

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

C. Develop and carry out a comprehensive program of ~~forest fire~~ wildfire prevention education and training of persons at all levels of command in order to meet supervisory needs during ~~forest fire~~ wildfire emergencies;

D. Enforce Title 36, chapter 701 relating to blueberries, all laws relating to forests and forest preservation, laws relating to the Maine Land Use Planning Commission and laws and rules relating to lands under the jurisdiction of the Division of Parks and Public Lands;

E. Investigate and gather evidence regarding the cause of ~~forest fires~~ wildfires;

F. Have the authority to set backfires to control ~~forest fires~~ wildfires;

G. Carry out such other duties as the director prescribes; and

H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure.

Forest rangers and the state supervisor may also exercise the powers in this subsection when appropriate for agricultural and park fires.

Sec. 2. 12 MRSA §8901, sub-§3, ¶A, as amended by PL 2011, c. 657, Pt. W, §7 and c. 682, §38, is further amended to read:

A. Forest rangers and the state supervisor, for the purpose of enforcing Title 36, chapter 701 relating to blueberries, forest and forest preservation laws, laws of the Maine Land Use Planning Commission and laws and rules relating to the lands under the jurisdiction of the Division of Parks and Public Lands, have statewide law enforcement powers equivalent to those of a sheriff, or a sheriff's deputy, in the sheriff's county, including the right to execute or serve criminal and civil violation processes against offenders, make warrantless arrests for crimes, investigate and prosecute offenders, require aid in executing forest ranger duties and deputize temporary aides;

Sec. 3. 12 MRSA §8901, sub-§4 is enacted to read:

4. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Escaped prescribed fire" means an uncontrolled fire on wildland caused by a prescribed fire that escaped control efforts and burned unintended land area.

B. "Escaped wildland fire use" means an out of control fire caused by a wildland fire use that escaped control efforts and burned unintended land area.

C. "Prescribed fire" means a forest or land management practice using fire, applied in a knowledgeable manner to naturally occurring fuels on a specific land area under selected weather conditions to accomplish predetermined, well-defined management objectives.

D. "Wildfire" means an unplanned, unwanted wildland fire including an unauthorized human-caused fire, an escaped wildland fire use, an escaped prescribed fire and any other wildland fire with respect to which the Director of the Division of Forestry has determined that the objective is to put the fire out.

E. "Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, powerlines and similar transportation facilities, and structures, if any, are widely scattered.

F. "Wildland fire use" means a management practice using a naturally occurring fire burning forest fuels on wildland that is not immediately controlled. The fire is allowed to burn within a predetermined area and is used to promote certain wilderness or management objectives.

See title page for effective date.

CHAPTER 131

S.P. 194 - L.D. 504

An Act To Amend the Election Laws and Other Related Laws

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

Sec. 1. 5 MRSA §152, as amended by PL 2011, c. 342, §3, is further amended to read:

§152. Ratification of bond issue; signed statement

In accordance with the Constitution of Maine, Article IX, section 14, the Treasurer of State shall prepare a signed statement, called the Treasurer's Statement, to accompany any question submitted to the electors for ratification of a bond issue setting forth the total amount of bonds of the State outstanding and unpaid, the total amount of bonds of the State authorized and unissued and the total amount of bonds of the State contemplated to be issued if the enactment submitted to the electors should be ratified. The Treasurer of State shall also set forth in that statement an estimate of costs involved, including explanation of, based on such factors as interest rates that may vary,

the interest cost contemplated to be paid on the amount to be issued, the total cost of principal and interest that will be paid at maturity and any other substantive explanatory information relating to the debt of the State as the Treasurer of State considers appropriate. To meet the requirement that the signed statement of the Treasurer of State accompany any ballot question for ratification of a bond issue, the statement may be printed on the ballot or it may be printed as a separate document that is made available to voters as provided in Title 21-A, sections ~~605~~ 605-A and 651.

Sec. 2. 21-A MRSA §23, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Primary and nomination petitions. The Secretary of State shall keep primary petitions, nomination petitions and consents in ~~his office for 2 years~~ the office of the Secretary of State through the end of the calendar year in which the petition was filed.

Sec. 3. 21-A MRSA §23, sub-§3-B is enacted to read:

3-B. Party formation documents. The Secretary of State shall keep party formation declarations of intent and certification forms filed pursuant to section 303 in the office of the Secretary of State for 6 months after any appeal period has passed.

Sec. 4. 21-A MRSA §23, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Receipts for ballots. The Secretary of State and each clerk shall keep a record of receipts for ballots issued and received under sections 606 and 651 in ~~his office~~ the office of the Secretary of State for one year ~~6 months~~.

Sec. 5. 21-A MRSA §23, sub-§12-A is enacted to read:

12-A. Informational filings. The Secretary of State shall keep a copy of the election-specific informational filings and reports received from the municipal clerks and registrars in the office of the Secretary of State for 6 months after the election to which they pertain, except that the return of votes cast report must be kept for 2 years.

Sec. 6. 21-A MRSA §122, first ¶, as amended by PL 2011, c. 534, §6, is further amended to read:

A person may register to vote in person by appearing before the registrar by the registration deadline in section 121-A, proving that the person meets the qualifications of section 111, subsections 1 to 3, and completing and filing an application provided by the registrar containing the information required by section 152 or 154, if applicable. Township residents may register as provided in section 156.

Sec. 7. 21-A MRSA §122, sub-§5, as amended by PL 2007, c. 515, §3, is further amended to read:

5. Alternative registration schedule for absentee voters. If the clerk receives a properly completed absentee ballot application that is signed by a person who is not a registered voter in the municipality, a presumption of the person's qualification as a voter is established. The clerk shall send an absentee ballot to the voter at the address indicated, along with a voter registration application under section 152. The completed registration application must be returned to the clerk by the close of the polls on election day in order for the ballot to be counted and may not be sealed with the voted absentee ballot. If the application is received during the closed period and the registrar is not satisfied as to the person's qualification as a voter, the registrar shall follow the requirements of section 121, subsection 1-A to place the person's name on the incoming voting list and challenge the absentee ballot. An application by telephone under section 753-A, subsection 4 or an application by ~~e-mail~~ electronic means under section 753-A, subsection 6 does not establish a presumption of qualification under this section and the requestor must submit a properly completed voter registration application before the clerk may issue an absentee ballot.

Sec. 8. 21-A MRSA §144, sub-§3, as amended by PL 1995, c. 459, §16, is further amended to read:

3. Restrictions during change of enrollment. Except as provided in subsection 4, a voter may not vote at a caucus, convention or primary election for 15 days after filing an application to change enrollment. A voter may sign a primary nomination petition during the 15-day period after filing an application to change enrollment and the voter's signature must be counted as valid, as long as the 15-day period has elapsed by the time the petition is certified pursuant to section 335, subsection 7 and the voter otherwise is qualified to sign a petition for that office. A voter must file an application to change enrollment prior to January 1st to be eligible to file a petition as a candidate in that election year.

Sec. 9. 21-A MRSA §161, sub-§2-A, as amended by PL 2009, c. 370, §1, is further amended to read:

2-A. Maintenance of voter registration information. The registrar in each municipality shall keep the central voter registration system current at all times for the voters in the registrar's municipality. The Secretary of State is authorized to conduct maintenance of the central voter registration system. The Secretary of State shall ~~by rule determine the program~~ adopt rules for conducting voter list maintenance required by the National Voter Registration Act of 1993. Rules adopted pursuant to this subsection are routine techni-

cal rules as defined in Title 5, chapter 375, subchapter 2-A. A registrar may not cancel a voter's registration in the central voter registration system solely because the registered voter did not vote in previous elections. A voter's registration record in the central voter registration system must be cancelled by either the registrar for the voter's municipality or by the Secretary of State as follows:

A. When it is determined that a voter has registered to vote in another jurisdiction in the State, the voter registration record from the former jurisdiction must be cancelled; and

B. When it is determined that the voter has registered to vote in another jurisdiction outside of the State, the voter registration record in the State must be cancelled.

Sec. 10. 21-A MRSA §196-A, sub-§1, ¶I is enacted to read:

I. The Secretary of State shall make available free of charge to the federal or state court system the voter registration information for voters, other than participants in the Address Confidentiality Program established in Title 5, section 90-B, statewide or by district as requested for the purpose of jury selection or other bona fide court purposes.

Sec. 11. 21-A MRSA §303, as amended by PL 2001, c. 310, §16, is further amended to read:

§303. Formation of new party; organization by party enrollment

In addition to the procedure under section 302, a party whose designation was not listed on the general election ballot in the last preceding general election qualifies to participate in a primary election, if it meets the requirements of subsections 1; and 2 and 3.

1. Declaration of intent. Ten or more voters who are not enrolled in a party qualified under section 301 must file a declaration of intent to form a party with the Secretary of State between December 1st and December 30th of an even-numbered year. The declaration of intent must be on a form designed by the Secretary of State and must include:

A. The designation of the proposed party; and

B. The names, addresses, telephone numbers, if published, and signatures of the voters who file the declaration of intent.

2. Enrollment of voters. After filing Within 5 business days after the declaration of intent required in subsection 1 is filed, the voter or voters proposing to form the party may then the Secretary of State shall certify whether the application meets the requirements of subsection 1 and notify the applicants that they may enroll voters in the proposed party under sections 141 to 145. On or before December 1st of the odd-

numbered year following the filing of the application under subsection 1, the applicants must file a certification with the Secretary of State, on a form designed by the Secretary of State, that they have at least 5,000 voters enrolled in the proposed party. The Secretary of State shall verify the proposed party's enrollment figures within 5 business days of receiving the proposed party's certification and notify the applicants whether the proposed party has met the requirements to participate in a primary election in the subsequent even-numbered year.

3. Petition. ~~After the filing of the declaration described in subsection 1, the Secretary of State or the Secretary of State's designee shall review the declaration and determine the form of the petitions to be submitted to the voters. The voter or voters proposing to form the party shall print the petitions in the form approved by the Secretary of State and may then circulate the petitions. These petitions must be signed, verified and certified in the same manner as primary petitions under section 335, subsections 3, 4 and 7, except that voters not enrolled in any party may also sign the petitions. Each page of the petition must have a caption, in conspicuous type, that contains the designation of the proposed party followed by the words "Petition to participate in the primary election." The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary election and must contain the signatures and legal addresses of voters equal in number to at least 5% of the total vote cast in the State for Governor at the last preceding gubernatorial election. Petitions must be submitted to the appropriate municipal registrar for certification by 5 p.m. on the 10th day before the petition must be filed in the office of the Secretary of State or, if the 10th day is a Saturday, Sunday or legal holiday, by 5 p.m. on the next day that is not a Saturday, Sunday or a legal holiday. The registrar must complete the certification of the petitions and must return them to the circulators or their agents within 5 days of the date on which the petitions were submitted, Saturdays, Sundays and legal holidays excepted.~~

4. Municipal caucuses. A party that has qualified under subsections 1; and 2 and 3 to participate in a primary election must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article ~~II~~ 2. The chair of the municipal committee or a resident voter in the municipality must file a copy of the notice required by section 311, subsection 3 with the Secretary of State before 5 p.m. on March 20th.

5. Convention. A party that has qualified under subsections 1; and 2 and 3 to participate in a primary election must in that same year conduct the municipal caucuses under subsection 4 and hold a state convention as prescribed by Article ~~III~~ 3, in order to have the party designation of its candidates printed on the ballot

in the general election of that year. The ~~voter or group of voters who files file~~ the declaration of intent may perform the duties of the state committee under section 321, subsection 1 for the party's initial convention.

Sec. 12. 21-A MRSA §354, sub-§7, ¶B, as amended by PL 1999, c. 264, §1, is further amended to read:

B. Petitions must be delivered to the registrar, or clerk at the request or upon the absence of the registrar, for certification by 5 p.m. on May 25th in the election year in which the petitions are to be used, except that petitions for a slate of candidates for the office of presidential elector must be delivered for certification by 5 p.m. on ~~August 8th~~ July 25th in the election year in which the petitions are to be used.

Sec. 13. 21-A MRSA §354, sub-§8-A, as amended by PL 1999, c. 264, §2, is further amended to read:

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on June 1st in the election year in which it is to be used, except that petitions for a slate of candidates for the office of presidential elector must be filed in the office of the Secretary of State by 5 p.m. on ~~August 15th~~ 1st in the election year in which the petitions are to be used.

Sec. 14. 21-A MRSA §503, sub-§2, as amended by PL 2007, c. 422, §2, is further amended to read:

2. Representation of parties. The municipal officers shall consider the following for appointment as election clerks.

A. The municipal officers shall consider persons nominated by the municipal, county or state committees of the major parties to serve as election clerks. The municipal officers shall appoint at least one election clerk from each of the major parties to serve at each voting place during the time the polls are open. The municipal officers shall also appoint a sufficient number of election clerks to serve as counters after the polls close. The election clerks must be selected so that the number of election clerks from one major party does not exceed the number of election clerks from another major party by more than one.

B. The municipal officers shall appoint at least one election clerk nominated by the municipal committee of a qualified minor party represented on the last general election ballot for each voting place at the committee's request.

C. Notwithstanding subsection 1, the municipal officers may also consider persons who are 17 years of age to serve as student election clerks for a specific election. A student election clerk may

perform all the functions of an election clerk as prescribed by this Title.

All nominations for election clerks must be submitted to the municipal officers no later than April 1st of each general election year. If a municipal committee of a major party fails to submit a list of nominees to serve as election clerks, the municipal officers may appoint registered voters enrolled in that party to serve as election clerks.

If the municipal officers are unable to appoint a sufficient number of election clerks as set forth in paragraphs A, B and C, they may appoint any other registered voter, as long as the balance between major political parties is maintained. ~~The municipal clerk shall complete a form provided by the Secretary of State when a registered voter changes party enrollment status in order to be available to serve as an election clerk and to maintain a balance between the major political parties and that election clerk participates in the counting of ballots. The form must be included with all ballots separated into lots in accordance with section 695, subsection 2 when an election clerk who has changed party enrollment status as described in this subsection made the count for that lot of ballots and with tabulation results submitted to the Secretary of State. By January 15th after a general election, the Secretary of State shall report to the joint standing committee of the Legislature having jurisdiction over legal affairs the number of forms required by this subsection that were submitted with tabulation results and whether any election that resulted in a recount included ballots that were counted by an election clerk who changed party enrollment status as described in this subsection.~~

Sec. 15. 21-A MRSA §601, sub-§2, ¶A, as amended by PL 1993, c. 473, §12 and affected by §46, is further amended to read:

A. Instructions must be printed ~~in bold type at the top of~~ on the ballot informing the voter how to designate the voter's choice on the ballot.

Sec. 16. 21-A MRSA §601, sub-§2, ¶B, as amended by PL 2009, c. 253, §23, is further amended to read:

B. The ballot must contain the legal name of each candidate, without any title, and ~~place~~ municipality or township of residence of each candidate, arranged alphabetically with the last name first, under the proper office designation. Municipality of residence is not required to be printed for candidates for President and Vice President of the United States. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line. The names of candidates for any one office may not be split into more than one column regardless of number. The name of each candidate may be printed on the ballot in

only one space. For the general election ballot, the party or political designation of each candidate must be printed with each candidate's name. The party or political designation may be abbreviated.

Sec. 17. 21-A MRSA §606, first ¶, as repealed and replaced by PL 2011, c. 342, §16, is amended to read:

~~Within a reasonable time before any election, the~~
The Secretary of State shall furnish each municipality with official ballots to be used for absentee voting and for voting on election day.

Sec. 18. 21-A MRSA §663 is enacted to read:

§663. Authority of Secretary of State during emergencies

The Secretary of State may act administratively to facilitate voting by civilian registered voters of this State who live in an area within the United States that is affected by a natural disaster or other occurrence for which the governor of that state has declared a state of emergency covering that area, or for registered voters of this State who are emergency workers, utility workers or others responding to and offering assistance to the area in which a state of emergency has been declared. These administrative actions may include, but are not limited to, central issuance and receipt of absentee ballots for federal and state elections using the systems and procedures developed for uniformed service voters and overseas voters.

Sec. 19. 21-A MRSA §695, sub-§6, as enacted by PL 2007, c. 455, §37, is repealed.

Sec. 20. 21-A MRSA §698, sub-§1, as amended by PL 2001, c. 310, §44, is further amended to read:

1. Paper ballots wrapped. The election clerks shall wrap the tabulation of the count for each lot of ballots around that lot and secure it. Referendum ballots must be wrapped separately with their own tabulations unless the referendum ballot is combined with the candidate ballot. The tabulations must be signed by ~~the warden and~~ the 2 election clerks who counted that ballot lot.

Sec. 21. 21-A MRSA §698, sub-§2-A, as repealed and replaced by PL 2011, c. 342, §26, is amended to read:

2-A. Used ballots secured. The election officials shall use the tamper-proof ballot security containers described in section 609 to seal the used state ballots, wrapped with their tabulations if hand counted or loose if machine tabulated; spoiled ballots; defective ballots; void ballots; ~~unopened envelopes containing rejected absentee ballots~~; envelopes containing challenge certificates; and the official tally tape from the electronic tabulating system. The containers must be further secured as follows.

A. Each tamper-proof ballot security container must be locked with a state-supplied lock and sealed with a uniquely numbered seal before leaving the voting place. The lock and seal numbers must correlate with a certificate identifying the person sealing the container and the time of the sealing.

B. Ballots and election materials for municipal elections conducted at the same time as a state election must be sealed separately from state ballots and other state election materials and may not be sealed in the state-supplied tamper-proof ballot security containers. If municipalities wish to use tamper-proof ballot security containers to seal municipal election materials, they must obtain the containers and locks at their own expense.

The sealed tamper-proof ballot security containers of used ballots must remain sealed for at least 2 months after the election, unless the Secretary of State authorizes the clerk to open the containers prior to that date. After 2 months, the clerk shall open the containers in the presence of one or more witnesses and transfer the ballots to other containers for the remainder of the retention period described in section 23. The new containers must be securely sealed.

Sec. 22. 21-A MRSA §698, sub-§3-A, as enacted by PL 2011, c. 342, §27, is amended to read:

3-A. Absentee envelopes sealed in separate containers. The election officials shall seal the used absentee envelopes, from which the voted ballots have been removed and counted, with the applicable applications attached, and shall also seal the unopened envelopes containing rejected absentee ballots in one or more tamper-proof ballot security containers or other containers separate from the containers with the used or unused ballots. The municipal clerk shall keep these containers of used absentee envelopes and unopened envelopes sealed for 5 business days after the election or until the time for any recount conducted under section 737-A, contested election or appeal has passed, whichever is longer. At the end of the 5th business day after the election, if the municipal clerk verifies that a recount has not been requested, the municipal clerk shall unseal the containers of used absentee envelopes and unopened envelopes and keep them in the clerk's office as a public record for the time required for retention of ballots under section 23.

Sec. 23. 21-A MRSA §760-B, sub-§2, as amended by PL 2009, c. 253, §51, is further amended to read:

2. Notice of early processing. The clerk must give notice of the municipality's intent to process absentee ballots prior to election day using the notice of election under section 621-A, stating the time that the clerk intends to begin processing absentee ballots and the inspection period provided in subsection 3. At

least 30 days before election day, the clerk shall provide a copy of the notice of election to the Secretary of State and the chairs of each political party of the municipality indicating that early processing of absentee ballots will occur. The notice to the political parties must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk. The notice to the Secretary of State may be delivered by mail or facsimile or as a scanned attachment to an e-mail address established by the Secretary of State. If the notice is not received by the Secretary of State by 5:00 p.m. on the 30th day before election day, the municipality may not process absentee ballots prior to election day.

Sec. 24. 21-A MRSA §780, as amended by PL 2009, c. 563, §5, is further amended to read:

§780. Absentee ballots; application

A uniformed service voter or an overseas voter may request an absentee ballot as provided in section 753-A or by submitting a federal application or form requesting an absentee ballot as provided in section 783. With respect to any election for federal office, a clerk or the Secretary of State may not refuse to accept or process any otherwise valid voter registration application or absentee ballot application submitted by a uniformed service voter or an overseas voter on the grounds that the voter submitted the application more than 3 months before the election for which the application will be used. An application or request for an absentee ballot for a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783 remains valid for ~~2 years~~ 18 months from the date of receipt of the application and entitles the voter to receive absentee ballots for all federal and state elections during that period.

See title page for effective date.

**CHAPTER 132
H.P. 214 - L.D. 305**

**An Act To Eliminate Institute
Councils for Mental Health
Institutions**

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

Sec. 1. 34-B MRSA §1207, sub-§1, ¶B, as repealed and replaced by PL 2009, c. 415, Pt. A, §20, is amended to read:

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the provisions of section 1931; the purposes of ~~sections 3607-A and section 3608~~; the purposes of Title 5, section 19506; the purposes of

United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; or the investigation and hearing pursuant to Title 15, section 393, subsection 4-A;

Sec. 2. 34-B MRSA §3604, sub-§5, as amended by PL 2007, c. 286, §5, is further amended to read:

5. Exclusion. Beginning October 1, 1996, an entity that applies for the award or renewal of a grant or contract for the provision of mental health services must be a participating member of ~~the institute council~~ ~~or~~ the community service network, as established in section 3608, for the region of the State subject to that grant or contract.

Sec. 3. 34-B MRSA §3607-A, as enacted by PL 2007, c. 286, §7, is repealed.

Sec. 4. 34-B MRSA §15002, sub-§2, ¶E, as amended by PL 2007, c. 286, §11, is further amended to read:

E. Planning for the delivery of care takes into account the advice of the ~~institute councils established under section 3607-A~~ and the community service networks established under section 3608.

See title page for effective date.

**CHAPTER 133
S.P. 250 - L.D. 701**

**An Act To Amend the Laws
Governing Probation and
Remove References to the
Intensive Supervision Program
of the Department of
Corrections**

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

Sec. 1. 15 MRSA §651, sub-§16, as enacted by PL 2011, c. 214, §2 and affected by §6, is amended to read:

16. Probation violation warrant. "Probation violation warrant" means a bench warrant issued by a judicial officer in response to a motion to revoke the probation, ~~intensive supervision~~ or supervised release of an individual, requested by a probation officer or prosecutor.

Sec. 2. 15 MRSA §652, sub-§4, as enacted by PL 2011, c. 214, §2 and affected by §6, is amended to read: