

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.**

**Penmor Lithographers
Lewiston, Maine
2006**

DEPARTMENT TOTAL -		
ALL FUNDS	\$0	\$25,000

See title page for effective date.

CHAPTER 658

H.P. 1340 - L.D. 1899

An Act To Require the Display of POW-MIA Flags at Courthouses

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

Sec. 1. 1 MRSA §206-A, as enacted by PL 1999, c. 302, §2, is amended to read:

§206-A. Prisoner of war - missing in action flag

1. Required. The prisoner of war - missing in action flag must be flown in the following places until all those individuals designated as prisoners of war or missing in action are released or accounted for:

- A. Above the State House; and
- B. At each National Guard facility; and
- C. At each courthouse owned by the State on Former Prisoner of War Recognition Day as designated by section 131 and the following national holidays:
 - (1) Armed Forces Day, the 3rd Saturday in May;
 - (2) Memorial Day, the last Monday in May;
 - (3) Flag Day, June 14th;
 - (4) Independence Day, July 4th;
 - (5) National POW/MIA Recognition Day, the 3rd Friday in September; and
 - (6) Veterans Day, November 11th.

2. Optional. A municipality may display the prisoner of war - missing in action flag on a flag pole located at the main office building of the municipality whenever the flag of the United States is flown. A courthouse owned by the State may display the prisoner of war - missing in action flag on any day in addition to those required by subsection 1.

See title page for effective date.

CHAPTER 659

H.P. 1348 - L.D. 1907

An Act To Amend the Law Governing DNA Testing

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

Sec. 1. 15 MRSA §2137, as enacted by PL 2001, c. 469, §1, is repealed and the following enacted in its place:

§2137. Postjudgment of conviction motion for DNA analysis; new trial based on analysis results

1. Motion. A person who has been convicted of and sentenced for a crime under the laws of this State that carries the potential punishment of imprisonment of at least one year and for which the person is in actual execution of either a pre-Maine Criminal Code sentence of imprisonment, including parole, or a sentencing alternative pursuant to Title 17-A, section 1152, subsection 2 that includes a term of imprisonment or is subject to a sentence of imprisonment that is to be served in the future because another sentence must be served first may file a written postjudgment of conviction motion in the underlying criminal proceeding moving the court to order DNA analysis of evidence in the control or possession of the State that is related to the underlying investigation or prosecution that led to the person's conviction and a new trial based on the results of that analysis as authorized by this chapter. For criminal proceedings in which DNA testing was conducted before September 1, 2006, the person may file a written postjudgment of conviction motion in the underlying criminal proceeding moving the court for a new trial based on the results of the DNA testing already conducted using the standard set forth in this chapter if the DNA test results show that the person is not the source of the evidence.

2. Time for filing. A motion under this section must be filed by the later of:

- A. September 1, 2008, including a motion pertaining to criminal proceedings in which DNA testing was conducted before September 1, 2006;
- B. Two years after the date of conviction; and
- C. In cases in which the request for analysis is based on the existence of new technology with respect to DNA analysis that is capable of providing new material information, within 2 years from the time that the technology became commonly known and available.