(2) If the arrest is made as part of an ongoing criminal investigation made by an officer while on duty and assigned to the investigation;~~

~~(3) If the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance; and~~

~~(4) If the arrest is authorized by Title 17-A, section 15, subsection 1, paragraph A.~~

~~As used in this subsection the phrase "committed in the officer's presence or is committing in the officer's presence" has the same meaning as provided in Title 17-A, section 15, subsection 2.~~

Sec. 5. P&SL 1865, c. 532, §8-A, first ¶, as repealed and replaced by PL 1991, c. 548, Pt. A, §36, is amended to read:

The trustees of the University of Maine System, or such administrators of the University of Maine System as the trustees may designate for this purpose, may appoint persons to act as police officers who, within the limits of the property owned by or under the control of the University of Maine System, possess all of the powers of police officers in criminal cases and civil violations. The trustees of the University of Maine System may authorize the University of Maine System's full-time police officers who have met the

requirements of the Maine Revised Statutes, Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while outside the limits of the property owned by or under control of the University of Maine System if the law enforcement agency of a foreign municipality in which the arrest is to be made has requested assistance in advance by cooperative agreement. When a University of Maine System police officer makes an arrest outside the limits of the property owned by or under control of the University of Maine System as authorized in this section, that police officer has the same immunity from tort liability and all of the pension, relief, disability, workers' compensation, insurance and any other benefits the police officer enjoys while performing duties within the limits of the property owned by or under control of the University of Maine System.

See title page for effective date.

CHAPTER 234

H.P. 900 - L.D. 1226

An Act To Clarify the Division of the Positions of Town Assessor and Selectman

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

Sec. 1. 30-A MRSA §2526, sub-§5, ¶C, as amended by PL 1991, c. 270, §1, is further amended to read:

C. When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 or any person who serves as both a selectman and a tax assessor may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2. A person elected to the State Legislature who resigns the position of assessor pursuant to this paragraph may continue to serve concurrently as selectman and member of the State Legislature. If a person who is serving in the State Legislature or in another office incompatible with the position of assessor resigns the position of assessor pursuant to this paragraph before that person has performed any duties as tax assessor, that person may not be deemed to have vacated the previously held position of State Legislator or other office that is incompatible with the office of assessor.

See title page for effective date.
