

MAINE STATE LEGISLATURE

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ACTIVITY SHEET

COMMITTEE: CRIMINAL JUSTICE AND PUBLIC SAFETY

LD #: 915

TITLE: "AN ACT TO UPDATE AND CLARIFY STATUTES RELATED TO OR
ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY"

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HEARING DATE: 4/3/2009

WORK SESSION DATES: 5/1/2009

REPORTED OUT DATE: 5/22/2009

COMMITTEE REPORT: OTP-AM



# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 915

H.P. 633

House of Representatives, March 9, 2009

### **An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety**

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Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HASKELL of Portland.

Cosponsored by Representative: SYKES of Harrison, Senator: GERZOFKY of Cumberland.

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

2                               **PART A**

3       **Sec. A-1. 5 MRSA §948, sub-§1**, as amended by PL 2003, c. 20, Pt. R, §§5 and  
4       6, is further amended to read:

5       **1. Major policy-influencing positions.** The following positions are major policy-  
6       influencing positions within the Department of Public Safety. Notwithstanding any other  
7       provision of law, these positions and their successor positions ~~shall be~~ are subject to this  
8       chapter:

- 9           A. Chief, Bureau of State Police;
- 10          C. Director, Office of State Fire Marshal;
- 11          D. Director, Maine Criminal Justice Academy;
- 12          E. Assistant to the Commissioner for Public Information;
- 13          G. ~~Two Deputy Chiefs~~ Chief, Bureau of State Police;
- 14          H. Director, Bureau of Highway Safety;
- 15          I. Director, Maine Drug Enforcement Agency;
- 16          J. ~~Assistant Director, Maine Drug Enforcement Agency;~~
- 17          K. Two majors, Bureau of State Police; and
- 18          L. Director, Maine Emergency Medical Services;
- 19          M. Director, Bureau of Consolidated Emergency Communications; and
- 20          N. Director, Bureau of Building Codes and Standards.

21                               **PART B**

22       **Sec. B-1. 23 MRSA §6072, sub-§1, ¶A**, as amended by PL 2003, c. 199, §1, is  
23       further amended to read:

- 24           A. Has met all the education and training requirements as outlined under former  
25       Title 25, section 2805, first paragraph or Title 25, ~~sections~~ section 2804-B and or  
26       2804-C;

27                               **PART C**

28       **Sec. C-1. 25 MRSA §1533**, as enacted by PL 2003, c. 678, §2, is repealed and the  
29       following enacted in its place:

30       **§1533. Bureau of Consolidated Emergency Communications**

31       The Bureau of Consolidated Emergency Communications, referred to in this chapter  
32       as "the bureau," is established within the department for the provision of emergency

1 dispatch and E-9-1-1 call-taking services to municipal, county and state government  
2 entities.

3 1. Coordination with the Public Utilities Commission. In accordance with a  
4 designation made by the Public Utilities Commission, the department shall provide E-9-  
5 1-1 call-taking services.

6 2. Director; duties. The Commissioner of Public Safety shall hire a Director of the  
7 Bureau of Consolidated Emergency Communications, referred to in this chapter as "the  
8 director." The director shall carry out policies and procedures established by the board.  
9 The director shall administer the bureau to safeguard the public safety by the provision of  
10 24-hour per day E-9-1-1 call-taking and dispatching services to first responders.

## 11 **PART D**

12 **Sec. D-1. 25 MRSA §2801-B, sub-§1, ¶H,** as amended by PL 2005, c. 139, §1  
13 and c. 331, §6, is further amended to read:

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

## 15 **PART E**

16 **Sec. E-1. 25 MRSA §2901,** as amended by PL 2003, c. 451, Pt. T, §4, is further  
17 amended to read:

### 18 **§2901. Department; commissioner**

19 There is created and established the Department of Public Safety to coordinate and  
20 efficiently manage the law enforcement and public safety responsibilities of the State, to  
21 consist of the Commissioner of Public Safety, in this chapter called "commissioner," who  
22 is appointed by the Governor, subject to review by the joint standing committee of the  
23 Legislature having jurisdiction over criminal justice matters and to confirmation by the  
24 Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of  
25 State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy,  
26 the Bureau of Highway Safety and, the Maine Drug Enforcement Agency, Maine  
27 Emergency Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated  
28 Emergency Communications, the Bureau of Building Codes and Standards and the  
29 Gambling Control Unit.

30 **Sec. E-2. 25 MRSA §2901-A,** as enacted by PL 1975, c. 579, §11, is amended to  
31 read:

### 32 **§2901-A. Duties of commissioner**

33 The commissioner ~~shall be~~ is the chief executive officer of the Department of Public  
34 Safety. ~~He~~ and shall coordinate and supervise the activities and programs of the bureaus  
35 and agency ~~which~~ that are part of the department; undertake comprehensive planning and  
36 analysis with respect to the functions and responsibilities of the department; ~~and~~ develop  
37 and implement, whenever necessary, procedures and practices to promote economy and  
38 coordination within the department; and actively seek cooperation between the

1 department and all other law enforcement officers and agencies in the State. From time to  
2 time, ~~he~~ the commissioner shall recommend to the Governor and Legislature such  
3 changes in the laws relating to the organization, functions, services or procedures of the  
4 agency and bureaus of the department as ~~he shall deem~~ the commissioner considers  
5 desirable. The commissioner shall prepare a budget for the department.

6 **Sec. E-3. 25 MRSA §2902, sub-§7**, as amended by PL 2001, c. 559, Pt. KK, §4,  
7 is further amended to read:

8 **7. Bureau of Highway Safety.** The Bureau of Highway Safety, which is under the  
9 direction of the Director of the Bureau of Highway Safety. The bureau is responsible for  
10 the State's highway safety program. The bureau is authorized to develop and implement a  
11 process for obtaining information about highway safety programs administered by other  
12 state and local agencies and to provide and facilitate the provision of financial and  
13 technical assistance to other state agencies and political subdivisions for the purpose of  
14 developing and carrying out highway safety programs; ~~and~~

15 **Sec. E-4. 25 MRSA §2902, sub-§8**, as enacted by PL 2001, c. 559, Pt. KK, §4, is  
16 amended to read:

17 **8. Bureau of Capitol Security.** The Bureau of Capitol Security, which is under the  
18 direction of the ~~Director~~ Chief of the Bureau of Capitol Security. Security officers of this  
19 bureau are those appointed by the Commissioner of Public Safety pursuant to section  
20 2908-;

21 **Sec. E-5. 25 MRSA §2902, sub-§9** is enacted to read:

22 **9. Bureau of Consolidated Emergency Communications.** The Bureau of  
23 Consolidated Emergency Communications, which is under the direction of the Director of  
24 the Bureau of Consolidated Emergency Communications;

25 **Sec. E-6. 25 MRSA §2902, sub-§10** is enacted to read:

26 **10. Maine Emergency Medical Services.** The Maine Emergency Medical Services,  
27 which is under the direction of the Director of Maine Emergency Medical Services;

28 **Sec. E-7. 25 MRSA §2902, sub-§11** is enacted to read:

29 **11. Bureau of Building Codes and Standards.** The Bureau of Building Codes and  
30 Standards, which is under the direction of the Director of the Bureau of Building Codes  
31 and Standards; and

32 **Sec. E-8. 25 MRSA §2902, sub-§12** is enacted to read:

33 **12. Gambling Control Unit.** The Gambling Control Unit.

34 **Sec. E-9. 25 MRSA §2903**, as enacted by PL 1977, c. 37, is amended to read:

1       **§2903. Temporary enforcement powers**

2       The Commissioner of Public Safety, at his the commissioner's discretion, is  
3       authorized to grant statewide power of enforcement of the criminal laws of the State to  
4       ~~local county and municipal~~ law enforcement officers, as defined in section 2805 2801-A,  
5       subsection 5, assigned to the Department of Public Safety for the duration of that  
6       assignment, according to procedures established for that purpose. That power ~~shall~~ may  
7       be granted only to ~~local county and municipal~~ law enforcement officers who have  
8       completed a basic training course at the Maine Criminal Justice Academy or for whom  
9       the basic training course has been waived by the board of trustees of the academy because  
10      of equivalent training, as provided in section 2805 2804-C, subsection 1 or 5.

11      **Sec. E-10. 25 MRSA §2904, sub-§1,** as amended by PL 2001, c. 559, Pt. KK,  
12      §5, is further amended to read:

13      **1. Commissioner of Public Safety.** Except as provided in subsection 2, the  
14      Commissioner of Public Safety is authorized and empowered to adopt rules, including a  
15      schedule of parking violation fees, subject to the approval of the Governor, governing the  
16      security regarding use and occupancy of all parks, grounds, buildings and appurtenances  
17      maintained by the State at the capitol area or other state-controlled locations in Augusta.  
18      ~~These rules become effective upon deposit of a copy with the Secretary of State, who~~  
19      ~~shall forward a copy attested under the Great Seal of the State to the District Court for~~  
20      ~~Southern Kennebec.~~ Prior to adoption of new or amended rules, the commissioner shall  
21      provide notice of rulemaking to the Legislative Council. Rules adopted pursuant to this  
22      subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

23      **Sec. E-11. 25 MRSA §2906,** as amended by PL 1991, c. 665, §§1 and 2, is  
24      repealed and the following enacted in its place:

25      **§2906. Rules**

26      **1. Rules.** The Commissioner of Public Safety is authorized and empowered to make  
27      and enforce rules, subject to the approval of the Governor, governing the use of public  
28      ways and parking areas maintained by the State at the capitol area or other state-  
29      controlled locations in Augusta.

30      **2. Fees.** The Commissioner of Public Safety may by rule establish a method by  
31      which persons charged with the violation of parking regulations may waive all court  
32      action by payment of specified fees within specified periods of time. These rules may  
33      provide that a vehicle unlawfully parked is prima facie evidence of the unlawful parking  
34      of the vehicle by the person in whose name the vehicle is registered. The specified fee for  
35      any violation must be at least \$10.

36      Rules adopted pursuant to this section are routine technical rules as described in Title  
37      5, chapter 375, subchapter 2-A.

38      **Sec. E-12. 25 MRSA §2908,** as repealed and replaced by PL 1989, c. 857, §59, is  
39      repealed and the following enacted in its place:

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1           6. Designates rules adopted by the Commissioner of Public Safety governing the use  
2 of public ways and parking areas maintained by the State at the capitol area or other state-  
3 controlled locations in Augusta as routine technical rules;

4           7. Authorizes the Commissioner of Public Safety to grant statewide power of  
5 enforcement of any law of this State to a capitol security officer if that officer has  
6 completed a basic training course at the Maine Criminal Justice Academy or equivalent  
7 training; and

8           8. Generally updates and corrects statutes relating to the organizational structure of  
9 the Department of Public Safety.

STATE OF MAINE  
124TH LEGISLATURE

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LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

Sen. Stanley J. Gerzofsky, Senate Chair

Rep. Anne M. Haskell, House Chair

PUBLIC HEARING: Friday, April 03, 2009, 10:00 AM, Room 436 State House

- (L.D. 995) Bill "An Act To Improve Purchasing for the Department of Corrections" (SP0374) (Presented by Senator GERZOFSKY of Cumberland) (Cosponsored by Senator DAVIS of Cumberland, Senator NUTTING of Androscoggin, Representative SCHATZ of Blue Hill, Representative BURNS of Whiting, Representative HANLEY of Gardiner, Representative HASKELL of Portland, Representative LAJOIE of Lewiston, Representative PLUMMER of Windham, Representative WHEELER, SR. of Kittery)
- (L.D. 1067) Bill "Resolve, To Establish a Blue Ribbon Commission To Study Methods of Protecting Emergency Medical Services Personnel during the Transportation of Persons with Mental Illness" (HP0734) (EMERGENCY) (Presented by Representative TUTTLE, JR. of Sanford)
- (L.D. 847) Bill "An Act Authorizing Statewide Mutual Aid among First Responder Agencies" (HP0583)
- (L.D. 393) Bill "An Act Relating to Death Benefits for Certain Law Enforcement Officers" (SP0135) (Presented by Senator GERZOFSKY of Cumberland) (Cosponsored by Senator ALFOND of Cumberland, Senator DIAMOND of Cumberland, Senator GOODALL of Sagadahoc, Representative HASKELL of Portland, Representative DAVIS, SR. of Sangerville)
- (L.D. 915) Bill "An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety" (HP0633) (Presented by Representative HASKELL of Portland) (Cosponsored by Senator GERZOFSKY of Cumberland, Representative SYKES of Harrison)
- (L.D. 815) Bill "An Act To Require the Collection of DNA from a Person under Certain Circumstances" (HP0551) (Presented by Representative CELLI of Brewer) (Cosponsored by Representative BICKFORD of Auburn, Representative DAVIS, SR. of Sangerville, Representative HAMPER of Oxford, Representative WAGNER of Lyman, Representative WEAVER of York)

CONTACT PERSON:

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**Joint Standing Committee on Criminal Justice and Public Safety**

Date: 4/3/09

[illegible]



John Elias Baldacci  
Governor

STATE OF MAINE  
*Department of Public Safety*  
Bureau of Capitol Security  
State House Station #68  
Augusta, Maine  
04333-0068



Anne H. Jordan  
Commissioner

Russell J. Gauvin  
Director

I believe that the only changes in statute necessary to complete the name change of the Bureau of Capitol Security to the Bureau of Capitol Police are the following:

Already being otherwise modified by LD915:

T 25 s 2902 Organization (of DPS)

8. Bureau of Capitol ~~Security~~ Police. The Bureau of Capitol ~~Security~~ Police, which is under the direction of the Director of the Bureau of Capitol ~~Security~~ Police. ~~Security~~ Police officers of this bureau are those appointed by the Commissioner of Public Safety pursuant to section 2908.  
[ 2001, c. 559, Pt. KK, §4 (NEW) .]

T 25 s 2908 Special officers; powers and duties; cooperation.

This section would be modified significantly by LD 915. The name change could be accomplished in this section by simply be striking the five references to ~~security~~ officers and replacing with Capitol police officers.

Three other statutes that would need to be changed are:

T 25 s 2804-J Law enforcement training for ~~security~~ Capitol police officers of the Bureau of Capitol ~~Security~~ Police

The following provisions govern the training and certification of ~~Security~~ Capitol Police officers appointed pursuant to section 2908. [2001, c. 559, Pt. KK, §3 (NEW) .]

~~1. Security officers hired or appointed before March 1, 2002. A security officer hired or appointed before March 1, 2002 must successfully complete, before July 1, 2003, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm. (No one is under this provision any longer - could be deleted or left as is)~~  
[ 2001, c. 559, Pt. KK, §3 (NEW) .]

2. ~~Security~~ Capitol Police officers hired or appointed on or after March 1, 2002. A ~~Security~~ Capitol Police officer hired or appointed on or after March 1, 2002 must have successfully completed, at the time the person is hired or

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within the first 12 months of employment, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.

#### T 25 s 2803-A Powers and Duties of the board of trustees

8-A. Training of ~~security~~ police officers of the Bureau of Capitol ~~Security~~ Police. To establish certification standards and a training program for Capitol Police ~~security~~ officers appointed by the Commissioner of Public Safety pursuant to section 2908. This program must include:

A. The preservice law enforcement training under section 2804-B; [2005, c. 331,

§12 (AMD).]

B. An additional 120-hour field training program developed and approved by the

board that is specific to the duties of a Capitol Police ~~security~~ officer; and [2001, c. 559;

Pt. KK, §2 (NEW).]

C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E. [2001, c. 559, Pt. KK, §2 (NEW).]

Security officers 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;

#### T 29-A s 2054 Emergency and auxiliary lights; sirens; privileges

(8) A Department of Public Safety vehicle operated by a ~~capital security~~ Capitol Police officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;



STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY

JOHN E. BALDACCI  
GOVERNOR

ANNE H. JORDAN  
COMMISSIONER

TESTIMONY OF BUREAU OF CAPITOL SECURITY DIRECTOR RUSSELL J. GAUVIN  
MAINE DEPARTMENT OF PUBLIC SAFETY

IN SUPPORT OF  
LD 915, "An Act to Update and Clarify Statutes Related to or  
Administered by the Department of Public Safety"

Before the Joint Standing Committee on Criminal Justice and Public Safety  
Friday, April 3, 2009 at 10 AM, Maine State House, Room 436

Senator Gerzofsky, Representative Haskell, Members of the Joint Standing Committee on Criminal Justice and Public Safety:

Good morning. My name is Russell J. Gauvin, and I am the Director of the Bureau of Capitol Security. On behalf of the Maine Department of Public Safety, I am here this morning to present testimony in support of LD 915, "An Act to Update and Clarify Statutes Related to or Administered by the Department of Public Safety." As you are already aware, LD 915 makes changes in Title 5 MRSA, Title 23 MRSA and Title 25 MRSA. Many of these changes are meant to update position names and other organizational changes that have resulted from the Legislature's creation of two new Bureaus within the Department during the past two Legislative sessions. Several additional changes to Title 25 MRSA in LD 915 are meant to clarify the type of rules promulgated by the Commissioner and the enforcement authority that the Commissioner can give to law enforcement officers in the Bureau of Capitol Security.

The Department of Public Safety supports all parts of this bill. LD 915 Part A updates the positions that are listed as Major policy-influencing positions within the Department. It adds the Directors of the two most recently created Bureaus to the list, updates the names of positions within the Bureau of State Police on the list, and removes from the list a position that no longer exists within the Maine Drug Enforcement Agency. We support these changes so that the section accurately reflects the current positions within the Department.

LD 915 Part B corrects a requirement in Title 23 MRSA that refers to the training requirements contained in Title 25. The current statute states that the officer must meet two training requirements. The Maine Criminal Justice Academy generally requires an officer to meet either requirement, not both. We support this change so that the requirements for the officers listed in Title 23 will be consistent with the training requirements for other law enforcement officers.

Part C of LD 915 identifies the Bureau of Consolidated Emergency Communications and clarifies the duties of the Director and the role of the Public Utilities Commission. The changes to 25 MRSA Section 1533 reflects the current organization and roles of the parties involved and we support the clarification of these roles.

LD 915 Part D adds the Assistant State Fire Marshall to the section that addresses the training requirements of the State Fire Marshall. The Department supports placing the same training requirements and exemptions on the Assistant Fire Marshall as are in place for the Fire Marshall.

Part E of LD 915 proposes changes to 25 MRSA that continue efforts to update the statute to reflect the current organization of the Department. The language adds to the following Bureaus to the Departments organization: Bureau of Consolidated Emergency Communications, Maine Emergency Medical Services, the Bureau of Building Codes and Standards, and the Gambling Control Unit. These Bureaus were all previously created by the Legislature and the proposed changes update the Department's organization in this statute to reflect those changes.

Part E also clarifies the ability of the Commissioner to grant temporary enforcement powers to non-state officers assigned to the Maine Drug Enforcement Agency. The changes would clarify that the Commissioner may grant those powers to county and municipal law enforcement officers. This language is consistent with the language used in other parts of this statute. The previous language of "local" law enforcement officers was inconsistent with other references in statute and so, we support this clarification.

The Commissioner of Public Safety promulgates parking and security rules for the Capitol Area. These rules have not been updated for several decades. The current statute is silent as to whether these rules are considered major substantive or routine technical. The proposed changes to sections 2904 and 2906 would designate these rules as routine technical. The Department supports these designations as they clarify the process we need to undertake to periodically update these rules.

The last areas of this bill that I would like offer testimony in support of are the proposed changes to 25 MRSA section 2908. The changes in this section would authorize the

Commissioner to grant the power to enforce any law, statewide, to those Capitol Security officers who have met the same training requirements as other full-time state law enforcement officers. The current language in statute already authorizes the Commissioner to expand the Capitol Security Officers authority to enforce all state laws, but limits that authority to state owned or controlled property. While we do not envision changing the duties or areas of responsibility of Capitol Security officers, the current statute unnecessarily handcuffs the officers' ability to take action to protect the public.

Currently, a Capitol Security officer could not intervene to arrest a domestic violence suspect, stop a robbery, end an assault, or to take any other enforcement action if the incident occurs off state property. For example, a violent person could assault someone right in front of an officer and the officer is not empowered to act. An officer, while driving between state properties, could be behind an obviously intoxicated and dangerous driver, but the officer currently could not legally stop that vehicle. The Department does not want Capitol Security officers to take on additional areas of responsibility nor take on a role that is better performed by municipal police officers, county sheriff's deputies or State Troopers. We do, however, want to give these law enforcement officers the ability to legally intervene when necessary to protect the public. In addition, the statewide authority would improve Capitol Security's ability to deal with other crimes and to investigate and respond more efficiently to threats made against State Legislators or State employees.

In your report to the Joint Standing Committee on Appropriations and Financial Affairs Committee, this Committee recommended that the Bureau of Capitol Security be renamed to the Bureau of Capitol Police. The Department supports the Committee in this recommendation and would like to state that this goal might be accomplished by amendment to this LD. I could go on at length listing the significant hurdles that such a change would remove for Capitol Security officers doing their daily work. I could give countless examples of how such a change would improve our ability to provide service to the public. For many of the same reasons that Court Security changed their name to Judicial Marshalls and the Governor's Security Detail changed their name to the Executive Protection Unit, we support the idea of changing the name of Capitol Security to Capitol Police.

On behalf of the Department of Public Safety, I strongly urge the committee to endorse this legislation.

Thank you. I would be happy to try to answer any questions the committee may have at this time.



**Chapter 609: MAINE STATE RAILROAD POLICE ACT**

**23 §6072. DEFINITIONS**

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

**1. Qualified person.** "Qualified person" means a person who:

A. Has met all the education and training requirements as outlined under former Title 25, section 2805, first paragraph or Title 25, sections 2804-B and 2804-C;

A-1. Continues to meet all the in-service training requirements pursuant to Title 25, section 2804-E; and

B. Is of good moral character and has no record of conviction of a serious crime.

The qualification requirements of paragraph A do not apply to any individual who was employed on a full-time basis by a railroad as a police officer on October 24, 1977.

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**Chapter 192-B: MAINE COMMUNICATIONS SYSTEM POLICY BOARD**

**25 §1533. SUPERVISOR OF COMMUNICATION SYSTEMS; APPOINTMENT AND DUTIES**

Within existing resources, pending establishment of a communications unit within the department, the Commissioner of Public Safety shall appoint a department employee to supervise the department's communications systems and to carry out policies and procedures established by the board. Upon establishment of a communications unit in the department, the commissioner, to the extent resources are available and with the approval of the board, shall appoint a director to administer the unit, plan, direct and supervise the day-to-day operations of the unit and carry out the policies and procedures of the board. The director may be dismissed by the commissioner for cause with the approval of the board.

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**25 §2801-B. APPLICATION OF CHAPTER; EXEMPTION**

**1. Exemption.** The training standards and 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;

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

D.

E. A harbor master;

F. A municipal shellfish conservation warden;

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

H. The State Fire Marshal;

I.

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

K. (REALLOCATED TO T. 25, §2801-B, sub-§1, paragraph L)

L. (REALLOCATED FROM T. 25, §2801-B, sub-§1, paragraph K) A transport officer.

This exemption does not include training requirements set out in this chapter that are specific to the positions identified in this subsection.

**2. Education and training required.** The directors of the state agencies listed in subsection 1 shall provide adequate education and training for all law enforcement officers within their jurisdiction. The board shall advise the directors concerning appropriate and adequate training.

...

## **25 §2803-B. REQUIREMENTS OF LAW ENFORCEMENT AGENCIES**

**1. Law enforcement policies.** All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

A. Use of force;

B. Barricaded persons and hostage situations;

C. Persons exhibiting deviant behavior;

D. Domestic violence, which must include, at a minimum, the following:

(1) A process to ensure that a victim receives notification of the defendant's release from jail;

(2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; and

(3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours notice to each party prior to the retrieval;

E. Hate or bias crimes;

F. Police pursuits;

G. Citizen complaints of police misconduct;

H. Criminal conduct engaged in by law enforcement officers;

I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations;

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

J. (REALLOCATED TO T. 25, §2803-B, sub-§1, paragraph K)

K. (REALLOCATED FROM T. 25, §2803-B, sub-§1, paragraph J) 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.

The chief administrative officer of each agency shall certify to the board that attempts were made to obtain public comment during the formulation of policies.

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; and policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005.

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; and certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; and certification for orientation and training with respect to policies regarding the recording and preservation of interview of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006.

#### **4. Penalty.**

**5. Annual standards review.** The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

**6. Freedom of access.** The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually beginning on January 1, 2004 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.

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## **Title 25, Chapter 351: DEPARTMENT OF PUBLIC SAFETY**

### **25 §2901. DEPARTMENT; COMMISSIONER**

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Bureau of Highway Safety and the Maine Drug Enforcement Agency.

### **25 §2901-A. DUTIES OF COMMISSIONER**

The commissioner shall be the chief executive officer of the Department of Public Safety. He shall coordinate and supervise the activities and programs of the bureaus and agency which are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; and develop and implement, whenever necessary, procedures and practices to promote economy and coordination within the department; and actively seek cooperation between the department and all other law enforcement officers and agencies in the State. From time to time, he shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agency and bureaus of the department as he shall deem desirable. The commissioner shall prepare a budget for the department.

### **25 §2902. ORGANIZATION**

The Commissioner of Public Safety shall organize the Department of Public Safety into the Maine Criminal Justice Academy and the following bureaus:

**1. Bureau of State Police.** The Bureau of State Police, which is under the direction of the Chief of the State Police;

**2. Office of State Fire Marshal.** The Office of State Fire Marshal, which is under the direction of the State Fire Marshal;

**3. Bureau of Liquor Enforcement.**

**4. Maine Highway Safety Commission.**

**5. Vehicle Equipment Safety Commission.**

**6. Maine Drug Enforcement Agency.**

**6-A. Maine Drug Enforcement Agency.** The Maine Drug Enforcement Agency, which is under the direction of the Director of the Maine Drug Enforcement Agency;

**7. Bureau of Highway Safety.** The Bureau of Highway Safety, which is under the direction of the Director of the Bureau of Highway Safety. The bureau is responsible for the State's highway safety program. The bureau is authorized to develop and implement a process for obtaining information about highway safety programs administered by other state and local agencies and to provide and facilitate the provision of financial and technical assistance to other state agencies and political subdivisions for the purpose of developing and carrying out highway safety programs; and

**8. Bureau of Capitol Security.** The Bureau of Capitol Security, which is under the direction of the

Director of the Bureau of Capitol Security. Security officers of this bureau are those appointed by the Commissioner of Public Safety pursuant to section 2908.

Unless specified otherwise by law, department personnel are appointed subject to the Civil Service Law. Persons holding major policy-influencing positions under Title 5, section 948 are appointed by and serve at the pleasure of the Commissioner of Public Safety, except as otherwise provided by law.

## **25 §2903. TEMPORARY ENFORCEMENT POWERS**

The Commissioner of Public Safety, at his discretion, is authorized to grant statewide power of enforcement of the criminal laws of the State to local law enforcement officers, as defined in section 2805, assigned to the Department of Public Safety for the duration of that assignment, according to procedures established for that purpose. That power shall be granted only to local law enforcement officers who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section 2805, subsection 1.

## **25 §2904. SECURITY AT CAPITOL AREA AND OTHER STATE-CONTROLLED LOCATIONS**

**1. Commissioner of Public Safety.** Except as provided in subsection 2, the Commissioner of Public Safety is authorized and empowered to adopt rules, including a schedule of parking violation fees, subject to the approval of the Governor, governing the security regarding use and occupancy of all parks, grounds, buildings and appurtenances maintained by the State at the capitol area or other state-controlled locations in Augusta. These rules become effective upon deposit of a copy with the Secretary of State, who shall forward a copy attested under the Great Seal of the State to the District Court for Southern Kennebec. Prior to adoption of new or amended rules, the commissioner shall provide notice of rulemaking to the Legislative Council.

**2. Officials of governmental units.** The officials of the governmental units listed in paragraphs A to E are authorized and empowered to adopt rules governing the access, use and occupancy of buildings or parts of buildings and of other public property that are under their respective supervisions. Rules adopted by the Legislative Council may include provisions governing security at legislative offices. Prior to adopting any such rule, the official shall consult with the Commissioner of Public Safety; the commissioner must be given an opportunity to review the rule and to comment upon its content and enforcement. These rules become effective upon deposit of a copy with the Secretary of State, who shall forward a copy attested under the Great Seal of the State to the District Court for Southern Kennebec. These rules are suspended to the extent necessary at any time when the Commissioner of Public Safety determines that an emergency exists within the facilities to which they apply, except that the commissioner may not suspend the rules governing the legislative offices without the consent of the Legislative Council. The Commissioner of Public Safety shall enforce rules adopted pursuant to this subsection, consistent with available resources and funding.

The governmental officials authorized and empowered by this subsection are:

- A. The Legislative Council, for all legislative offices, including the Law and Legislative Reference Library, as established by Title 3, section 162;
- B.
- C. The State Librarian, for the State Library;
- D. The Director of the State Museum, for the State Museum; and
- E. The State Archivist, for the State Archives.

## **25 §2905. DEFINITIONS**

The words "public way" or "public ways," when used in this chapter, or regulations issued thereunder, shall be held to mean all roads and driveways on lands maintained for the State Government at the capital area or other state controlled locations in Augusta.

The words "parking area" or "parking areas," when used in this chapter, or regulations issued thereunder, shall be held to mean all lands maintained by the State at the capitol area or other state controlled locations in Augusta which may be designated as parking areas by the State Director of Public Improvements or by the superintendent of the Riverview Psychiatric Center, with the approval of the Commissioner of Public Safety.

## **25 §2906. RULES AND REGULATIONS**

The Commissioner of Public Safety is authorized and empowered to make and enforce rules, subject to the approval of the Governor, governing the use of public ways and parking areas maintained by the State at the capitol area or other state controlled locations in Augusta. These rules shall become effective upon deposit of a copy thereof with the Secretary of State, who shall forward a copy thereof attested under the Great Seal of the State to the District Court for Southern Kennebec.

The Commissioner of Public Safety may by rule establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within specified periods of time. These regulations may provide that a vehicle unlawfully parked is prima facie evidence of the unlawful parking of the vehicle by the person in whose name the vehicle is registered. The specified fee for any violation must be at least \$10.

## **25 §2907. USER FEES**

The Commissioner of Public Safety shall establish and charge user fees for any or all parking facilities within the legally designated capitol complex, if considered feasible and with the approval of the Governor.

All user fees shall be credited to the General Fund.

## **25 §2908. SPECIAL OFFICERS; POWERS AND DUTIES; COOPERATION**

The Commissioner of Public Safety may appoint and employ security officers, subject to the Civil Service Law. The specific duties and powers of security officers appointed and employed are to patrol the public ways and parking areas, as defined by section 2905, to provide security for all parks, grounds, buildings and appurtenances maintained by the State in the capitol area and other state-controlled locations designated by the commissioner, and to enforce the rules promulgated pursuant to sections 2904 to 2907. The commissioner may by rule, policy, or procedure expand the duties and powers of security officers in the capitol area and other state-controlled locations designated by the commissioner beyond the duties and powers enumerated in this section to investigate, prosecute, serve process on and arrest violators of any law of this State. Security officers may issue summons in the course of their duty to enforce this section. The commissioner shall provide forms and standard operating procedures to security officers to carry out their functions under this section.

The State Police, sheriffs, deputy sheriffs, constables and municipal police officers shall, as far as possible, cooperate with the security officers appointed and employed under this section in the enforcement of rules adopted pursuant to sections 2904 to 2907 and any law of this State.

## **25 §2909. JURISDICTION**

The District Court for Southern Kennebec shall have jurisdiction in all proceedings brought under sections 2904 to 2907, which court shall take judicial notice of all rules adopted pursuant to sections 2904

to 2907. In any prosecution for violation of any rule, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule.

#### **25 §2910. FINE**

Any person found guilty of violating any rule made pursuant to sections 2904 to 2907 shall, upon conviction, pay a fine of not less than \$50 for each offense.

#### **25 §2911. DIVISION OF SPECIAL INVESTIGATIONS (REPEALED)**

#### **25 §2912. BOARD OF DIRECTORS (REPEALED)**

#### **25 §2913. SPECIAL SECURITY ASSISTANCE**

The commissioner may charge state agencies for security services provided at other state controlled locations pursuant to section 2908 if the security services are mutually agreed upon and confirmed by written contract between the commissioner and each state agency requesting security service. Revenues received under this section must be deposited in a nonlapsing fund and allocated by the Legislature for the purpose of providing the special security assistance.

#### **25 §2914. DRUG AND ALCOHOL RESISTANCE EDUCATION FUND**

**1. Fund established.** The Drug and Alcohol Resistance Education Fund, referred to in this section as the "fund," is established as a nonlapsing fund. The commissioner may use this fund only to support the activities of officers in the drug and alcohol resistance education program in the Department of Public Safety.

**2. Revenue sources.** The commissioner may accept court mandated and private contributions intended to be used for the purposes of the fund.

**3. Budget.** The commissioner shall submit a budget for each biennium pursuant to Title 5, sections 1663 and 1666.

#### **25 §2915. UNIFORM FORENSIC EXAMINATION KIT FOR EVIDENCE COLLECTION IN ALLEGED CASES OF GROSS SEXUAL ASSAULT**

**1. Development of uniform forensic examination kit.** The Department of Public Safety shall determine by rule what constitutes a uniform standardized forensic examination kit for evidence collection in alleged cases of gross sexual assault. The rules must define the contents of the kit, instructions for administering the kit and a checklist that examiners must follow and enclose in the completed kit.

**2. Use of uniform forensic examination kit.** A licensed hospital or licensed health care practitioner that conducts physical examinations of alleged victims of gross sexual assault shall use the uniform standardized forensic examination kit developed by the Department of Public Safety pursuant to subsection 1. A health care practitioner who conducts physical examinations of alleged victims of gross sexual assault must be trained in the proper evidence collection procedures for conducting a forensic examination.

Evidence collection results may not be excluded as evidence in any proceeding before any court of this State as a result of the examiner's failure to use the standardized evidence collection kit or as a result of

the examiner's failure to be trained in the proper procedures for the collection of evidence required by this subsection.

**3. Furnishing of uniform forensic examination kit.** The Department of Public Safety shall furnish the uniform forensic examination kits to licensed hospitals and licensed health care practitioners that perform forensic examinations of alleged victims of gross sexual assault.

**4. Rules.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

## **25 §2916. FLAGS FOR PUBLIC SERVANTS**

The commissioner shall provide a gravesite flag holder and flag for placement during the period of time designated by a national law enforcement organization for honoring law enforcement officers at the gravesite of each public servant listed on the law enforcement memorial located at the State Capitol complex memorial site in accordance with this section.

**1. Fund established.** The Flags for Public Servants Fund, referred to in this section as the "fund," is established as a nonlapsing fund. The commissioner may use this fund only to support the costs of providing flag holders and flags for public servants listed on the law enforcement memorial at the State Capitol complex memorial site. Revenue deposited in the fund pursuant to subsection 2 must be the sole source of funding for the costs of providing flags and flag holders.

**2. Revenue sources.** The commissioner may accept court-mandated and private contributions intended to be used for the purposes of the fund. Any revenues accepted under this subsection must be deposited in the fund and used only for the purposes described in this section.

**3. Budget.** The commissioner shall submit a budget for the fund for each biennium pursuant to Title 5, sections 1663 and 1666.

**4. Gravesite flag holder and flag.** The gravesite flag holder must include a State of Maine symbol and the words "Law Enforcement Officer Killed in the Line of Duty" and a Maine flag. The state flag must be 12 inches by 18 inches in size.

**5. Placement responsibility.** The commissioner shall provide to each law enforcement agency the appropriate number of gravesite flag holders and flags for that agency to place on the gravesites of the agency's officers listed on the law enforcement memorial located at the State Capitol complex memorial site if the gravesites can be reasonably found. If an agency can not carry out the responsibilities of this subsection, then the commissioner shall designate the Bureau of State Police to place the flag holder and flag at the gravesite.

**6. Exceptions.** A gravesite flag holder and flag may not be placed on the gravesite of an officer listed on the law enforcement memorial at the State Capitol complex memorial site if the family of the officer objects or the placement is prohibited by cemetery rules.



Two questions from work session for **LD 915** on April 9<sup>th</sup>:

1. Concern about updating the list of major-policy influencing positions to include the Directors of the Bureau of Consolidated Emergency Communications and the Bureau of Building Codes and Standards. Concern that Directors could do more than they do now triggering reclassifications. (Part A of the bill)

Response from Alicia Kellogg and Thaddeus Cotnoir in the Bureau of Human Resources: Designating a position as major policy influencing does two things. It makes the position part of the unclassified service and it makes the employee a serve-at-the-pleasure-of (the appointing authority) employee. It does not change the actual job duties of the position, which is the basis for classification and range allocation.

2. Concern that giving capitol security police officers the authority to make arrests off the capitol campus would change the responsibilities to an extent that they could trigger successful reclassification requests. (Part E-12 of the bill)

Response from Alicia Kellogg and Thaddeus Cotnoir in the Bureau of Human Resources: Alone, the authority to make arrests off campus, is not a significant change because that authority is more of the same duties they have now. However, the last time an audit of duties of capitol security was 8 years ago, so significant change in responsibilities could have occurred since then that could result in a reclassification if a request was made.

Other issues: request to change the name of Capitol Security to Capitol Police – correct the references – from Director Gauvin’s testimony.

If the Committee does decide to change the name of capitol security, need to pick up the reference in LD 393 by including a revision clause: Everywhere that “a security officer appointed by the Commissioner of Public Safety pursuant to section 2908” becomes “a Capitol Police Officer appointed by...”.

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

**LD 915**      **An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety (Haskell)**

**TO:**            **Members, Joint Standing Committee on Criminal Justice and Public Safety**

**FROM:**        **Anna Broome, Legislative Analyst**

**DATE:**        **April 9, 2009**

**SUMMARY**

This bill:

1. Updates the list of major policy-influencing positions of the Department of Public Safety;
2. Corrects the definition of "qualified person" in the Maine State Railroad Police Act;
3. Establishes the Bureau of Consolidated Emergency Communications;
4. Clarifies that the training standards and requirements of the Maine Revised Statutes, Title 25, section 2803-B do not apply to the Assistant State Fire Marshal;
5. Designates rules adopted by the Commissioner of Public Safety governing the security regarding use and occupancy of parks, grounds and buildings maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
6. Designates rules adopted by the Commissioner of Public Safety governing the use of public ways and parking areas maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
7. Authorizes the Commissioner of Public Safety to grant statewide power of enforcement of any law of this State to a capitol security officer if that officer has completed a basic training course at the Maine Criminal Justice Academy or equivalent training; and
8. Generally updates and corrects statutes relating to the organizational structure of the Department of Public Safety.

**TESTIMONY  
Proponents**

- Amendment requested by the sponsor: change the name of Capitol Security to Capitol Police.
- Most of the changes in the bill update and correct for changes in DPS over the last several years; DPS supports all parts of the bill.

- Part A updates the policy influencing positions: adds the directors of the new bureaus; removes the position in the Maine Drug Enforcement Agency which no longer exists; and updates the position name in the Bureau of State Police.
- Part B corrects the requirement that railroad police officers meet one of two MCJA training requirements not both – consistent with training for other LEOs.
- Part C establishes the Bureau of Consolidated Emergency Communications and clarifies duties of the Director and the role of the PUC – reflects current organization.
- Part D requires the Assistant State Fire Marshal to have the same training and exemptions as the Fire Marshal.
- Part E updates the statute on the current organization of DPS. Adds bureaus to the organization that were previously created by the Legislature. Updates a cross-reference and the terminology in the section on granting temporary statewide enforcement powers to local enforcement officers.
- Part E-10 and E-11 clarify that DPS rules for parking and security in the capitol area are routine technical rules.
- Part E-12 authorizes the Commissioner of DPS to grant the power to enforce any law, statewide (rather than just on the capitol campus) to Capitol Security officers that have met the same training requirements as other LEOs. Currently, Capitol Security officers can't arrest someone off campus.

#### **POTENTIAL ISSUES OR TECHNICAL PROBLEMS:**

Amendment requested to rename Capitol Security to Capitol Police. References in E-4 and E-12; 25 MRSA §§2803-A, sub-§8-A, 2804-J and 29-A §2054, sub-§1, ¶B-8.

#### **ADDITIONAL INFORMATION:**

- Bureau of Consolidated Emergency Communications created in 2004 to provide consolidated emergency communications to state, county and local public safety agencies. The Bureau operates 4 Regional Communications Centers that provide both PSAP and emergency dispatch for police, fire and EMS. RCCs provide dispatching services for State Police, Maine Warden Service, Maine Drug Enforcement Agency, FMO, MTA, DMR and DEP. Adds the director into sections on major policy influencing positions (Part A) and Departmental organization (Part E-1 and E-10).
- Bureau of Building Codes and Standards established in DPS in PL 2007 c. 699 to provide administrative assistance to the Technical Building Codes and Standards Board. Adds the director into Part A and Part E-1 and E-6.

#### **FISCAL IMPACT:**

OFPR: no fiscal impact; no fiscal note needed.

\*52046 25 M.R.S.A. § 2804-J

**MAINE REVISED STATUTES ANNOTATED  
TITLE 25. INTERNAL SECURITY AND PUBLIC SAFETY  
PART 8. PUBLIC SAFETY MISCELLANEOUS PROVISIONS  
CHAPTER 341. THE MAINE CRIMINAL JUSTICE ACADEMY**

*Current with legislation through the 2008 Second Regular Session and the 2008 First Special Session of the 123rd Legislature.*

**§ 2804-J. Law enforcement training for security officers of the Bureau of Capitol Security**

The following provisions govern the training and certification of security officers appointed pursuant to section 2908.

1. Security officers hired or appointed before March 1, 2002. A security officer hired or appointed before March 1, 2002 must successfully complete, before July 1, 2003, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.

2. Security officers hired or appointed on or after March 1, 2002. A security officer hired or appointed on or after March 1, 2002 must have successfully completed, at the time the person is hired or within the first 12 months of employment, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.

**CREDIT(S)**


*2001, c. 559, § KK-3, eff. March 25, 2002.*

<General Materials (GM) - References, Annotations, or Tables>

**REFERENCES**

**LIBRARY REFERENCES**

**2007 Main Volume**

States  48.  
Westlaw Topic No. 360.  
C.J.S. States §§ 88, 147 to 150, 152.

# Maine Revised Statutes

- ☐ [§2372 PDF](#)
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§2371

Title 25: INTERNAL

§2373

## SECURITY AND PUBLIC SAFETY

### Part 6: FIRE PREVENTION AND FIRE PROTECTION

#### Chapter 314: BUILDING CODES AND STANDARDS

#### §2372. Bureau of Building Codes and Standards

**1. Established.** The Bureau of Building Codes and Standards is established

within the Department of Public Safety to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6.

[ 2007, c. 699, §11 (NEW) .]

**2. Staff.** The commissioner may appoint or remove for cause staff of the bureau, including:

A. A technical codes coordinator certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, who serves as the bureau director and principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to:

- (1) Providing nonbinding interpretation of the code for professionals and the general public; and
- (2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules; and [2007, c. 699, §11 (NEW) .]

B. An office specialist to provide administrative support to the bureau and the board. [2007, c. 699, §11 (NEW) .]

[ 2007, c. 699, §11 (NEW) .]

#### SECTION HISTORY

2007, c. 699, §11 (NEW) .

*Data for this page extracted on 03/17/2009 11:05:30.*



Department of Public Safety

**Consolidated Emergency  
Communications Bureau**

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## PUBLIC LAWS OF MAINE

### Second Special Session of the 121st

#### CHAPTER 678 S.P. 615 - L.D. 1683

#### An Act Relating to the Establishment of a Central Maine Regional Public Safety Communication Center.

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

Sec. 1. 5 MRSA §12004-I, sub-§74-D is enacted to read:

|               |                       |                   |              |
|---------------|-----------------------|-------------------|--------------|
| <u>74-D.</u>  | <u>Maine</u>          | <u>Not</u>        | <u>25</u>    |
| <u>Public</u> | <u>Communications</u> | <u>Authorized</u> | <u>MRSA</u>  |
| <u>Safety</u> | <u>System</u>         |                   | <u>§1531</u> |
|               | <u>Policy Board</u>   |                   |              |

Sec. 2. 25 MRSA c. 192-A is enacted to read:

#### CHAPTER 192-A MAINE COMMUNICATIONS SYSTEM POLICY BOARD

#### §1531. Maine Communications System Policy Board

This section governs the establishment and powers of the Maine Communications System Policy Board within the Department of Public Safety.

1. Policy board established. The Maine Communications System Policy Board, referred to in this chapter as "the board," is established within the Department of Public Safety, referred to in this chapter as "the department." The purpose of the board is to establish policies, procedures and standards for the cooperative use of the department's communication systems by municipal, county and state governmental entities. The board also shall carry out any other functions specified in this chapter.

2. Members. The board consists of 15 members as follows:

- A. The Commissioner of Public Safety, ex officio;
- B. The Chief of the State Police, ex officio;
- C. The Chief Information Officer within the Department of Administrative and Financial Services, ex officio;
- D. A representative of the Executive Department, appointed by the Governor;
- E. A representative of participating municipalities with populations of less than 5,000, selected from and recommended by the boards of selectmen, town councils or city councils of those municipalities and appointed by the Governor;
- F. A representative of participating municipalities with populations of 5,000 or more but less than 15,000, selected from and recommended by the boards of selectmen, town councils or city councils of those



municipalities and appointed by the Governor;

G. A representative of participating municipalities with populations of 15,000 or more, selected from and recommended by the boards of selectmen, town councils or city councils of those municipalities and appointed by the Governor;

H. A representative of participating counties, recommended by a statewide association of county commissioners and appointed by the Governor;

I. A representative of police chiefs of participating municipalities, recommended by a statewide association of police chiefs and appointed by the Governor;

J. A representative of county sheriffs of participating counties, recommended by a statewide association of sheriffs and appointed by the Governor;

K. A representative of fire chiefs of participating municipalities, recommended by a statewide association of fire chiefs and appointed by the Governor;

L. A representative of emergency medical services of participating municipalities, recommended by the Emergency Medical Services' Board established by Title 5, section 12004-A, subsection 15 and appointed by the Governor;

M. A representative of the users of the department's communications system, appointed by the Governor. After the initial appointment, the Governor shall appoint a person who serves on an advisory board established pursuant to section 1532, subsection 6 and who is recommended by a majority of the members of the advisory boards;

N. A nonsupervisory employee of the department involved in the operation of the department's communications system, recommended by the bargaining unit representing those employees and appointed by the Governor; and

O. One citizen representing the public, who is not and has not been associated with law enforcement, fire fighting or emergency medical services, appointed by the Governor.

For purposes of this subsection, "participating" means participating in the cooperative use of the department's communication systems.

**3. Term of office; vacancy.** Ex officio members of the board serve during their terms of office. Other members of the board serve 3-year terms, except that initial appointments are made pursuant to subsection 4. A vacancy on the board must be filled for the remainder of the unexpired term of that member in the same manner as the original appointment. Members whose terms expire serve until their successors are appointed.

**4. Initial appointments.** Initial appointments to the board are made as follows:

A. The member representing the Executive Department is appointed for a one-year term;

B. The member representing municipalities with populations of less than 5,000 is appointed for a one-year term, the member representing municipalities with populations of 5,000 or more but less than 15,000 is appointed for a 2-year term and the member representing municipalities with populations of 15,000 or more is appointed for a 3-year term;

C. The member representing counties is appointed for a one-year term;

D. The member representing police chiefs is appointed for a 2-year term;

E. The member representing fire chiefs is appointed for a 3-year term;

F. The member representing county sheriffs is appointed for a 3-year term;

G. The member representing emergency medical services is appointed for a 2-year term;

H. The member representing the users of the department's communications system is appointed for a one-year term;

I. The member representing nonsupervisory employees of the department is appointed for a 2-year term; and

J. The member representing the public is appointed for a 3-year term.

Excluding the Commissioner of Public Safety, the Chief of the State Police, the Chief Information Officer within the Department of Administrative and Financial Services, the member representing the Executive Department and the

member representing nonsupervisory employees of the department, at least 5 of the initial appointments must be members that represent entities in Kennebec County.

**5. Chair.** The Governor shall appoint one of the 15 board members to serve as chair. The chair serves at the pleasure of the Governor.

**6. Meetings.** The board may meet as necessary to carry out its duties but shall meet at least one time in each calendar quarter at a place and time determined by the board and at the call of the chair.

**7. Compensation.** Members of the board are not entitled to compensation.

### **§1532. Powers and duties of board**

**1. Policies, procedures and standards.** The board shall establish policies, procedures and standards for the cooperative use of the department's communication systems by municipal, county and state governmental entities. The board may not establish a policy, procedure or standard that interferes with the ability of the Chief of the State Police to operate a telecommunications system pursuant to section 1508.

**2. Budget.** The board shall formulate a budget for the department's communications unit, which must be submitted to the commissioner for approval and inclusion in the budget of the department.

**3. Implementation plan.** The board shall develop an implementation plan to accommodate the voluntary consolidation of the various governmental communications systems in Kennebec County with the department's communication systems and for the design of an appropriate communications unit within the department. The plan must include provisions to ensure that employees of the department's communications unit are state employees.

**4. Annual report.** Beginning in 2005, the board shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than February 1st of each year concerning the activities of the board during the previous year and the status of the operation of the department's communication systems. The report must contain information regarding the status of the development and implementation of a consolidated communications system within the State. The report must also contain a list of the entities that are participants in the cooperative use of the department's communication systems. A copy of the annual report must be provided to each municipality and county of the State within 10 days of filing the report with the Legislature.

**5. Annual meeting.** In addition to board meetings held pursuant to section 1531, subsection 6, the board shall hold an annual meeting between February 15th and March 31st of each year. The purpose of the annual meeting is to solicit input from the municipalities and counties of the State and other interested parties concerning the activities of the board and operation of the department's communication systems.

**6. Advisory boards.** The board shall designate advisory boards composed of users of the department's communication systems for the purpose of soliciting input regarding the policies, procedures and standards set by the board and the operation of the communication systems. The board shall designate a sufficient number of advisory boards to represent the interest of the users of the department's communication systems. Each advisory board shall make a report to the board at least one time in each calendar quarter at a board meeting regarding the activities of the advisory board.

### **§1533. Supervisor of communication systems; appointment and duties**

Within existing resources, pending establishment of a communications unit within the department, the Commissioner of Public Safety shall appoint a department employee to supervise the department's communications

systems and to carry out policies and procedures established by the board. Upon establishment of a communications unit in the department, the commissioner, to the extent resources are available and with the approval of the board, shall appoint a director to administer the unit, plan, direct and supervise the day-to-day operations of the unit and carry out the policies and procedures of the board. The director may be dismissed by the commissioner for cause with the approval of the board.

**Sec. 3. Implementation report; proposed legislation.** The Maine Communications System Policy Board shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than January 1, 2005 regarding the status of the implementation plan developed pursuant to the Maine Revised Statutes, Title 25, section 1532, subsection 3. This report must contain information relative to the fiscal and personnel issues involved in the implementation of consolidated communications systems. A copy of the report must be provided to each municipality and county of the State and each affected bargaining unit within 10 days of filing the report with the Legislature. If during the development of the implementation plan the board determines that statutory changes are required to effectuate the implementation plan, the board shall submit proposed legislation to the First Regular Session of the 122nd Legislature by January 15, 2005. During the development of the implementation plan, the board shall consult with any bargaining units whose members may be affected by the implementation plan.

Effective July 30, 2004, unless otherwise indicated.

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Office of the Revisor of Statutes  
State House, Room 108  
Augusta, Maine 04333

Contact the Office of the Revisor of Statutes



Approved: 04/02/09 *MAC*

# 124th MAINE LEGISLATURE

LD 915

LR 489(01)

**An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety**

**Preliminary Fiscal Impact Statement for Original Bill**

**Sponsor: Rep. Haskell of Portland**

**Committee: Criminal Justice and Public Safety**

**Fiscal Note Required: No**

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## **Preliminary Fiscal Impact Statement**

No fiscal impact

R.S.

Date:

(Filing No. H- )

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " " to H.P. 633, L.D. 915, Bill, "An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety"

Amend the bill in Part E by inserting before section 1 the following:

**Sec. E-1. 25 MRSA §2803-A, sub-§8-A**, as amended by PL 2005, c. 331, §12, is further amended to read:

**8-A. Training of police officers of the Bureau of Capitol Police.** To establish certification standards and a training program for ~~security~~ police officers appointed by the Commissioner of Public Safety pursuant to section 2908. This program must include:

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

B. An additional 120-hour field training program developed and approved by the board that is specific to the duties of a ~~security~~ Capitol Police officer; and

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

~~Security~~ Capitol Police officers are exempt from section 2804-C;

**Sec. E-2. 25 MRSA §2804-J**, as enacted by PL 2001, c. 559, Pt. KK, §3, is amended to read:

**§2804-J. Law enforcement training for police officers of the Bureau of Capitol Police**

The following provisions govern the training and certification of ~~security~~ police officers appointed pursuant to section 2908.

~~1. Security officers hired or appointed before March 1, 2002. A security officer hired or appointed before March 1, 2002 must successfully complete, before July 1, 2003, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.~~

**2. Police officers hired or appointed on or after March 1, 2002.** A security police officer hired or appointed on or after March 1, 2002 must have successfully completed, at the time the person is hired or within the first 12 months of employment, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.'

Amend the bill in Part E by striking out all of section 4 and inserting the following:

**'Sec. E-4. 25 MRSA §2902, sub-§8,** as enacted by PL 2001, c. 559, Pt. KK, §4, is amended to read:

**8. Bureau of Capitol Police.** The Bureau of Capitol Security Police, which is under the direction of the Director Chief of the Bureau of Capitol Security Police. Security Police officers of this bureau are those appointed by the Commissioner of Public Safety pursuant to section 2908.'

Amend the bill in Part E by striking out all of section 12 and inserting the following:

**'Sec. E-12. 25 MRSA §2908,** as repealed and replaced by PL 1989, c. 857, §59, is repealed and the following enacted in its place:

**§2908. Police officers; powers and duties; cooperation**

**1. Appointment of police officers.** The Commissioner of Public Safety may appoint and employ police officers, subject to the Civil Service Law. The specific duties and powers of police officers appointed and employed are to patrol the public ways and parking areas, to provide security for all parks, grounds, buildings and appurtenances maintained by the State in the capitol area and other state-controlled locations designated by the commissioner and to enforce any rules adopted pursuant to this chapter. The commissioner may expand the duties and powers of police officers in the capitol area, other state-controlled locations and public ways designated by the commissioner beyond the duties and powers enumerated in this section to investigate, prosecute, serve process on and arrest violators of any law of this State. Police officers may issue summons in the course of their duty to enforce this section. The commissioner may grant statewide power of enforcement of any law of this State to police officers described in this subsection. That power may be granted only to police officers who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section 2804-C, subsection 1 or 5. The commissioner shall provide forms and standard operating procedures to police officers to carry out their functions under this section.

**2. Cooperation of other law enforcement agencies.** The State Police, sheriffs, deputy sheriffs, constables and municipal police officers shall, as much as possible, cooperate with the police officers appointed and employed under this section in the enforcement of rules adopted pursuant to this chapter and any law of this State.

**Sec. E-13. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "capital security officer" appear or reference is made to a security officer appointed by the Commissioner of Public Safety pursuant to the Maine Revised Statutes, Title 25, section 2908, they are amended to read or mean, as appropriate, "Capitol Police officer" or "police officer appointed by the Commissioner of

R. 018.

1 Public Safety pursuant to Title 25, section 2908," and the Revisor of Statutes shall  
2 implement this revision when updating, publishing or republishing the statutes.

3 **Sec. E-14. Maine Revised Statutes amended; revision clause.** Wherever in  
4 the Maine Revised Statutes the words "Bureau of Capital Security" appear or reference is  
5 made to that entity or those words, those words are amended to read or mean, as  
6 appropriate, "Bureau of Capitol Police," and the Revisor of Statutes shall implement this  
7 revision when updating, publishing or republishing the statutes.

8 **PART F**

9 **Sec. F-1. 29-A MRSA §2054, sub-§1, ¶B,** as amended by PL 2007, c. 348, §18,  
10 is further amended to read:

11 B. "Authorized emergency vehicle" means any one of the following vehicles:

- 12 (1) An ambulance;
- 13 (2) A Baxter State Park Authority vehicle operated by a Baxter State Park  
14 ranger;
- 15 (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;
- 16 (4) A Department of Conservation vehicle operated by a forest ranger;
- 17 (5) A Department of Conservation vehicle used for forest fire control;
- 18 (6) A Department of Corrections vehicle used for responding to the escape of or  
19 performing the high-security transfer of a prisoner, juvenile client or juvenile  
20 detainee;
- 21 (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;
- 22 (8) A Department of Public Safety vehicle operated by a ~~capital security~~ police  
23 officer appointed pursuant to Title 25, section 2908, a state fire investigator or a  
24 Maine Drug Enforcement Agency officer;
- 25 (9) An emergency medical service vehicle;
- 26 (10) A fire department vehicle;
- 27 (11) A hazardous material response vehicle, including a vehicle designed to  
28 respond to a weapon of mass destruction;
- 29 (12) A railroad police vehicle;
- 30 (13) A sheriff's department vehicle;
- 31 (14) A State Police or municipal police department vehicle;
- 32 (15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when  
33 authorized by the sheriff;

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- 1 (16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an  
2 assistant or deputy chief or a town forest fire warden;
- 
- 3 (17) A vehicle operated by a qualified deputy sheriff or other qualified  
4 individual to perform court security-related functions and services as authorized  
5 by the State Court Administrator pursuant to Title 4, section 17, subsection 15;
- 6 (18) A Federal Government vehicle operated by a federal law enforcement  
7 officer;
- 8 (19) A vehicle operated by a municipal rescue chief, deputy chief or assistant  
9 chief;
- 10 (20) An Office of the Attorney General vehicle operated by a detective  
11 appointed pursuant to Title 5, section 202; and
- 12 (21) A Department of the Secretary of State vehicle operated by a motor vehicle  
13 investigator.'
- 14 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
15 section number to read consecutively.

16 **SUMMARY**

17 This amendment changes the name of the Bureau of Capitol Security to the Bureau of  
18 Capitol Police and the name of those security officers to police officers.

**FISCAL NOTE REQUIRED**

(See attached)





Approved: 05/17/09

*mac*

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# 124th MAINE LEGISLATURE

LD 915

LR 489(02)

**An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Criminal Justice and Public Safety**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with changing the name of the Bureau of Capitol Security to the Bureau of Capitol Police can be absorbed within existing budgeted resources.

# VOTING TALLY SHEET

For LDs or Confirmation

LD #:

915

Committee: Joint Standing Committee on Criminal Justice & Public Safety

Date:

5/1/09

Motion:

OTPA

Motion by:

Rep. Sykes

Seconded by:

Sen. Davis

| Those Voting<br>in Favor of the<br>Motion | Recommendation of those opposed to the<br>Motion |     |        |           |          | Absent | Abstain |
|-------------------------------------------|--------------------------------------------------|-----|--------|-----------|----------|--------|---------|
|                                           | ONTP                                             | OTP | OTP-AM | New Draft | Re-Refer |        |         |

## Senators

|                   |   |  |  |  |  |  |  |
|-------------------|---|--|--|--|--|--|--|
| 1. Stan Gerzofsky | X |  |  |  |  |  |  |
| 2. John Nutting   | X |  |  |  |  |  |  |
| 3. Gerald Davis   | X |  |  |  |  |  |  |

## Representatives

|                    |        |  |  |  |  |  |  |
|--------------------|--------|--|--|--|--|--|--|
| 1. Anne Haskell    | X      |  |  |  |  |  |  |
| 2. Stephen Hanley  | X      |  |  |  |  |  |  |
| 3. Michel Lajoie   | X      |  |  |  |  |  |  |
| 4. Chris Greeley   | X C.G. |  |  |  |  |  |  |
| 5. James Schatz    | X M.S. |  |  |  |  |  |  |
| 6. Gary Plummer    | X P.P. |  |  |  |  |  |  |
| 7. David Burns     | X      |  |  |  |  |  |  |
| 8. Walter Wheeler  | X      |  |  |  |  |  |  |
| 9. Veronica Magnan | X      |  |  |  |  |  |  |
| 10. Rick Sykes     | X      |  |  |  |  |  |  |
| TOTALS             | 13     |  |  |  |  |  |  |



Approved: 06/01/09 *MAC*

# 124th MAINE LEGISLATURE

LD 915

LR 489(03)

**An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety**

**Fiscal Note for Bill as Engrossed with:**

**C "A" (H-357)**

**Committee: Criminal Justice and Public Safety**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with changing the name of the Bureau of Capitol Security to the Bureau of Capitol Police can be absorbed within existing budgeted resources.

# HOUSE REPORT

## THE COMMITTEE ON Criminal Justice and Public Safety

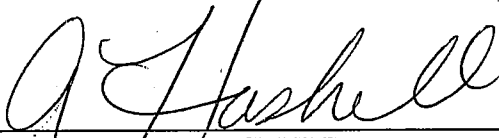
to which was referred the following:

An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety

H.P. 633

L.D. 915

has had the same under consideration, and asks leave to report that the same  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT “ ”

  
(Signature) REP. HASKELL

of Portland  
For the Committee

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(Type)  
Rep. of (Town) and/or Sen. of (County)

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(Signatures)

# HOUSE REPORT

Printed on recycled paper