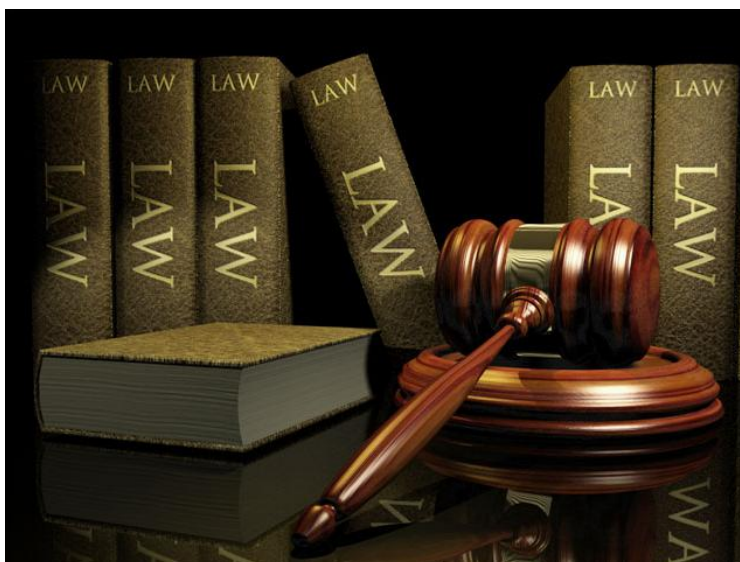


# **2012 NEW LAW UPDATE**

## **125th Legislature – Second Regular Session**

### **New and Amended Public Laws of Interest to Law Enforcement Officers**

**Effective August 30, 2012 unless otherwise noted**



**Maine Criminal Justice Academy  
Maine Chiefs of Police Association  
Maine Office of the Attorney General**

**August 31, 2012**

*Prepared by*  
**Brian MacMaster**  
**Office of the Attorney General**

**This publication and the 2012 Case Law Update constitute  
the training outline of the Maine Criminal Justice Academy  
for recertification training in law updates for the year 2012.**

**Chapter 493 – LD 1636**

**An Act to Extend Certain Insurance Protection to Emergency Responders**

Presently, an insurer is not permitted to increase the premium for a personal insurance policy of a law enforcement officer on the basis of crashes involving a vehicle operated by the officer in the scope of employment. This prohibition is extended to all emergency responders, which is defined as not only law enforcement but firefighters and EMS.

*Amends Title 24-A, §2174-B*

**Chapter 500 – LD 1698 (Effective March 14, 2012)**

**An Act to Establish Veterans Treatment Courts**

The Chief Justice may establish veteran’s treatment courts for veterans and members of the Armed Forces. A veteran’s treatment court is a specialized *sentencing* docket in select criminal cases to enable veteran’s agencies and social service agencies to provide treatment for the defendant. The court does not provide treatment but contracts or collaborates with experience and expert treatment providers. The Chief Justice may adopt administrative orders and court rules of practice and procedure as necessary.

*Enacts Title 4, c. 8-B*

**Chapter 504 – LD 1088**

**An Act Regarding the Writing of Bad Checks**

This bill creates a new method of providing notice of dishonor of a check – by certified or registered mail – that will support a permissible inference that the person issuing or negotiating the instrument knew that it would not be honored. The new statute includes the required contents of the notice.

*Amends Title 17-A, §708, sub-§2*

**Chapter 537 – LD 1603**

**An Act to Amend the Law Relating to Concealed Firearms Locked in Vehicles**

Presently, an employer may not prohibit an employee who has a valid permit to carry a concealed firearm from keeping a firearm in the employee’s vehicle as long as the vehicle is locked and the firearm is not visible. (The law does not authorize an employee to carry a firearm in a place where carrying a firearm is prohibited by law.) This amendment to the current law makes it clear that the same is true for a state employee when the employee’s vehicle is on property owned or leased by the State.

*Amends Title 16, §600, sub-§1*

**Chapter 545 – LD 1708 (Effective March 29, 2012)**

**An Act to Prevent the Theft and Illegal Sale of Copper and Other Metals**

This bill makes the following changes to the laws regulating the sale and purchase of scrap metal:

Current law regulates transactions involving more than 100 pounds or \$50 of scrap metal. This bill removes that limitation so that the law applies to all scrap metal transactions.

It broadens the definition for "scrap metal processor" to include any scrap metal processors that purchase scrap metal, whether from a fixed location or not.

It adds the requirement that the signed statement made by the seller that the seller is the owner or is otherwise authorized to sell the scrap metal be made on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime.

It requires the seller to be paid with a check with the details of the check being recorded and open to inspection.

Current law requires a scrap metal processor to record certain information regarding the seller of scrap metal, such as name, address and gender. This bill requires the scrap metal processor to also photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor is required to photograph the seller.

It also requires the scrap metal processor to record the make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

If a law enforcement officer has a reasonable suspicion that the scrap metal is stolen, the officer may require the scrap metal processor to retain the scrap metal for 7 days; this holding period may be extended an additional 7 days.

In addition to any other penalties provided by law, a person who violates this statute commits a civil violation for which a fine of \$1,000 must be adjudged. A second violation is a civil violation for which a fine of \$3,000 must be adjudged, and further violations are civil violations for which a fine of \$4,500 must be adjudged, and the violator is prohibited from acting as a scrap metal processor for 6 months.

Finally, the new law requires the Commissioner of Public Safety to review the concept of using a statewide integrated criminal alert network to track scrap metal thefts across the State, as well as the costs associated with requiring scrap metal processors and local law enforcement agencies to access a database designed for the purpose of alerting participating members to scrap metal thefts.

*Amends Title 30-A, §3771, sub-§5; §3772, sub-  
§§1 and 1-A, sub-§3 ¶¶A, F, G, & H  
Enacts Title 30-A, §3775-A*

*Repeals Title 30-A, §3777  
Enacts Title 30-A, §3778*

## **Chapter 559 – LD 1802**

### **An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts**

Protection from Harassment (5 M.R.S. c. 337-A): If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C, or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault, or stalking, in addition to the sworn complaint alleging harassment, the plaintiff must

present a copy of a notice to stop harassing the plaintiff issued to the defendant by law enforcement pursuant to Title 17-A, section 506-A(1)(A)(1)(a), or a statement of good cause why such a notice was not sought or obtained.

*Amends Title 5, § 4653, sub-§ 1, and § 4654, sub-§ 1, ¶ A*

This is the instruction the Court is providing to Clerks:

Most Plaintiffs are required to submit with their Protection from Harassment complaint a copy of a notice that law enforcement has issued telling the defendant to stop harassing the plaintiff. Plaintiffs who are seeking an order based on one of the crimes listed in 5 M.R.S. § 4651(C) or based on sexual assault, stalking, domestic or dating partner violence do not need to submit a law enforcement cease-harassment notice. You should let the judge decide whether the notice is required in each individual case.

### **Chapter 572 – LD 1813 (Effective March 30, 2012)**

#### **An Act to Amend the Laws Governing Confidentiality of Health Care Information**

This bill amends the law regarding confidentiality of health care information to allow health care practitioners or facilities to report to governmental entities if an alleged crime has been committed on the premises. HIPAA regulations allow for disclosure if a practitioner or a facility believes a crime has been committed on the premises. This bill amends the state law to be consistent with federal law.

*Amends Title 22, § 1711-C, sub-§ 6, ¶ 6*

### **Chapter 578 – LD 1852**

#### **An Act to Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs**

This bill identifies five additional illegal synthetic hallucinogenic drugs, and provides that any derivative of cathinone that is not a scheduled drug or a drug approved by FDA is illegal.

*Amends Title 17-A, §1101, sub-§16-A, ¶¶ G & H*

*Enacts 17-A, §1101, sub-S16-A, ¶¶ I to O*

### **Chapter 584 – LD 1714**

#### **An Act to Restrict Further the Amount of Methamphetamine Precursors that may be Bought or Sold**

This bill amends the current restrictions on the sale of a targeted methamphetamine precursor to limit sales to 3.6 grams per day and 9 grams per 30 days in order to comply with federal law. It also places the same restrictions on purchases. The law requires an electronic logging system to block illegal sales, subject to override if the seller has a concern for personal safety if the sale is not made. The law exempts from the electronic logging system a retailer who does not have access to the Internet. The law provides a presumption of good faith for the retailer in a civil proceeding in which use of the electronic logging system is an issue. The law requires M D E A to select a real-time electronic logging system.

*Repeals Title 32, §13796, sub-§1  
Enacts Title 32, §13796, sub-§1-A*

*Amends Title 32, §13796, sub-§3  
Enacts Title 32, §13796, sub-§§5 to 7*

**Chapter 596 – LD 1900 (Effective April 5, 2012)**

**An Act to Support Members of the Law Enforcement Community who have Suffered a Catastrophic Illness**

Limited solicitation. A law enforcement agency or association may solicit property from the general public, a law enforcement officer, a law enforcement agency or a law enforcement association for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness by hosting fundraising events or by written solicitation.

*Amends Title 25, §3702-C, sub-§1*

**Chapter 597 – LD 1673 (Effective April 6, 2012)**

**An Act to Prohibit the Sexual Solicitation of a Child by Any Means**

This bill creates a new crime of verbally soliciting a child to commit a prohibited sexual act. The bill repeals the current law that makes it a crime to solicit a child *by use of a computer* and provides that a person may not solicit a child *by any means* with the intent to engage in a prohibited act. A “prohibited act” means a sexual act, sexual contact, or sexual exploitation of a minor. If the child is less than 14 years of age, it is a Class D crime; if the child is less than 12 years of age, it is a Class C crime. The defendant must be 16 or older—in other words, this is not a juvenile crime if the actor is under 16. The actor must know or believe that the child (target of the solicitation) is under 14 (or 12) — thus law enforcement can still pose as potential victims under the statute.

*Amends Title 15, §5821, sub-§7-A*

*Repeals Title 17-A, §259*

*Enacts Title 17-A, §259-A*

*Amends Title 19-A, §1653, sub-§6-A, ¶A*

*Amends Title 25, §1574, sub-§5*

*Amends Title 34-A, §11203, sub-§6, ¶B*

*Enacts Title 34-A, §11203, sub-§6-B*

**Chapter 604 – LD 1856**

**An Act to Implement Certain CLAC Recommendations**

CLAC is the Criminal Law Advisory Commission. This bill, among other things, creates a new Class D crime of *improper contact after bail has been revoked and denied*. A person commits this crime if the person, while being detained because the person’s preconviction or post-conviction bail has been revoked and denied, intentionally or knowingly makes direct or indirect contact with a person when that contact was prohibited under a former condition of release.

*Enacts Title 15, §1094-A*

**Chapter 606 – LD 1831**

**An Act to Allow Forfeiture of Benefits for Persons Convicted of Certain Crimes**

This bill permits a court to order the forfeiture of benefits of a public employee who is a member of the Maine Public Employees Retirement System if the member is convicted of a Class C or greater crime if the crime is committed in connection with the member’s public office or public employment or if the member’s position placed the member in a

position to commit the crime. The bill also provides that amounts credited to the account of a member of the retirement system are available to pay any court-ordered restitution for economic loss suffered by the State or a political subdivision of the State as a result of the crime. Finally, the bill allows the court to award to the spouse, dependent or former spouse of the employee benefits that would otherwise be payable if not for the forfeiture because of the crime.

*Enacts Title 2, §1-A, sub-§3*

*Amends Title 3, §703, sub-§§2 and 3*

*Enacts Title 3, §703, sub-§4*

*Amends Title 4, §1203, sub-§§2 and 3*

*Enacts Title 4, §1203, sub-§4*

*Amends Title 5, §17054, sub-§§2, 3, and 4*

*Enacts Title 5, §17062*

### **Chapter 626 – LD 1859 (Effective April 12, 2012)**

#### **An Act to Protect Firearm Ownership during Times of Emergency**

This bill prohibits a person acting on behalf or under the authority of the State or a political subdivision of the State from prohibiting or restricting the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition during a declared state of emergency. The bill also removes the power of the Governor to suspend or limit the sale, dispensing and transportation of firearms during a declared state of emergency.

*Enacts Title 25, §2011, sub-§5*

*Amends Title 37-B, §742, sub-§1, ¶C*

### **Chapter 639 – LD 1760**

#### **An Act to Ensure Notification to Victims of Domestic Violence, Sexual Assault, and Stalking when Defendants are Released on Bail**

A victim of domestic violence, sexual assault, or stalking must receive notification of the defendant's release on bail, unless the victim requests in writing not to be notified. The arresting officer must obtain the victim's contact information and provide it to the jail where the defendant is delivered. The jail must notify the victim when the defendant is released on preconviction bail or, if the victim cannot be reached, the jail must notify the arresting agency, which must then make a reasonable effort to contact the victim. If the defendant is released on bail before being delivered to a jail, the arresting agency must notify the victim. The bill also requires that notification of a defendant's release on preconviction bail be made directly to an adult victim and to a parent or legal guardian or other immediate family member in the case of a minor victim unless the jail or law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly. Finally, it provides the State, the arresting agency, the jail where the defendant was delivered, and the Department of Corrections immunity from liability in a civil action for compliance or noncompliance with the new provisions. Note that section 1175 already required notification of victims of many crimes on the defendant's release from sentence or commitment (after a finding of not criminally responsible or incompetent to stand trial).

*Enacts Title 17-A, §1175-A*

**Chapter 640 – LD 1867**

**An Act to Protect Victims of Domestic Violence**

1. In certain cases involving domestic violence, it prohibits a bail commissioner from setting preconviction bail for a defendant alleged to have violated a protection from abuse order, or alleged to have committed a Class A, B or C crime under the Maine Revised Statutes, Title 17-A, chapter 9; a sexual offense that is a Class A, B or C crime; kidnapping; or a Class C crime involving criminal restraint, domestic stalking, domestic threatening, domestic terrorizing or domestic reckless conduct.
2. It adds strangulation to the list of circumstances manifesting extreme indifference to the value of human life under aggravated assault in 17-A M.R.S. §208(1)(C) – strangulation means the intentional impeding of the breathing or circulation of blood of another person by applying pressure on the person’s throat or neck.
3. Includes technical changes in several 17-A crimes to make clear that a prior conviction for a bail violation in a DV case involving victim contact or possession of a weapon can enhance a subsequent DV crime.
4. In addition to information already required under the Maine Bail Code in cases involving domestic violence, it requires the bail commissioner to make a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee or other law enforcement officer information about the severity of the alleged offense.
5. It requires a judge to order a defendant in a domestic violence case to be committed without bail pending a bail revocation hearing unless the judge makes certain findings on the record but does not require the findings to be reduced to writing.
6. It directs the judicial branch to study the application of the provisions of this legislation and report its findings to Legislature by January 30, 2013.
7. It requires law enforcement agencies to adopt written policies for cases involving domestic violence to collect information about whether the commission of the crime included the use of strangulation.

*Enacts Title 15, §1023, sub-§4, ¶B-1*

*Amends Title 15, §1023, sub-§4, ¶C*

*Amends Title 15, §1095, sub-§2*

*Enacts Title 15, §1097, sub-§2-A*

*Amends Title 17-A, §207-A, sub-§1, ¶B*

*Amends Title 17-A, §208, sub-§1, ¶C*

*Amends Title 17-A, §209-A, sub-§1, ¶B*

*Amends Title 17-A, §210-B, sub-§1, ¶B*

*Amends Title 17-A, §210-C, sub-§1, ¶B*

*Amends Title 17-A, §211-A, sub-§1, ¶B*

*Amends Title 17-A, §1201, sub-§1, ¶A-1*

*Amends Title 19-A, §4002, sub-§4*

*Amends Title 25, §2803-B, sub-§1, ¶D*

The following chart (prepared by Anne H. Jordan, Criminal Process Specialist, Administrative Office of the Courts) details those matters for which **only a judge** can set bail when the matter involves a family or household member, defined in 19-A MRS § 4002, and which may include persons who are now or have previously lived together or who are or were sexual partners:

<i>Crime</i>	<i>Statute</i>	<i>Class</i>
<b>Murder</b>	17-A M.R.S. 201	Murder
<b>Felony Murder</b>	17-A M.R.S. 202	A
<b>Manslaughter</b>	17-A M.R.S. 203	A or C
<b>Assault</b> -by an adult against a child less than 6 years old and that causes bodily injury to the child	17-A M.R.S. 207 sub-section (1)(B)	C
<b>Domestic Violence Assault</b> -only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3)	17-A M.R.S. 207-A sub-section (1)(B)	C
<b>Aggravated Assault</b>	17-A M.R.S. 208	B
<b>Elevated Aggravated Assault</b>	17-A M.R.S. 208-B	A
<b>Elevated Aggravated Assault Against a Pregnant Person</b>	17-A M.R.S. 208-C	A
<b>Domestic Violence Criminal Threatening</b> -only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 209-A sub-section (1)(B) or with § 1252(4)	C
<b>Terrorizing</b> -where natural consequence is causing the evacuation of a building, place of assembly or facility of public transport or causing occupants to be moved to or remain in a secured area	17-A M.R.S. 210 sub-section (1)(B)	C
<b>Stalking</b> -where Defendant has two or more prior convictions for stalking, violation of a protection from harassment order, violation of a PFA Order, violation of child protection case order or violation of similar order issued by U.S. or tribal court	17-A M.R.S. 210-A sub-section (1)(C)	C
<b>Domestic Violence Terrorizing</b> -only if charged as a Class C violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)), for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 210-B sub-section (1)(B) or with § 1252(4)	C
<b>Domestic Violence Stalking</b> -only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime for use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 210-C sub-section (1)(B) or with § 1252(4)	C
<b>DV Reckless Conduct</b> -only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 211-A sub-section (1)(B) or with § 1252(4)	C
<b>Gross Sexual Assault</b>	17-A M.R.S. 253	A, B, C
<b>Sexual Abuse of a Minor</b> -where victim is related to actor within the 2 <sup>nd</sup> degree of consanguinity or where actor is at least 10 years older than victim	17-A M.R.S. 254 (1)(A-1) or (1)(A-2)	C
<b>Unlawful Sexual Contact</b>	17-A M.R.S. 255(1) sub-sections: (B), (C), (D), (E), (F), (F-1), (H), (J), (L), (M), (N), (O), (P), (R), (R-2), (V), or (X)	B, C
<b>Visual Sexual Aggression of a Child</b> -where victim is a child under 12 years old	17-A M.R.S. 256 sub-sections: (1)(B) or (1)(D)	C



<b>Sexual Misconduct with a Child Under 14 years of Age</b> -where victim is child under 12 years old	17-A M.R.S. 258 sub-section (1-A)	C
<b>Solicitation of Child to Commit Prohibited Act</b>	17-A M.R.S. 259-A (1)(B)	C
<b>Kidnapping</b>	17-A M.R.S. 301	A or B
<b>Criminal Restraint</b> -where victim is a child less than 8 years old	17-A M.R.S. 302 sub-sections (1)(A)(4) & (1)(B)(2)	C
<b>Violation of Protection Order</b>	19-A M.R.S. 4006 sub-section 5(A-F) 19-A M.R.S. 4007 sub-section 1(A, A-1, A-2, B,C,D,E, or G.	D [C if reckless or assault. See 19-A M.R.S. 4011, sub-section 4]

Last September, a new law went into effect that drastically altered the time frames between the date of setting of bail and the arraignment date in all cases involving special conditions of bail. The law is PL 2011, Chapter 341. The law [15 M.R.S. § 1023(4)(E)] now provides that in all cases where a special condition of bail has been imposed, e.g., no use or possession of alcohol, a curfew or a ban from a particular business or residence, that the arraignment of the Defendant **must take place within eight (8) weeks** of the date bail is set. There are no exceptions to this provision and all bail commissioners must scrupulously abide by this law. In addition, pursuant to a long standing order of the Chief Judge of the District Court [Wescott Order, 2001], all *domestic violence* related cases that have a bail condition of no contact with a victim are to be set for arraignment no later than **thirty (30) days from the date bail is set**. The only exception to this rule is in those locations where criminal arraignments are only held once a month. In those situations, the arraignment must be set for the next scheduled arraignment date. Information relayed to the bail commissioner should also include any bail conditions in effect as a result of defendant being subject to a deferred disposition.

**Providing Criminal History Information to Bail Commissioners**

*Memorandum Issued by Attorney General William J. Schneider – May 18, 2012*

Bail Commissioners are legally authorized to review all Maine criminal history record information (including conviction and nonconviction data), as well as “Triple I” (“III”) information, for the purposes of making bail determinations. In ideal circumstances, this information should be made available for all arrestees.

The arresting agency is responsible for assuring that this information is made available to the Bail Commissioners in a timely fashion.

This policy memo identifies those cases in which Maine criminal history record information must be provided, and creates a second category in which it is strongly recommended that it be provided. Also provided is general guidance regarding the permitted means of disseminating Maine criminal history record and III information.

When to Provide Criminal History

1. Maine criminal history record information **MUST** be provided to Bail Commissioners setting bail in cases involving:
  - a. Domestic violence-related charges;
  - b. Class A, B, and C crimes;
  - c. Crimes against persons;
  - d. Crimes involving sexual assault or exploitation;
  - e. Crimes that may be elevated as a result of prior history (e.g., theft; OUI); and
  - f. Defendants with prior criminal history.
2. Maine Criminal History Record Information **SHOULD** be provided to Bail Commissioners in all other cases. The individual circumstances of the case, the defendant, and the available resources may be taken into consideration.
3. Out-of-state criminal history and/or III information should be provided to Bail Commissioners in any case where there is some indication that the arrestee has lived or has criminal history in another state. *Note that III information is fingerprint-based, and therefore does not include any convictions that are not supported by fingerprints. III information also does not include Maine convictions.*

**Chapter 659 – LD 1237**

**An Act to Prohibit Bullying and Cyberbullying in Schools**

This bill requires the Commissioner of Education to develop a model policy on bullying and cyberbullying by January 1, 2013. School boards must adopt a policy that is consistent with the model policy and that must include the following:

1. The responsibility of the superintendent to implement and enforce the policy.
2. A requirement that school staff members, including persons involved with extracurricular activities, report incidents of bullying.
3. Procedures for students, school personnel, legal guardians and others to report incidents of bullying.
4. Procedures for promptly investigating and responding to incidents of bullying, including communicating measures to ensure the safety of a targeted student and prevent further acts of bullying.
5. A statement of the disciplinary actions that a person who engages in bullying may be subjected, including the imposition of a series of graduated consequences that include alternative discipline practices.
6. A procedure to appeal the decision of a school principal involving disciplinary action taken or not taken against a person who engages in bullying.
7. A statement that communication with law enforcement officials is permitted if a school principal believes that the pursuit of civil action or criminal charges is appropriate.

*Enacts Title 20-A, §254, sub-§11-A*  
*Amends Title 20-A, §1001, sub-§15, ¶H*

*Enacts Title 20-A, §6554*

## **Chapter 662 – LD 1465**

### **An Act to Amend the Laws Governing Freedom of Access**

1. This bill titles Title 1, chapter 13, subchapter 1, the “Freedom of Access Act.”
2. It adds software to the description of information technology elements that are excepted from the definition of “public records” to clarify that proprietary information, technology infrastructure, systems and software used by governmental entities are not public records.
3. Repeals and replaces the current section of law that lays out the process and fees concerning inspecting and copying public records, although much of the current language is retained. It allows inspection and copying of public records during reasonable office hours. The reasonable office hours must be posted.
4. Requires the agency or official, when acknowledging the receipt of a request for public records, to provide a good faith estimate of when the response to the request will be completed. Although the time estimate is not binding, the agency or official must make a good faith effort to meet the time target.
5. The agency or official may not charge for inspection unless the requested public record is such that it cannot be inspected without being compiled or converted. If the agency or official must compile the record for inspection, then the agency or official may charge \$15 per hour (up from \$10) after the first hour for the time it takes to enable inspection. If the agency or official must convert a public record to a form susceptible of visual or aural comprehension or into a usable format, the agency or official may charge for the actual cost to perform the conversion.
6. The request for a public record does not have to be made in writing or in person.
7. The agency or official is not required to create a record that does not exist in response to a request for a public record.
8. The agency or official is not required to provide a requester with access to a computer terminal.
9. Requires an agency or official to provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester’s option, except that an agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.
10. Creates the position of public access officer and requires each state agency, county, municipality, school administrative unit, and regional or other political division to designate an existing employee to serve in the capacity of a public access officer as a resource for freedom of access questions. Requests for public records do not have to be made to the public access officer, but the public access officer must undergo the same freedom of access training as elected officials.
11. Requires government agencies, when making purchases of or contracting for computer software and other information technology resources, to consider maximizing public access to public records, as well as maximizing the exportability of public records while protecting confidential information.

12. The bill includes funding for a full-time assistant attorney general to serve as a public access ombudsman in the Office of the Attorney General.

*Enacts Title 1, §400*

*Amends Title 1, §402, sub-§3, ¶M*

*Enacts Title 1, §402, sub-§§5 and 6*

*Amends Title 1, §408*

*Enacts Title 1, §408-A*

*Amends Title 1, §409, sub-§1*

*Amends Title 1, §412*

*Enacts Title 1, §§413 and 414*

*Amends Title 6, §174, sub-§5*

*Amends Title 12, §8424, sub-§2*

*Amends Title 21-A, §22, sub-§§3, 5, and 7*

*Amends Title 21-A, §1104*

*Amends Title 25, §2006, first ¶*

*Amends Title 25, §2929, sub-§3*

*Amends Title 25, §2957*

*Amends Title 29-A, §2251, sub-§7*

*Amends Title 29-A, §2251, sub-§7-A, ¶C*

*Amends Title 32, §9418, first ¶*

*Amends Title 33, §651, last ¶*

*Amends Title 34-A, §1216, sub-§1*

*Amends Title 35-A, §6410, sub-§5*

*Amends Title 38, §640, sub-§4*

## **Chapter 663 – LD 1514**

### **An Act to Amend the Sex Offender Registration Laws**

1. Creates the Sex Offender Registration and Notification Act of 2013. It applies to persons who commit their criminal conduct and who are sentenced on or after January 1, 2013.
2. Establishes a Sex Offender Risk Assessment Advisory Commission to conduct a continuing study of methods to predict the risk of recidivism by sex offenders. (The bill originally proposed undertaking actual risk assessment.) The Commission is to be composed of seven members appointed by the Attorney General, who will serve two-year terms, and who may be reappointed.
3. Creates three tiers of offenses for purposes of registration – in general, Class E and Class D crimes are Tier I offenses (10-year registrants), Class C crimes are Tier II offenses (25-year registrants), and Class B and Class A crimes are Tier III offenses (lifetime registrants). For many Tier I and II offenses, the victim must be under 18.
4. Changes the time a registrant has to notify the Department of Public Safety of a change of residence, place of employment or college or school being attended from 5 days to 3 days.
5. Adds telephone numbers, Internet identifiers, and driver's license, passport, and immigration documents and vehicle information to the list of information the Department of Public Safety must collect from sex offender registrants for the department's registry database.
6. Requires SBI to establish an email notification system to alert a member of the public who has subscribed to the email notification system when a registrant moves into the subscriber's geographic area.
7. Continues to provide that a registrant who commits a subsequent sex offense must register for life.
8. Requires a registrant who is traveling abroad to provide the Department of Public Safety with certain information about the registrant's travel.
9. Changes the frequency of a registrant's duty to verify the registrant's information to every 90 days for a Tier III registrant, every 180 days for a Tier II registrant, and annually for a Tier I registrant.
10. Directs the Sex Offender Risk Assessment Advisory Commission to study the structure and duties of Colorado's Sex Offender Management Board and report its findings to the Legislature by January 5, 2013.

*Enacts Title 5, §12004-I, sub-§74-G  
Enacts Title 17-A, Pt. 5*

*Enacts Title 34-A, c. 17*

## **Chapter 672 – LD 1731**

### **An Act to Combat Human Sex Trafficking**

This bill expands the list of behaviors that could lead to the charge of aggravated promotion of prostitution by adding to the definition of *compelling* the following:

Making material false statements, misstatements or omissions;

Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;

Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and

Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will cause physical injury or death to a person; cause damage to property, other than property of the actor; engage in other conduct constituting a Class A, B or C crime, kidnapping or criminal restraint; accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some persons; expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule; testify or provide information or withhold testimony or information regarding another person's legal claim or defense; use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person, or; perform any other act that would not in itself benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

*Amends Title 17-A, §852, sub-§2*

## **Chapter 680 – LD 1711**

### **An Act to Adopt the Use of Standardized Risk Assessment in the Management of Domestic Violence Crimes**

This bill requires the use of a validated, evidence-based domestic violence risk assessment by law enforcement officers in cases involving suspected or alleged domestic violence or abuse. The law enforcement officer is required to transmit the results of the assessment to the bail commissioner and the district attorney. The risk assessment must be as recommended by the Maine Commission on Domestic and Sexual Abuse, and approved by the Department of Public Safety. The use of the assessment is not mandatory until January 1, 2015.

*Amends Title 15, §1023, sub-§4, ¶C  
Amends Title 15, §1026, sub-§4, ¶C  
Amends Title 19-A, §4012, sub-§6*

*Amends Title 25, §2803-B, sub-§1, ¶D  
Amends Title 25, §2803-B, sub-§§2 and 3  
Amends Title 34-A, §5404, sub-§3, ¶E*

*Enacts Title 34-A, §5404, sub-§3-A*

**Chapter 687 – LD 1888**

**An Act to Strengthen the State’s Ability to Investigate and Prosecute Misuse of Public Benefits**

Creates a new Class D crime of misuse of public benefits instrument:

A person is guilty of misuse of a public benefits instrument if the person knowingly (a) transfers a public benefits instrument without authorization of the agency issuing the instrument; or (b) obtains or possesses a public benefits instrument that was obtained without authorization of the agency issuing the instrument. “Public benefits instruments” means electronic benefits transfer cards, coupons, vouchers and any other means for distributing benefits from the following programs: (a) municipal general assistance, (b) TANF, (c) statewide food supplement, (d) child care subsidies, and (3) WIC. The bill also places several restrictions on the use of public benefits. DHHS is empowered to promulgate rules concerning restrictions. It also allows for suspension of payments to MaineCare (Medicaid) providers when there is a credible allegation of fraud.

*Enacts 17-A, §905-C*

*Amends Title 22, §13, sub-§6, ¶B*

*Amends Title 22, §21, sub-§4*

*Enacts Title 22, §23*

*Amends Title 22, §1714-A, sub-§1, ¶¶C, I, J*

*Amends Title 22, §1714-A, sub-§4, ¶¶A, B, C*

*Enacts Title 22, §1714-D*

*Amends Title 22, §3104, sub-§12*

*Amends Title 22, §3811, sub-§§3 and 4*