

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

qualifying conviction under subsection 1, paragraph A-1 but is not an adjudication under subsection 1, paragraph C may not own or have in that person's possession or control a firearm ~~or crossbow~~ for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later.

Sec. 3. 15 MRSA §393, sub-§2, as amended by PL 2005, c. 419, §9 and affected by §12, is further amended to read:

2. Application after 5 years. A person subject to the provisions of subsection 1 may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the Commissioner of Public Safety for a permit to carry a firearm ~~or crossbow~~. That person may not be issued a permit to carry a concealed firearm pursuant to Title 25, chapter 252. A permit issued pursuant to this subsection is valid for 4 years from the date of issue unless sooner revoked for cause by the Commissioner of Public Safety.

Sec. 4. 15 MRSA §393, sub-§3, as amended by PL 2005, c. 527, §3, is further amended to read:

3. Contents. An application under subsection 2 must be on a form prepared by the Commissioner of Public Safety. The application must include the following: the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make, model and serial number of the firearm ~~or crossbow~~ sought to be possessed; date, place and nature of conviction; sentence imposed; place of incarceration; name and address of probation or parole officer; date of discharge or release from prison or jail or termination of probation, supervised release for sex offenders, parole or administrative release; the reason for the request; and any other information determined by the commissioner to be of assistance. The application must be accompanied by certified or attested copies of the indictment, information or complaint, judgment and commitment and discharge that are the subject of the conviction.

Sec. 5. 25 MRSA §2003, sub-§1, ¶B, as repealed and replaced by PL 2003, c. 341, §3, is amended to read:

B. Is not disqualified to possess a firearm pursuant to Title 15, section 393 ~~and~~, is not disqualified as a permit holder under that same section and is not disqualified to possess a firearm based on federal law as a result of a criminal conviction.

Sec. 6. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 15, chapter 15, in the chapter headnote, the words "possession of firearms or crossbows by prohibited persons" are amended to read "possession of firearms by prohibited persons" and the Revisor of

Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 195

H.P. 49 - L.D. 51

An Act To Provide Native Americans with Lifelong Licenses and Permits to Hunt, Fish and Trap

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

Sec. 1. 12 MRSA §10853, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

8. Native American. The commissioner shall issue a hunting, trapping and fishing license, including permits, stamps and other permission needed to hunt, trap and fish, to ~~any~~ a Native American, 10 years of age or older, of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs that is valid for the life of that Native American without any charge or fee if the Native American presents a certificate from the respective reservation governor, the Aroostook Micmac Council or "Wesget-Sipu" stating that the person described is a Native American and a member of that nation, band or tribe. Holders of these licenses are subject to this Part, including, but not limited to, a lottery or drawing system for issuing a particular license or permit.

See title page for effective date.

CHAPTER 196

H.P. 293 - L.D. 363

An Act To Improve Juvenile Justice

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

Sec. 1. 15 MRSA §3205, sub-§2, as amended by PL 2005, c. 507, §7, is further amended to read:

2. Exception. Subsection 1 applies to any person who is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that if the person has attained 18 years of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 may be, upon the order of a court, in an adult section of a jail or other secure detention facility

intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A and, except that if the person has attained 21 years of age, any detention pursuant to section 3203-A and any confinement pursuant to section 3314, subsection 1, paragraph H or section 3314, subsection 7 must be in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A.

Sec. 2. 15 MRSA §3301, sub-§6, as amended by PL 2003, c. 305, §5, is further amended to read:

6. Review by attorney for the State. If the juvenile community corrections officer decides not to request the attorney for the State to file a petition, the juvenile community corrections officer shall inform the attorney for the State, the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile community corrections officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

If the juvenile community corrections officer makes a determination pursuant to subsection 5, paragraph A or B and decides not to request the attorney for the State to file a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section 2052, the juvenile community corrections officer shall inform the Secretary of State of the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license.

The attorney for the State on that attorney's own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. ~~Notwithstanding any action or inaction by the juvenile community corrections officer,~~ The attorney for the State shall notify the juvenile community corrections officer of the final decision within 30 days of being informed by the juvenile community corrections officer of the initial decision. If a juvenile community corrections officer has not yet made an initial decision, the attorney for the State may file a petition at any time more than 30 days after the juvenile community corrections officer has been given notice pursuant to section 3203-A.

Sec. 3. 15 MRSA §3306-A, first ¶, as amended by PL 2003, c. 706, Pt. A, §4, is further amended to read:

At the juvenile's first appearance or at ~~any~~ a subsequent appearance before the court, the court may

order the juvenile's unconditional release, conditional release or detention in accordance with section 3203-A. Unless the court orders otherwise, ~~any~~ a juvenile put on conditional release by a juvenile community corrections officer remains on conditional release until ~~disposition~~ the juvenile commences an informal adjustment pursuant to section 3301, subsection 5, paragraph B, the attorney for the State determines that no petition will be filed or the juvenile court enters a final dispositional order pursuant to section 3314.

Sec. 4. 15 MRSA §3307, sub-§2, ¶A, as amended by PL 2003, c. 180, §8, is further amended to read:

A. Once a petition is filed, the general public may not be excluded from ~~any~~ a proceeding on a juvenile crime that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult; from ~~any~~ a proceeding on a juvenile crime that would constitute a Class D crime if the juvenile involved were an adult and ~~it is the 2nd or subsequent~~ the juvenile has previously been adjudicated of committing a juvenile crime that would constitute a Class D or higher class crime for that juvenile not arising from the same underlying transaction; or from ~~any~~ a subsequent dispositional ~~hearings~~ hearing in such cases.

Sec. 5. 15 MRSA §3314, sub-§7 is enacted to read:

7. Enforcement of a dispositional order or order to appear. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

Sec. 6. 15 MRSA §3314-B, sub-§3, as enacted by PL 2003, c. 142, §2 and affected by §3, is amended to read:

3. Enforcement. After notice and hearing and in accordance with the Maine Rules of ~~Criminal~~ Civil Procedure, Rule 42(d) 66, the court may invoke its contempt powers to enforce its counseling, treatment, education, case management or other order that applies to the juvenile, the juvenile's parent, guardian or legal custodian or any other person before the court who is subject to an order to participate in counseling, treatment, education or case management. If the court invokes its contempt powers against the juvenile, section 3314, subsection 7 applies.

Sec. 7. 34-A MRSA §3802, sub-§1, as amended by PL 2005, c. 507, §§20 and 21, is further amended to read:

1. Statement. The purposes of the Long Creek Youth Development Center are:

- A. To detain juveniles pending a court proceeding;
- B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318;
- C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F;
- D. To protect the public from dangerous juveniles;
- E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H;
- F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D; ~~and~~
- G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115-; and
- H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7.

Sec. 8. 34-A MRSA §4102-A, sub-§1, as amended by PL 2005, c. 507, §§24 and 25, is further amended to read:

1. Statement. The purposes of the Mountain View Youth Development Center are:

- A. To detain juveniles pending a court proceeding;
- B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318;

C. To rehabilitate juveniles committed to a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F;

D. To protect the public from dangerous juveniles;

E. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 1, paragraph H;

F. To confine juveniles ordered detained pursuant to Title 15, section 3312, subsection 3, paragraph D; ~~and~~

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115-; and

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7.

See title page for effective date.

CHAPTER 197

H.P. 741 - L.D. 981

An Act Concerning the Supervision of Nursing Support Staff

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

Sec. 1. 32 MRSA §2205-B, sub-§4 is enacted to read:

4. Supervision of support staff. A certified nurse practitioner may delegate to the employees or support staff of the certified nurse practitioner certain activities relating to advanced practice registered nursing carried out by custom and usage when the activities are under the control of the certified nurse practitioner. The certified nurse practitioner delegating these activities to such persons is legally liable for the activities of those persons, and any person in this relationship is considered the certified nurse practitioner's agent when performing such delegated activities.

See title page for effective date.

CHAPTER 198

H.P. 979 - L.D. 1387

An Act Concerning the Taking of Nuisance Animals

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