

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

**NON-EMERGENCY LAWS IS**

**AUGUST 23, 2006**

**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**

**2006**

Advisory Committee consisting of 7 8 members, to include:

- A. A representative of the faculty at the Maine Criminal Justice Academy;
- B. A liquor enforcement officer;
- C. A representative of the Department of the Attorney General;
- D. A representative of the Office of Substance Abuse;
- E. A representative of the education community;
- F. A representative of a statewide liquor licensee organization; ~~and~~
- G. A representative of a statewide trial lawyers organization; ~~and~~
- H. A representative of the alcohol bureau.

See title page for effective date.

**CHAPTER 540**

**H.P. 1404 - L.D. 2002**

**An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes**

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

**Whereas**, the Supreme Judicial Court made changes effective January 1, 2006 in the Maine Rules of Criminal Procedure and in trial court procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes; and

**Whereas**, as a consequence of these changes to the court rules and procedures, it is necessary that this legislation be enacted as an emergency in order that it 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. 4 MRSA §107-A** is enacted to read:

**§107-A. Authority of clerks to issue process for arrest of persons**

The Chief Justice of the Superior Court may authorize any clerk or deputy clerk of the Superior Court to issue process for the arrest of persons charged with crimes if the Chief Justice of the Superior Court is satisfied that the clerk or deputy clerk has the necessary training and learning to perform that function. When authorized by the Chief Justice of the Superior Court to issue process and acting in that capacity, the clerk or deputy clerk is considered a justice of the peace with the same authority as a District Court clerk or deputy clerk described in section 161. A clerk or deputy clerk who is authorized to issue process serves in that capacity at the pleasure of the Chief Justice of the Superior Court.

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

Effective April 5, 2006.

**CHAPTER 541**

**H.P. 1429 - L.D. 2031**

**An Act To Authorize Certain County Jail Employees To Perform Certain Ministerial and Notary Functions for Inmates**

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

**Whereas**, authorizing certain county jail employees to perform ministerial functions related to preparing personal recognizance or an unsecured appearance bond and providing notary services has been the practice of several jails and has been of benefit to both the jails and their inmates; and

**Whereas**, the provision of these ministerial functions and notary services has unintentionally been in violation of the Maine Revised Statutes, Title 30-A, section 353; and

**Whereas**, enacting a permissible process for these ministerial functions and notary services will continue to benefit the jails and the inmates; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. 15 MRSA §1025-A** is enacted to read:

**§1025-A. County jail employees**

If a court issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgement of the defendant.

**Sec. 2. 30-A MRSA §353**, as amended by PL 1989, c. 104, Pt. A, §8 and Pt. C, §§8 and 10, is further amended to read:

**§353. Officer not to act as attorney or draw papers; employee of jailer not to act as judge or attorney**

~~No~~ An officer may not appear before any court as attorney or adviser of any party in an action or draw any writ, complaint, declaration, citation, process or plea for any other person; all such acts are void. ~~No~~ A person employed by the keeper of a jail in any capacity may not exercise any power or duty of a judicial officer ~~or notary public~~ or act as attorney for any person confined in the jail; all such acts are void. Beginning April 15, 2006, if commissioned as a notary public and authorized to do so by the sheriff, an employee of a jail, other than a part-time or full-time corrections officer or a deputy sheriff, may, without fee, exercise any power or duty of a notary public for any person confined in the jail.

**Sec. 3. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 353 applies retroactively to February 28, 1989.

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

Effective April 5, 2006.

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**CHAPTER 542**

**S.P. 570 - L.D. 1596**

**An Act Regarding 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**, campaigns for candidates participating in the Maine Clean Election Act seeking election in 2006 are already underway; and

**Whereas**, proper enforcement is necessary to ensure that funds distributed from the Maine Clean Election Fund are being spent in accordance with the law; 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. 21-A MRSA §1014, sub-§4**, as amended by PL 1995, c. 483, §6, is further amended to read:

**4. Enforcement.** An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil ~~forfeiture~~ fine of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil ~~forfeiture~~ fine of no more than \$100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

**Sec. 2. 21-A MRSA §1017, sub-§8, ¶C**, as enacted by PL 1989, c. 504, §§17 and 31, is amended to read:

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

**Sec. 3. 21-A MRSA §1125, sub-§6**, as amended by PL 2005, c. 301, §31, is further amended to read: