

# MAINE STATE LEGISLATURE

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**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.**

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**Augusta, Maine**  
**2013**

This plan must be reviewed and updated as necessary. The director shall see that the plan and its revisions receive suitable dissemination on a timely basis.

**§852. Plans deemed part of statewide comprehensive plan**

An operational plan developed by an agency of the State that has jurisdiction over responding to an emergency is deemed to be part of the comprehensive emergency management plan for the State.

**Sec. 19. 37-B MRSA §1118, sub-§1, ¶¶B and C**, as enacted by PL 2001, c. 460, §3, are amended to read:

B. All other dams, at least once every ~~6~~ 12 years;

C. Any dam, within ~~30~~ 60 days of a request for an evaluation from the dam owner, the municipality in which the dam is located or the emergency management director of the county in which the dam is located; and

**Sec. 20. 37-B MRSA §1119, sub-§1, ¶¶A to C**, as enacted by PL 2001, c. 460, §3, are amended to read:

A. All significant hazard potential dams, at least once every ~~4~~ 6 years;

B. All high hazard potential dams, at least once every ~~2~~ 6 years;

C. Any dam, within ~~30~~ 60 days of a request for an inspection from the dam owner or the municipality in which the dam is located; and

**Sec. 21. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 37-B, chapter 13, subchapter 5, in the subchapter headnote, the words "search and rescue" are amended to read "special operational plans" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

## CHAPTER 147

### S.P. 518 - L.D. 1432

#### An Act To Revise the Laws of the Maine Criminal Justice Academy

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

**Sec. 1. 17-A MRSA §1058, sub-§2, ¶C**, as enacted by PL 2007, c. 466, Pt. C, §6, is amended to read:

C. An employee of a courier or security service in the course and scope of employment for the cou-

rier or security service, as approved by the ~~state~~ judicial marshal.

**Sec. 2. 25 MRSA §1611, sub-§5**, as amended by PL 2009, c. 421, §2, is further amended to read:

**5. Law enforcement officer or officer.** "Law enforcement officer" or "officer" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, ~~state judicial marshal or state judicial deputy~~ marshal, forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, a military security police officer appointed by the Adjutant General, a University of Maine System police officer or marine patrol officer in this State.

**Sec. 3. 25 MRSA §2002, sub-§1**, as amended by PL 1989, c. 917, §7, is further amended to read:

**1. Corrections officer.** "Corrections officer" has the same meaning as set forth in section 2801-A, subsection 2, ~~paragraph A~~.

**Sec. 4. 25 MRSA §2801**, as amended by PL 2005, c. 331, §1, is repealed and the following enacted in its place:

**§2801. Maine Criminal Justice Academy; purpose**

**1. Purpose of academy.** The purpose of the Maine Criminal Justice Academy is to provide a central training facility for criminal justice personnel. The academy shall promote the highest levels of professional law enforcement performance and facilitate coordination and cooperation between various criminal justice agencies.

**2. Purpose of board of trustees.** The purpose of the Maine Criminal Justice Academy Board of Trustees is to protect the public health and welfare. The board carries out this purpose by ensuring that the public is served by competent and honest criminal justice practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions, as are identified in this chapter. Other goals or objectives may not supersede this purpose.

**Sec. 5. 25 MRSA §2801-A**, as amended by PL 2005, c. 519, Pt. XXX, §2, is further amended to read:

**§2801-A. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

**1. Board.** "Board" means the Board of Trustees of the Maine Criminal Justice Academy.

**2. Corrections officer.** "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the board pursuant to section 2803-A.

~~A. For state agencies, the following class titles and their successor titles:~~

- ~~(1) Training School Counselor I and II;~~
- ~~(2) Training School Counselor Supervisor;~~
- ~~(3) Corrections Officer I, II and III;~~
- ~~(4) Guard;~~
- ~~(5) Guard Sergeant;~~
- ~~(6) Guard Lieutenant; and~~
- ~~(7) Guard Captain; and~~

~~B. For county, municipal and other agencies subject to this chapter, a person responsible for the custody of persons confined in a penal institution pursuant to an order of a court or as a result of an arrest. As used in this paragraph, "penal institution" has the same meaning as in Title 15, section 1461, subsection 1.~~

**2-A. Judicial marshal.** "State judicial Judicial marshal" or "state judicial deputy marshal" means a law enforcement officer who possesses a current and valid certificate issued by the board pursuant to section 2803-A and is employed by the Judicial Branch a non-federal employer to provide security and protection to the Judicial Branch and the courts located within the State.

~~**3. Full-time corrections officer.** "Full-time corrections officer" means a person who is employed as a corrections officer with a reasonable expectation of working more than 1,040 hours in any one calendar year for performing corrections officer duties.~~

**4. Full-time law enforcement officer.** "Full-time law enforcement officer" means a person who possesses a current and valid certificate issued by the board pursuant to section 2803-A and is employed as a law enforcement officer by a municipality, a county, the State or any other nonfederal employer with a reasonable expectation of working more than 1,040 hours in any one calendar year for performing law enforcement officer duties.

**5. Law enforcement officer.** "Law enforcement officer" means ~~any~~ a person who by virtue of public employment is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes and who possesses a current and valid certificate issued by the board pursuant to section 2803-A. As used in this chapter, ~~the term~~ "law enforcement officer" does not include federal law enforcement officers or attorneys prosecuting for the State.

~~**6. Part-time corrections officer.** "Part-time corrections officer" means a person who is employed as a corrections officer with a reasonable expectation of working no more than 1,040 hours in any one calendar year for performing corrections officer duties.~~

**7. Part-time law enforcement officer.** "Part-time law enforcement officer" means a person who is employed as a law enforcement officer with a reasonable expectation of working no more than 1,040 hours in any one calendar year for performing law enforcement officer duties.

A. Possesses a current and valid certificate issued by the board pursuant to section 2803-A to perform duties as a part-time law enforcement officer and does not possess any other type of current and valid certificate issued by the board pursuant to section 2803-A;

B. Is employed as a law enforcement officer; and

C. Absent extenuating circumstances as determined by the board, works not more than 1,040 hours in any one calendar year for performing law enforcement duties.

**8. Transport officer.** "Transport officer" means a person who is responsible for transferring or conveying from one place to another individuals who are confined in a penal institution jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the board pursuant to section 2803-A. As used in this subsection, "penal institution" has the same meaning as in Title 15, section 1461, subsection 1.

**Sec. 6. 25 MRSA §2801-B,** as amended by PL 2011, c. 657, Pt. W, §§5 and 7, is further amended to read:

**§2801-B. Application of chapter; exemption**

**1. Training and policy exemption.** The training standards of this chapter and the requirements of section 2803-B do not apply to a person defined by this chapter as a law enforcement officer who is:

A. An employee of the Department of Corrections with a duty to perform probation functions or to perform intensive supervision functions or

who is an adult probation supervisor as defined in Title 17-A, section 2, subsection 3-C or an investigative officer or other employee of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011;

B. An agent or a representative of the Department of Agriculture, Conservation and Forestry, Division of Parks and Public Lands whose law enforcement powers are limited to those specified in Title 12, section 1806;

C. An agent or a representative of the Department of Agriculture, Conservation and Forestry, Division of Forestry whose law enforcement powers are limited to those specified by Title 12, section 8901, subsection 3;

E. A harbor master;

F. A municipal shellfish conservation warden;

G. A ~~security~~ police officer appointed by the Commissioner of Public Safety pursuant to section 2908;

H. The State Fire Marshal or Assistant State Fire Marshal;

J. A ~~state~~ judicial marshal ~~or state judicial deputy marshal~~;

K. A contract officer appointed by the Commissioner of Public Safety pursuant to Title 28-A, section 82-A; or

L. A transport officer.

This exemption does not include certification training requirements set out in this chapter that are specific to the positions identified in this subsection or, in the case of an investigative officer as described in Title 34-A, section 3011, training requirements set out in this chapter other than those of section 2803-B.

**2. Education, training and certification training required.** A law enforcement officer listed in subsection 1 must possess a current and valid certificate issued by the board prior to carrying out any law enforcement duties. The directors of the state agencies listed in subsection 1 shall provide adequate education and training for all law enforcement officers within their jurisdiction annually and provide documentation to the board by December 31st of each year. The board shall advise the directors concerning appropriate and adequate training.

**Sec. 7. 25 MRSA §2802, first ¶,** as amended by PL 2005, c. 331, §7, is further amended to read:

There is created a board of trustees for the academy consisting of 17 members as follows: the Commissioner of Public Safety, ex officio, the Attorney General, ex officio, the Game Warden Colonel in the Department of Inland Fisheries and Wildlife, ex offi-

cio, the Commissioner of Corrections, ex officio, and the Chief of the State Police, ex officio, and the following to be appointed by the Governor: a county sheriff, a chief of a municipal police department, 2 officers of municipal police departments who are not police chiefs, an educator who is not and has never been a sworn member of a law enforcement agency, a ~~representative from a criminal justice agency not involved in the general enforcement of Maine criminal laws~~ criminal prosecutor from one of the offices of the District Attorney, a representative of a federal law enforcement agency, 3 citizens each of whom ~~are~~ is not and ~~have~~ has never been a sworn ~~members~~ member of a law enforcement agency, a municipal official who is not and has never been a sworn member of a law enforcement agency and one nonsupervisory corrections officer representing a state or county correctional facility.

**Sec. 8. 25 MRSA §2803-A, sub-§5,** as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

**5. Training and certification of corrections officers in State.** In accordance with the ~~requirements of this chapter, to approve establish training programs and certification standards for all corrections officers, including prescription of set requirements for board-approved courses, prescribe curriculum and setting of standards for graduation from those approved programs and certification of certify graduates of board-approved courses and persons graduating from the basic training course prescribed in for whom the board has waived the training requirements of this chapter.~~ Certification ~~shall~~ must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance;

**Sec. 9. 25 MRSA §2803-A, sub-§5-A** is enacted to read:

**5-A. Training of corrections employees with law enforcement powers.** To establish certification standards and a preservice and in-service training program for employees of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011. This program must include:

A. Preservice law enforcement training under section 2804-B;

B. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

Except for investigative officers, these employees of the Department of Corrections are exempt from section 2804-C, but completion of the basic training under section 2804-C exempts a person from the preservice training requirements under paragraph A;



**Sec. 10. 25 MRSA §2803-A, sub-§8-B**, as amended by PL 2005, c. 519, Pt. XXX, §4, is further amended to read:

**8-B. Training of judicial marshals.** To establish certification standards and a preservice and in-service training program for ~~state~~ judicial marshals ~~and state judicial deputy marshals~~. This program must include:

A. Preservice law enforcement training under section 2804-B;

B. An additional ~~40-hour~~ basic ~~court security~~ judicial marshal training program developed and approved by the board that is specific to the duties of a ~~state~~ judicial marshal ~~or state judicial deputy marshal~~; and

C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

~~State judicial~~ Judicial marshals and state judicial deputy marshals are exempt from section 2804-C, but completion of basic training under section 2804-C exempts a person from the preservice training requirement under paragraph A;

**Sec. 11. 25 MRSA §2803-A, sub-§8-C**, as enacted by PL 2005, c. 331, §13, is amended to read:

**8-C. Training of transport officers.** To establish certification standards and a training program for transport officers. This program must include ~~the preservice law enforcement training under section 2804-B;~~

A. The preservice law enforcement training under section 2804-B; and

B. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E;

**Sec. 12. 25 MRSA §2803-A, sub-§9**, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

**9. Other training programs.** To establish, ~~within the limits of funds available and with the approval of the commissioner,~~ additional training programs considered to be beneficial to law enforcement officers, corrections officers and other criminal justice personnel;

**Sec. 13. 25 MRSA §2803-A, sub-§15**, as enacted by PL 1989, c. 521, §§4 and 17, is amended to read:

**15. Revocation or suspension of certification.** To revoke or suspend a take disciplinary action concerning any certificate issued under section 2806 by the board, including but not limited to suspension or revocation; and

**Sec. 14. 25 MRSA §2803-A, sub-§16**, as amended by PL 2005, c. 331, §15, is further amended to read:

**16. Provide assistance and materials.** To provide to state, municipal and county corrections officers and state, municipal and county law enforcement officers any assistance or instructional materials the board considers necessary to fulfill the purposes of this chapter and Title 30-A, sections 381 and 2671-;

**Sec. 15. 25 MRSA §2803-A, sub-§§17 to 19** are enacted to read:

**17. Acceptance of gifts.** To accept, as recommended by the Director of the Maine Criminal Justice Academy, money, goods and services, gifts, bequests and endowments donated to the Maine Criminal Justice Academy to support any activities carried out by the Maine Criminal Justice Academy pursuant to this chapter. Any money donated to the academy and any proceeds from the sale of property bequeathed to the board pursuant to this section must be deposited in the academy's Other Special Revenue Funds account;

**18. Rules.** To adopt rules as the board determines necessary and proper to carry out this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

**19. Issuance of subpoenas.** To conduct investigations and issue subpoenas to assist with investigations or as otherwise considered necessary for the fulfillment of its responsibilities and to hold hearings and issue subpoenas for witnesses, records and documents in the name of the board in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing.

**Sec. 16. 25 MRSA §2803-B, sub-§1, ¶C**, as enacted by PL 1993, c. 744, §5, is repealed.

**Sec. 17. 25 MRSA §2803-B, sub-§1, ¶J**, as amended by PL 2009, c. 451, §1, is further amended to read:

J. Public notification regarding persons in the community required to register under Title 34-A, ~~chapter~~ chapters 15 and 17;

**Sec. 18. 25 MRSA §2803-B, sub-§1, ¶K**, as amended by PL 2009, c. 451, §2, is further amended to read:

K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases; ~~and~~

**Sec. 19. 25 MRSA §2803-B, sub-§1, ¶L**, as enacted by PL 2009, c. 451, §3, is amended to read:

L. Mental illness and the process for involuntary commitment; and

**Sec. 20. 25 MRSA §2803-B, sub-§1, ¶M** is enacted to read:

M. Freedom of access requests. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13.

**Sec. 21. 25 MRSA §2803-B, sub-§2**, as amended by PL 2011, c. 680, §5, is repealed and the following enacted in its place:

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy pursuant to subsection 1 with the exception of the freedom of access policy under subsection 1, paragraph M. Minimum standards of new mandatory policies enacted by law must be adopted by the board no later than December 31st of the year in which the law takes effect.

**Sec. 22. 25 MRSA §2803-B, sub-§3**, as amended by PL 2011, c. 680, §6, is repealed and the following enacted in its place:

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board annually no later than January 1st of each year that the agency has adopted written policies consistent with the minimum standards established or amended by the board and that all officers have received orientation and training with respect to new mandatory policies or new mandatory policy changes pursuant to subsection 2. New mandatory policies enacted by law must be implemented by all law enforcement agencies no later than the July 1st after the board has adopted the minimum standards.

**Sec. 23. 25 MRSA §2803-B, sub-§6**, as enacted by PL 2003, c. 185, §1, is repealed.

**Sec. 24. 25 MRSA §2803-B, sub-§7**, as enacted by PL 2009, c. 336, §18, is repealed.

**Sec. 25. 25 MRSA §2803-C**, as enacted by PL 2005, c. 331, §18, is amended to read:

#### **§2803-C. Penalty**

An agency ~~that~~ or individual who fails to comply with a provision of this chapter commits a civil violation for which the State or the local government entity whose officer or employee committed the violation or the individual who committed the violation may be adjudged a fine not to exceed \$500.

**Sec. 26. 25 MRSA §2803-D** is enacted to read:

#### **§2803-D. Certificate admissible**

Notwithstanding any other law or rule of evidence, a certificate issued by the custodian of the records of the board, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate.

**Sec. 27. 25 MRSA §2804-A, first ¶**, as amended by PL 2005, c. 331, §19, is further amended to read:

The Commissioner of Public Safety, with the advice and ~~consideration~~ consent of the board of trustees, shall appoint a director, who is the administrator of the academy and the executive director of the board. Qualifications of the director must be established by the commissioner and the board jointly. The salary of the director must be established by the commissioner and the board jointly. The director may be dismissed for cause by the commissioner with the approval of the board.

**Sec. 28. 25 MRSA §2804-B, sub-§7**, as amended by PL 1993, c. 551, §1, is further amended to read:

**7. Part-time law enforcement officers.** The board shall certify law enforcement officers who successfully complete preservice law enforcement training and who have qualified with a firearm using the board firearm proficiency standards as ~~reserve or~~ part-time law enforcement officers. Thereafter, as a condition of continued service as a ~~reserve or~~ part-time law enforcement officer, the officer must satisfactorily maintain the preservice certification. The board shall maintain a roster of all currently certified ~~reserve or~~ part-time law enforcement officers. The roster must be available for inspection by the public at the academy during regular working hours.

**Sec. 29. 25 MRSA §2804-C, sub-§1**, as amended by PL 2005, c. 331, §21, is further amended to read:

**1. Required.** As a condition to the continued employment of any person as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of initial full-time employment, the basic training course at the Maine Criminal Justice Academy approved by the board. If a person's failure to comply with this requirement was a result of that person's failure to satisfy any of the admission standards applicable to the basic training course and that person is subsequently employed as a full-time law enforcement officer within 12 months of termination of the initial employment by a municipality, a county, the State or any

other nonfederal employer, the person must have satisfied all the admission standards established by the board prior to the satisfaction of the board at the time of hire. As a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification by completing the recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board also, in individual cases, may waive the basic training requirement when the facts indicate that an equivalent course has been successfully completed. ~~This section does not apply to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972.~~

**Sec. 30. 25 MRSA §2804-C, sub-§2-C**, as enacted by PL 2005, c. 684, §1, is amended to read:

**2-C. Receipt of firearms; training; procedure; liability.** ~~Beginning January 1, 2008, the~~ The Maine Criminal Justice Academy shall provide training for municipal, county and state law enforcement officers regarding the proper handling, storage, safekeeping and return of firearms and firearm accessories received pursuant to a court order under Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1. Such training must include education concerning the prohibitions on the purchase or possession of a firearm when a protection order has been obtained and communication with parties to protection orders concerning such prohibitions.

In developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners.

A law enforcement officer who receives custody of a firearm pursuant to Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1 shall exercise reasonable care to avoid loss, damage or reduction in value of the firearm and may not permanently mark the firearm or fire the firearm unless there is reasonable suspicion that the firearm has been used in the commission of a crime. Any liability for damage or reduction in value to such a firearm is governed by Title 14, chapter 741.

**Sec. 31. 25 MRSA §2804-C, sub-§3**, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

**3. Certification.** The board shall certify each ~~law enforcement officer~~ person who meets the core curriculum training requirements.

**Sec. 32. 25 MRSA §2804-C, sub-§5**, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

**5. Application to currently certified law enforcement officers.** This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990 or to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972.

**Sec. 33. 25 MRSA §2804-D**, as amended by PL 2001, c. 386, §6, is further amended to read:

**§2804-D. Basic corrections training**

**1. Required.** As a condition to the continued employment of any person as a ~~full-time~~ corrections officer ~~by a municipality, a county, the State or any other nonfederal employer~~, that person must successfully complete, within the first 12 months of employment, a basic training course ~~of not less than 80 hours~~ as approved by the board. Thereafter, as a condition of continued employment as a ~~full-time~~ corrections officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than ~~90~~ 180 days. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction ~~within the 2 years immediately preceding employment~~. ~~This section applies to any person employed as a full-time corrections officer on or after July 6, 1978. Administrators of facilities where there are corrections officers who are not full-time are encouraged to develop an orientation program for those persons. A full-time correctional trade instructor hired after January 1, 2002 must meet the training requirements established under this subsection for full-time corrections officers.~~

**Sec. 34. 25 MRSA §2804-E**, as amended by PL 1997, c. 395, Pt. O, §5, is further amended to read:

**§2804-E. In-service law enforcement training**

**1. Required.** As a condition to the continued employment of a person as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty by a municipality, county, the State or other nonfederal employer, that person must successfully complete in-service training as prescribed by the board. Failure to successfully complete in-service training by a law enforcement officer as prescribed by the board constitutes grounds to suspend or revoke a certificate issued by the board pursuant to section 2803-A.

**2. Role of board.** The board shall establish in-service recertification training requirements, consistent with subsection 1, and coordinate delivery of in-service training ~~with postsecondary schools and other institutions and law enforcement agencies and admin-~~



~~ister in-service training programs.~~ The in-service recertification training requirements must include information on new laws and court decisions and on new enforcement practices demonstrated to reduce crime or increase officer safety. The board shall consider and encourage the use of telecommunications technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the state and local departments and agencies to which the in-service requirements apply to ensure that the standards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

~~3. Additional certificates.~~ The board may offer additional certificates to be awarded for completion of additional education, experience and certified board approved training.

**4. Credit for continuing education.** The board may grant in-service training credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

**5. Provision of in-service training.** In-service training programs that meet the requirements established under subsection 2 or other in-service training programs may be provided by the Maine Criminal Justice Academy or the agency employing the law enforcement officer.

**Sec. 35. 25 MRSA §2804-F**, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

**§2804-F. In-service corrections training**

**1. Required.** As a condition to the continued employment of any person as a ~~full-time~~ corrections officer by a municipality, county, the State or other nonfederal employer, that person shall successfully complete in-service training as prescribed by the board. Failure to successfully complete in-service training by a corrections officer as prescribed by the board constitutes grounds to suspend or revoke a certificate issued by the board pursuant to section 2803-A.

**2. Role of board.** The board shall establish in-service training requirements, consistent with subsection 1, and coordinate delivery of in-service training with post secondary and other institutions and corrections agencies and administer in-service training programs. The in-service recertification training requirements ~~shall~~ must include information on new laws and court decisions. The board shall consider and encourage the use of telecommunications technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the State state and local departments and agencies to which the in-service requirements apply to ensure that the stan-

dards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

**3. Provisions of in-service training.** In-service training programs ~~which~~ that meet the requirements established under subsection 2; or other in-service training may be provided by the Maine Criminal Justice Academy or the agency employing the corrections officer.

**4. Credit for continuing education.** The board may grant in-service training credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

**Sec. 36. 25 MRSA §2804-K**, as amended by PL 2005, c. 519, Pt. XXX, §5, is further amended to read:

**§2804-K. Law enforcement training for judicial marshals**

As a condition to the continued employment of any person as a ~~full-time state~~ judicial marshal ~~or state judicial deputy marshal~~, that person must successfully complete, within the first 12 months of employment, the training required under section 2803-A, subsection 8-B. Thereafter, as a condition of continued employment as a ~~full-time state~~ judicial marshal ~~or state judicial deputy marshal~~, the judicial marshal must satisfactorily maintain the ~~state~~ judicial marshal ~~or state judicial deputy marshal~~ certification by completing recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend that period for not more than ~~90~~ 180 days.

**Sec. 37. 25 MRSA §2805-C**, as amended by PL 1997, c. 42, §1, is further amended to read:

**§2805-C. Complaint review committee**

**1. Committee.** The chair of the board shall appoint 3 members of the board to serve on the complaint review committee. One of the members must be one of the citizen members of the board. All members of the committee must be present for deliberations. A majority vote is necessary to recommend taking corrective or disciplinary action on a complaint or to order an independent investigation pursuant to ~~section 2806, subsection 1-A~~ 3.

**2. Investigation.** The committee shall investigate complaints regarding any violation of this chapter or rules established by the board by a ~~law enforcement or corrections officer~~ person holding a certificate issued by the board pursuant to section 2803-A and recommend appropriate action to the board.

**3. Investigation and notice of complaints.** Before proceeding with a hearing to suspend or revoke a certificate issued by the board pursuant to section

2803-A, the board, the complaint review committee or board staff shall notify the chief administrative officer of the agency employing the certificate holder that the board is investigating the certificate holder. The chief administrative officer shall investigate the alleged conduct of the certificate holder and, notwithstanding any other provision of law, report the findings and provide copies of the investigative reports to the board within 30 days of receiving notice of the investigation. The board shall proceed with any suspension or revocation action it determines appropriate after receiving the chief administrative officer's findings and reports. This subsection does not preclude a chief administrative officer from investigating conduct that may give rise to grounds for suspension or revocation before receiving a request for an investigation from the board, the complaint review committee or board staff, as long as the chief administrative officer notifies the board following that investigation if the investigation reveals reasonable cause to believe that a certificate holder has engaged in conduct described in section 2806-A, subsection 5, and providing to the board the findings and investigative reports related to the conduct. Nothing in this subsection precludes the board from investigating the conduct of a certificate holder on its own or referring a matter of such conduct to another agency for investigation regardless of whether it receives an investigative report from the chief administrative officer under this section.

**Sec. 38. 25 MRSA §2806**, as amended by PL 2005, c. 331, §§26 and 27, is repealed.

**Sec. 39. 25 MRSA §2806-A** is enacted to read:

**§2806-A. Disciplinary sanctions**

**1. Disciplinary proceedings and sanctions.** The board or, as delegated, the complaint review committee, established pursuant to section 2805-C, or staff, shall investigate a complaint on its own motion or upon receipt of a written complaint filed with the board regarding noncompliance with or violation of this chapter or of any rules adopted by the board. Investigation may include an informal conference before the complaint review committee to determine whether grounds exist for suspension, revocation or denial of a certificate or for taking other disciplinary action pursuant to this chapter. The board, the complaint review committee or staff may subpoena witnesses, records and documents in any investigation or hearing conducted.

**2. Notice.** The board or, as delegated, the complaint review committee, established pursuant to section 2805-C, or staff, shall notify the certificate holder of the content of a complaint filed against the certificate holder as soon as possible, but in no event later than 60 days after the board or staff receives the initial pertinent information. The certificate holder has the right to respond within 30 days in all cases except

those involving an emergency denial, suspension or revocation, as described in Title 5, chapter 375, subchapter 5. If the certificate holder's response to the complaint satisfies the board, the complaint review committee or staff that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

**3. Informal conference.** If, in the opinion of the board, the complaint review committee, established pursuant to section 2805-C, or staff, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board or staff may request an informal conference with the certificate holder. The complaint review committee or staff shall provide the certificate holder with adequate notice of the conference and of the issues to be discussed. The certificate holder may, without prejudice, refuse to participate in an informal conference if the certificate holder prefers to request an adjudicatory hearing.

**4. Further action.** If the board or the complaint review committee, established pursuant to section 2805-C, finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions.

**A.** The board, the complaint review committee or staff may negotiate a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the certificate holder and the board. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a certificate issued under this chapter. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

**B.** If a certificate holder offers to voluntarily surrender a certificate, the board, the complaint review committee or staff may negotiate stipulations necessary to ensure protection of the public health and safety and the rehabilitation or education of the certificate holder. These stipulations may be set forth only in a consent agreement entered into between the board and the certificate holder.

**C.** Unless specifically otherwise indicated in this chapter, if the board concludes that modification, suspension, revocation or imposition of any other sanction authorized under this chapter is in order, the board shall so notify the certificate holder and inform the certificate holder of the right to request

an adjudicatory hearing. If the certificate holder requests an adjudicatory hearing in a timely manner, the adjudicatory hearing must be held by the board, a subcommittee of 3 board members designated by the board chair or a hearing officer appointed by the board. The hearing must be in accordance with Title 5, chapter 375, subchapter 4. If a hearing officer conducts the hearing, the hearing officer, after conducting the hearing, shall file with the board all papers connected with the case and report recommended findings and sanctions to the board, which may approve or modify them. If the certificate holder wishes to appeal the final decision of the board, the certificate holder shall file a petition for review with the Superior Court within 30 days of receipt of the board's decision. Review under this paragraph must be conducted pursuant to Title 5, chapter 375, subchapter 7.

**5. Grounds for action.** The board may take action against any applicant for a certificate or certificate holder pursuant to this chapter or any rules adopted pursuant to this chapter, including, but not limited to, a decision to impose a civil penalty or to refuse to issue a certificate or to modify, suspend or revoke a certificate for any of the following reasons:

A. Failure to meet annual certification or recertification requirements. In enforcing this paragraph, the board shall, no later than March 31st of every year, review the certification of all law enforcement and corrections officers and decertify those individuals who do not meet certification or recertification requirements;

B. Absent extenuating circumstances as determined by the board, working more than 1,040 hours in any one calendar year as a part-time law enforcement officer performing law enforcement duties and while possessing a part-time law enforcement certificate issued by the board pursuant to section 2803-A;

C. Conviction of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45. Notwithstanding any other provision of law, the board may summarily and without hearing suspend or revoke any certificate as a result of any criminal conviction identified by this paragraph pursuant to Title 5, section 10004, subsection 1;

D. Juvenile adjudication of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime;

E. Guilty plea pursuant to a deferred disposition of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of

Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45;

F. Engaging in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45;

G. Conviction of or adjudication as a juvenile of a crime specified in paragraph D in another state or other jurisdiction, unless that crime is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred. Notwithstanding any other provision of law, the board may summarily and without hearing suspend or revoke any certificate as a result of any criminal conviction identified by this paragraph pursuant to Title 5, section 10004, subsection 1;

H. Engaging in conduct specified in paragraphs C and D in another state or other jurisdiction unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

I. Falsifying or misrepresenting material facts in obtaining or maintaining a certificate issued by the board pursuant to section 2803-A;

J. Engaging in conduct that violates the standards established by the board and that when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent certificate holder would observe in the same or similar situation; and

K. Engaging in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual act or sexual contact:

(1) The officer was engaged in an investigation or purported investigation involving an allegation of abuse, as defined in former Title 19, section 762, subsection 1 and in Title 19-A, section 4002, subsection 1;

(2) The other person was the alleged victim of that abuse;

(3) The parties did not have a preexisting and ongoing sexual relationship that included engaging in any sexual act or sexual contact; and

(4) Less than 60 days had elapsed since the officer initially became involved in the investigation or purported investigation.

**6. Discipline.** The board may impose the following forms of discipline upon a certificate holder or applicant for a certificate:

A. Denial of an application for a certificate, which may occur in conjunction with the imposition of other discipline;

B. Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rule or condition of certification or must be based upon a single instance of actionable conduct or activity;

C. Suspension of a certificate for up to 3 years. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the certificate holder's record;

D. Revocation of a certificate;

E. Imposition of civil penalties of up to \$1,500 for each violation of applicable laws, rules or conditions of certification or for each instance of actionable conduct or activity; or

F. Imposition of conditions of probation. Probation may run for such time period as the board determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional supervision of the applicant or certificate holder; restrictions; and other conditions as the board determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or certificate holder. Failure to comply with the conditions of probation is a ground for disciplinary action against a certificate holder.

**7. Letter of guidance.** The board may issue a letter of guidance or concern to a certificate holder. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the certificate holder that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The board may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a certificate holder's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board in any subsequent action commenced against the certificate holder within the specified time frame. Complaints, reports and investigation materials placed

on file remain confidential to the extent required by this chapter.

**8. Injunction.** The State may bring an action in Superior Court to enjoin a person from violating any provision of this chapter, regardless of whether civil or administrative proceedings have been or may be instituted.

**9. Recertification.** A person whose certificate has been revoked under this chapter may apply to the board for reinstatement of certification if:

A. The certificate was revoked for a cause other than engaging in conduct that is prohibited or penalized by state law as murder or as a Class A, Class B or Class C crime or for equivalent conduct in another state or other jurisdiction;

B. At least 3 years have elapsed since revocation of the certificate; and

C. A law enforcement or corrections agency has indicated a commitment to hire the individual if the individual is recertified.

The granting of recertification under this subsection is governed by Maine Criminal Justice Academy rules relating to certification. The individual is subject to all training requirements applicable to persons whose certification has lapsed.

**10. Confidentiality; access to documents.** All complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in suspension or revocation of a certificate that are considered by the board or the complaint review committee established pursuant to section 2805-C are confidential. If a person subject to this chapter requests an adjudicatory hearing under the Maine Administrative Procedure Act, that hearing must be open to the public. The hearing officer who presides over the hearing shall issue a written decision that states the conduct or other facts on the basis of which action is being taken and the reason for that action. Once issued, the hearing officer's written decision is a public record under the Freedom of Access Act, regardless of whether it is appealed.

**Sec. 40. 25 MRSA §2807**, as amended by PL 2005, c. 331, §28, is further amended to read:

**§2807. Reports of conviction or misconduct by certificate holder**

In Notwithstanding any other provision of law, in the event that a ~~law enforcement or corrections officer~~ certificate holder is convicted of a crime or violation or engages in conduct that could result in suspension or revocation of the ~~officer's~~ individual's certificate pursuant to section ~~2806~~ 2806-A and the chief administrative officer of the agency employing the ~~officer~~ certificate holder or considering the individual for em-



ployment has knowledge of the conviction or conduct, ~~then~~ the chief administrative officer shall ~~expeditiously~~ within 30 days notify the Director of the Maine Criminal Justice Academy with the name of the ~~law enforcement or corrections officer certificate holder~~ and a brief description of the conviction or conduct.

**Sec. 41. 25 MRSA §2808, sub-§3,** as amended by PL 2005, c. 331, §32, is further amended to read:

**3. Reimbursement for training costs.** Whenever a full-time law enforcement officer, trained at the Maine Criminal Justice Academy at the expense of a particular governmental entity, is subsequently hired by another governmental entity as a full-time law enforcement officer within 5 years of graduation from the academy, the governmental entity shall reimburse the first governmental entity according to the following formula, unless a mutual agreement is reached.

A. If the officer is hired by the other governmental entity during the first year after graduation, that governmental entity shall reimburse the first governmental entity the full cost of the training costs.

B. If the officer is hired by the other governmental entity during the 2nd year after graduation, that governmental entity shall reimburse the first governmental entity 80% of the training costs.

C. If the officer is hired by the other governmental entity during the 3rd year after graduation, that governmental entity shall reimburse the first governmental entity 60% of the training costs.

D. If the officer is hired by the other governmental entity during the 4th year after graduation, that governmental entity shall reimburse the first governmental entity 40% of the training costs.

E. If the officer is hired by the other governmental entity during the 5th year after graduation, that governmental entity shall reimburse the first governmental entity 20% of the training costs.

F. If the officer graduated more than 5 years before subsequently being hired by the other governmental entity, that governmental entity is not obligated to reimburse the first governmental entity.

If the officer is subsequently hired by additional governmental entities within 5 years of graduation from the academy, each of those governmental entities is liable to the governmental employer immediately preceding it for the training costs paid by that governmental entity under this subsection. The extent of financial liability must be determined according to the formula established by this subsection.

~~Reimbursement is not required when the trained officer hired by a governmental entity has had employ-~~

~~ment with a prior governmental entity terminated at the discretion of the governmental entity.~~

**Sec. 42. 25 MRSA §2808-A, sub-§1, ¶B,** as enacted by PL 2007, c. 240, Pt. ZZZ, §1, is amended to read:

B. "Training" means the basic training provided to a ~~full-time~~ corrections officer by the Maine Criminal Justice Academy, as described in section 2804-D.

**Sec. 43. 25 MRSA §2808-A, sub-§2,** as enacted by PL 2007, c. 240, Pt. ZZZ, §1, is amended to read:

**2. Reimbursement for training costs.** Whenever a ~~full-time~~ corrections officer, trained at the Maine Criminal Justice Academy at the expense of a particular governmental entity, is subsequently hired by another governmental entity as a ~~full-time~~ corrections officer or ~~full-time law enforcement officer~~ within 5 years of graduation from the academy, the governmental entity shall reimburse the first governmental entity according to the following formula, unless a mutual agreement is reached.

A. If the corrections officer is hired by the other governmental entity during the first year after graduation, that governmental entity shall reimburse the first governmental entity the full cost of the training costs.

B. If the corrections officer is hired by the other governmental entity during the 2nd year after graduation, that governmental entity shall reimburse the first governmental entity 80% of the training costs.

C. If the corrections officer is hired by the other governmental entity during the 3rd year after graduation, that governmental entity shall reimburse the first governmental entity 60% of the training costs.

D. If the corrections officer is hired by the other governmental entity during the 4th year after graduation, that governmental entity shall reimburse the first governmental entity 40% of the training costs.

E. If the corrections officer is hired by the other governmental entity during the 5th year after graduation, that governmental entity shall reimburse the first governmental entity 20% of the training costs.

F. If the corrections officer graduated more than 5 years before subsequently being hired by the other governmental entity, that governmental entity is not obligated to reimburse the first governmental entity.

If the corrections officer is subsequently hired by additional governmental entities within 5 years of graduation



tion from the academy, each of those governmental entities is liable to the governmental employer immediately preceding it for the training costs paid by that governmental entity under this subsection. The extent of financial liability must be determined according to the formula established by this subsection.

~~Reimbursement is not required when the corrections officer hired by a governmental entity has had employment with a prior governmental entity terminated at the discretion of the governmental entity.~~

**Sec. 44. 25 MRSA §2809, first ¶,** as amended by PL 2003, c. 510, Pt. C, §7, is further amended to read:

~~Beginning January 1, 1991, the~~ The board shall report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the implementation and effectiveness of this chapter. The purpose of the report is to provide the Legislature annual information on the law governing law enforcement training in order to ensure that appropriate and timely training is accomplished. The report must include the following:

**Sec. 45. 30-A MRSA §353,** as amended by PL 2005, c. 541, §2 and affected by §3, 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**

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. A person employed by the keeper of a jail in any capacity may not exercise any power or duty of a judicial officer 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.

See title page for effective date.

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## CHAPTER 148

H.P. 903 - L.D. 1264

### An Act Allowing the Harvesting of Yellow Perch with Seines

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

**Sec. 1. 12 MRSA §12506, sub-§2, ¶¶B and C,** as amended by PL 2007, c. 463, §6 and affected by §9, are further amended to read:

B. Suckers and yellow perch using trap nets, dip nets or spears; ~~and~~

C. Lampreys by hand or using hand-held dip nets; ~~and~~

**Sec. 2. 12 MRSA §12506, sub-§2, ¶E** is enacted to read:

E. Yellow perch using seines.

See title page for effective date.

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## CHAPTER 149

H.P. 391 - L.D. 572

### An Act Regarding Poker Runs Operated by Organizations Licensed To Conduct Games of Chance

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

**Sec. 1. 17 MRSA §1835, sub-§8** is enacted to read:

**8. Wager limit exception.** Notwithstanding subsection 1, an organization that is licensed to conduct games of chance in accordance with this chapter is permitted to accept wagers up to \$50 per hand for a poker run. The organization must inform the Chief of the State Police 30 days in advance of the date when the organization intends to conduct a poker run with an increased wager limit. An organization is limited to 2 poker run events per calendar year in which wagers up to \$50 per hand are permitted. For the purposes of this subsection, "poker run" means a game of chance using playing cards that requires a player to travel from one geographic location to another in order to play the game.

See title page for effective date.

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## CHAPTER 150

H.P. 636 - L.D. 912

### An Act To Provide Another Alternative to the Civil Order of Arrest Process

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

**Sec. 1. 14 MRSA §3134, sub-§2,** as amended by PL 1987, c. 708, §9, is repealed and the following enacted in its place: