

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

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

Augusta, Maine
2013

date of the expiration of the license. Renewal may be effected at any time after completion of continuing education requirements and after receipt of notice by the payment of a fee established by rule by the board, which may not exceed \$50 annually. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 3 years from the date of the expiration.

Sec. 7. 32 MRSA §1361, 2nd ¶, as amended by PL 2005, c. 315, §26, is further amended to read:

A retired licensee may retain but not use the seal and may not practice engineering. ~~The board shall reissue a license to a retired licensee who pays all application fees, meets all current requirements for licensure renewal and demonstrates to the board's satisfaction that, for 2 years preceding the application for licensure, the A retired licensee met the requirements for maintaining professional competence established under the may apply for reinstatement to active status in accordance with section 1357 and after completing continuing education requirements according to board rules.~~

See title page for effective date.

CHAPTER 297

H.P. 941 - L.D. 1316

An Act Regarding Computers Used To Commit a Crime or Facilitate the Commission of a Crime

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

Sec. 1. 17-A MRSA §431, sub-§2, as enacted by PL 1989, c. 620, is amended to read:

2. "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions; and includes any data storage facility or device or communications facility directly related to or operating in conjunction with such the device.

Sec. 2. 17-A MRSA §431, sub-§10-A is enacted to read:

10-A. "Data storage device" means any computer or accessory device, designed for or capable of storing digital media or data, including, but not limited

to, installed or transportable hard drives, memory cards and servers.

Sec. 3. 17-A MRSA §§436 and 437 are enacted to read:

§436. Permanent destruction of computer data on a computer used in the commission of a crime

1. If a person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or found not criminally responsible of a violation of this Title, the State, after all appeal periods have run and those proceedings have concluded, may permanently destroy the computer data on any computer that was used to commit or facilitate the commission of that violation or cause the computer data to be permanently destroyed through the removal and destruction of any part of the computer in the possession of the State on which the computer data are stored.

2. Notwithstanding subsection 1, a criminal justice agency, prior to the destruction of computer data, may extract and provide computer data to a person if:

A. Prior to the conclusion of criminal prosecution in the matter involving the computer data, the person provides written notification to the criminal justice agency having custody of the computer on which the computer data are stored that the person is interested in obtaining that computer data;

B. The person either has an ownership interest in the computer data or wants the computer data only for the sentimental value of the data. When computer data are requested only for the sentimental value of the data, the person must state such in a written affidavit;

C. The computer data that are the subject of the person's request may be lawfully disseminated;

D. The computer data that are the subject of the person's request are not confidential by law;

E. The computer data that are the subject of the request are specifically identified by the person making the request. For the purposes of this paragraph, "specifically identified" means identified with reasonable precision and not merely categorically;

F. The criminal justice agency, in the judgment of the chief officer of the agency, determines the agency has the technological expertise, resources and personnel available to accommodate the request or to cause the request to be accommodated. The chief officer of the agency may consider whether there is a 3rd-party vendor that can accommodate the request if the chief officer determines the agency cannot accommodate the request for reasons provided in this paragraph. The chief

officer of the agency subject to the request shall refer the request to an appropriate 3rd-party vendor for processing upon receipt by the chief officer of the agency of full payment from the requestor for the amount charged by the vendor to accommodate the request for information; and

G. Notwithstanding any provision of law to the contrary, the person requesting the computer data makes advance payment for the time and costs that the criminal justice agency estimates will be needed for the requested computer data to be extracted and provided by the agency or caused by the agency to be extracted and provided to the person.

If the conditions identified in paragraphs A to G of this subsection are not met, the computer data that are the subject of the request may be permanently destroyed in accordance with subsection 1.

The chief officer of the criminal justice agency that is subject to a request under this subsection shall respond to the requestor within 60 days from the date the request was received by the chief officer. The chief officer's response must include but is not limited to what actions if any the agency will take regarding the computer data identified in the request.

§437. Permissible destruction or transfer of ownership to the State of a computer used in the commission of a crime

1. Notwithstanding any provision of law to the contrary and except as provided in subsection 3, the State may either permanently destroy or assume ownership of a computer that was used in the commission of a crime or that facilitated the commission of a crime if:

A. A person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or is found not criminally responsible of a crime committed using, or that was facilitated through the use of, the computer and all appeal periods have run and those proceedings have concluded;

B. The opportunity for the computer to be forfeited to the State through proceedings at the presentencing stage has passed; and

C. A person having a lawful property interest in the computer has not notified the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that the person wants to take possession of the computer. The written notification must be made to the criminal justice agency having custody of the computer.

If the State assumes ownership of a computer pursuant to this subsection, all computer data stored on the

computer must be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436.

2. A person who has a lawful property interest in a computer that was used to commit a crime or that facilitated the commission of a crime may take possession of the computer if:

A. The person notifies the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that a person committed a crime using, or that was facilitated by the use of, the computer and all appeal periods have run and those proceedings have concluded, that the person wants to take possession of that computer. The written notification must be made to the criminal justice agency having custody of the computer;

B. The crime that was committed using, or that was facilitated through the use of, the computer is not a crime identified in chapter 12; and

C. All computer data stored on the computer have been permanently destroyed pursuant to section 436.

3. Notwithstanding subsection 2, a person having a lawful property interest in a computer may not take possession of that computer if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12. Notwithstanding subsection 1, the computer may be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436 if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12.

When the State receives a notification from a person who wishes to take possession of a computer pursuant to subsection 2, the State must respond to that notification within 60 days from the date the notification was received by the State. The State's response must include but is not limited to what actions, if any, the State will take regarding the computer identified in the notification.

Sec. 4. Public notice concerning computers and computer data already in the custody of a criminal justice agency. Before a criminal justice agency, pursuant to the Maine Revised Statutes, Title 17-A, section 436 or 437, permanently destroys any computer data or disposes or assumes ownership of a computer in the custody of the agency prior to the effective date of this Act, the agency shall post on its publicly accessible website a notice stating that, unless written notification as described in Title 17-A, section 436, subsection 2 or Title 17-A, section 437, subsection 2 is given to the criminal justice agency within 90 days after the effective date of this

Act, all such computer data and computers must be disposed of in accordance with the provisions of Title 17-A, section 436 or 437.

See title page for effective date.

CHAPTER 298
S.P. 543 - L.D. 1469

**An Act To Ensure Ethical
Standards for Court Reporters**

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

Sec. 1. 4 MRSA c. 15, sub-c. 4 is enacted to read:

SUBCHAPTER 4
**GENERAL PROVISIONS; ETHICAL
STANDARDS**

§771. Definitions

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

1. Court reporter. "Court reporter" means a person who records legal proceedings by stenotype machine or other means allowed under the Maine Rules of Civil Procedure, Rule 30 and provides prompt preparation of an accurate, verbatim written transcript. "Court reporter" does not include an employee of the Judicial Branch or a person transcribing legal proceedings for the Judicial Branch.

2. Court reporting services. "Court reporting services" means services provided by a court reporter.

3. Court reporting services provider. "Court reporting services provider" means a business, entity or firm that provides or arranges for court reporting services.

4. Governmental entity. "Governmental entity" has the same meaning as in Title 14, section 8102, subsection 2.

5. Legal proceeding. "Legal proceeding" means a proceeding or series of proceedings by which a legal judgment is invoked and includes but is not limited to:

- A. A court proceeding;
- B. A deposition;
- C. An administrative hearing;
- D. An arbitration hearing;
- E. An examination under oath; and
- F. A sworn statement.

6. Party. "Party" means a party to an action that is the subject of the legal proceeding for which court reporting services are provided or sought to be provided.

§772. Relationship to party or proceeding; prohibition

1. Prohibition. A court reporter or a court reporting services provider may not provide court reporting services for a legal proceeding if that court reporter or the court reporting services provider:

- A. Has a contractual relationship with a party or an attorney, representative, agent or insurer of a party, other than a contract to provide court reporting, litigation and trial support services;
- B. Engages in any prohibited actions set forth in section 773; or
- C. Is a party.

A court reporter may not provide court reporting services for a legal proceeding if the court reporter is a relative, employee or attorney of one of the parties or is a relative, employee or attorney of a person with a financial interest in the action or its outcome.

2. Reasonable effort to determine; requirement. Prior to the provision of court reporting services, a court reporter or court reporting services provider shall make reasonable efforts to determine whether the provision of court reporting services is prohibited under this subchapter.

§773. Prohibited actions

A court reporter or court reporting services provider may not:

1. Contract. Enter into an oral or written contractual agreement with an attorney, party to an action, insurance company or 3rd-party administrator or any other person or entity that has a financial interest in the case, action or legal proceeding, other than a contract to provide court reporting, litigation and trial support services;

2. Advantage. Give an economic or other advantage to a party or a party's attorney, representative, agent, insurer or employee without offering the advantage to all parties or fail to offer comparable services, prices or financial terms to all parties, except that different credit terms may be offered based on payment experience and creditworthiness;

3. Outcome-based payment. Offer or provide court reporting services if payment for those services is made contingent on the outcome of the legal proceeding, base the compensation for the court reporting services on the outcome of the legal proceeding or otherwise give the court reporter or court reporting services provider a financial interest in the action;