

126th Legislature – Second Regular Session

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

Effective August 1, 2014, unless otherwise noted

2014 NEW LAW UPDATE



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

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This publication and the 2014 Case Law Update constitute the training outline of the Maine Criminal Justice Academy for recertification training in law updates for the year 2014.

Preparer's Note

The Second Regular Session of the 126th Maine Legislature (the “short” or “emergency” session) convened on January 8, 2014, and adjourned on May 2, 2014. All new or changed laws took effect on August 1, 2014, unless passed as emergency measures (and so noted in the summary). The First Regular Session of the 127th Maine Legislature will convene on December 3, 2014.

The preparer reviewed the public laws and resolves, and selected those believed to be of general interest to Maine law enforcement officers. This document is obviously not a listing of all laws passed by the Legislature. If a particular law change or enactment summarized in this document is of interest to the reader, both a statutory citation and a link to the chaptered law or resolve are provided so that the reader can review the entire text of the law for a more comprehensive understanding. This is highly recommended before any enforcement action is taken. There is also a reference to the LD that started it all. As you know, there are many types of law enforcement officers in Maine and some statutes that may be of interest to only a specialized type of law enforcement have been left out to keep the length of this document manageable.

The summaries are those of the preparer and do not represent legal opinions of the Office of the Attorney General or interpretations of the Maine Criminal Justice Academy or the Maine Chiefs of Police Association.

The preparer wishes to recognize the assistance of District Attorney Geoffrey A. Rushlau (District VI – Knox, Lincoln, Sagadahoc, and Waldo counties), who reviewed this document and offered meaningful comments and suggestions.

Link to Chaptered Laws: <http://www.mainelegislature.org/ros/LOM/LOMDirectory.htm>

Link to LD's: http://www.mainelegislature.org/legis/bills/bills_126th/billtexts/

Questions, suggestions, or other comments?

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Chapter 450 – LD 1579

An Act to Authorize Public Safety Personnel and Members of the Military to Wear Their Uniforms When Visiting Schools in Their Official Capacities

A member of the United States Armed Forces, the Maine National Guard, or a public safety agency, including but not limited to a firefighter, police officer, emergency medical technician, game warden, forest ranger and park ranger, when visiting a school in that person's official capacity may not be denied access to a publicly supported secondary school or secondary public charter school solely because that person is wearing a uniform.

Enacts 20-A MRSA §4012

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC450.asp

Chapter 459 – LD 1590

An Act to Amend the Operating-under-the-influence Laws (effective 3/12/14)

This bill amends the laws regarding OUI in the following ways:

1. It increases the minimum administrative license suspension imposed by the Secretary of State to 150 days for a person convicted of OUI once in a 10-year period.
2. It increases the minimum administrative license suspension imposed by the Secretary of State to eight (8) years for a person convicted of four (4) or more OUI offenses within a 10-year period.
3. It removes references to "breath" from the evidentiary rules because police no longer use balloon kits for breath analysis.
4. It amends the law governing the administration of tests for the presence of drugs to remove antiquated references to drug "concentrations" and replace them with "the presence of drugs or drug metabolites." The inclusion of metabolites conforms this section of law with other laws pertaining to drug testing.
6. It removes a reference to the Department of Health and Human Services in the statute that provides liability protection for people who draw blood at the request of a law enforcement officer because the department no longer certifies this group of people. It also explicitly provides liability protection for people whose occupational license or training allows them to draw blood and who have been authorized to draw blood for many years, but did not have that protection.

Amends 29-A MRSA §2401, sub-§3

Amends 29-A MRSA §2411, sub-§4

Amends 29-A MRSA §2431, sub-§2

Amends 29-A MRSA §2432, sub-§4

Amends 29-A MRSA §2451, sub-§3

Amends 29-A MRSA §2486, sub-§1-A

Amends 29-A MRSA §2521, sub-§1, sub-§2

Amends 29-A MRSA §2522, sub-§1

Amends 29-A MRSA §2523, sub-§1

Amends 29-A MRSA §2524

Amends 29-A MRSA §2528

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC459.asp

Chapter 478 – LD 1656

An Act to Increase Safety for Victims of Domestic Violence and Victims of Sexual Assault (effective 3/16/14)

Current law limits the ability of bail commissioners to set preconviction bail in some cases involving domestic violence. Because a bail commissioner cannot set bail for crimes described in 15 M.R.S. §1023(4)(B-1), there has been no authority to prohibit contact with a victim. In order to increase the safety of victims of domestic violence during the period between arrest and the setting of bail by the court, this bill provides that a person is guilty of the Class D crime of improper contact prior to the establishment of bail if, while being detained as a result of the person's arrest for specified domestic violence offenses and prior to the establishment of preconviction bail, the person intentionally or knowingly makes direct or indirect contact with the victim of the alleged crime.

The bill provides that county jail staff must notify a defendant arrested for a domestic violence offense or sexual assault and prior to the setting of bail not to make direct or indirect contact with a specifically identified family or household member who is the victim of the offense. The bill also directs the State Board of Corrections to establish a minimum, uniform policy by June 1, 2014 for notifying defendants detained at a county jail or other correctional facility after being arrested for a domestic violence offense or sexual assault and prior to the setting of preconviction bail by a justice or judge that it is a crime to make direct or indirect contact with a victim who is a member of the defendant's family or household.

Current law also requires that law enforcement officers use and be trained in how to administer an evidence-based domestic violence risk assessment. In order to increase the ability of Maine criminal justice agencies to use information gathered in the course of the risk assessment to keep victims and families safe, this bill permits those agencies to share confidential criminal history record information with advocates for the purpose of planning for the safety of a victim of domestic violence. An advocate who receives confidential criminal history record information must use the information solely for the purpose of planning for the safety of a victim of domestic violence and is prohibited from further disseminating the information. The bill also allows the sharing of this information with an advocate of a victim of sexual assault for the same purpose.

This bill also clarifies that once a person is certified as a participant in the Address Confidentiality Program, that person's actual residential street, school or work address or United States Postal Service address may not be used or disclosed by any state or local agency or the courts unless such use or disclosure is approved by the Secretary of State under the circumstances set forth in the program.

Amends 5 MRSA §90-B, sub-§§ 4 to 6

Enacts 15 MRSA §1094-B

Amends 16 MRSA §53-B, sub-§1, ¶A

Enacts 16 MRSA §53-B, sub-§1, ¶¶A-2 and A-3

Enacts 16 MRSA §53-B, sub-§1-A

Amends 19-A MRSA §4002, sub-§4

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC478.asp

Chapter 482 – LD 1758

An Act to Clarify the Use of the Term “Civil Violation” in the Motor Vehicle Code

This bill clarifies that those few offenses designated as civil violations in Title 29-A are not traffic infractions and must be charged in a Uniform Summons and Complaint and filed in the appropriate division of the District Court as civil violations. One example is motor vehicle violation resulting in death under 29-A M.R.S. §2413-A. This bill also amends provisions in Title 29-A relating to offenses involving bicycles, toy vehicles, roller skis, and placement of stickers on illegally parked vehicles to clarify that these offenses are traffic infractions and not civil violations.

Amends 29-A MRSA §101, sub-§85

Amends 29-A MRSA §2063, sub-§7

Amends 29-A MRSA §2063-B, sub-§3

Amends 29-A MRSA §2082, sub-§7

Amends 29-A MRSA §2326, first ¶

Amends 29-A MRSA §2601, sub-§1

Amends 29-A MRSA §2605, sub-§1

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC482.asp

Chapter 496 – LD 1645

An Act to Amend the Motor Vehicle Laws

This bill makes the following changes to the motor vehicle laws:

1. It changes the definition of "bus" to be consistent with federal law.
2. It repeals the requirement that a vehicle registrant return that registration certificate to the Secretary of State upon the transfer of ownership of the vehicle.
3. It standardizes the language for vanity plates for environmental registration plates, sportsman registration plates, Purple Heart motorcycle registration plates, and veterans' registration plates to be the same as other vanity plates.
4. It restructures the law relative to the issuance of disability plates and placards and provides that disability plates and placards may be issued for up to six (6) years.
5. It corrects an inconsistency in the laws governing the number of practice hours (70) a person under 21 years of age must complete before applying for a driver's license.
6. It provides that the laws governing abandoned vehicles apply to vehicles left at a storage facility.
7. It requires that a person be scheduled for a road test after that person's juvenile provisional license is restored after a suspension instead of making it a requirement of restoration. All other restoration requirements must be met and, if the examination is not successfully completed within 90 days after restoration, an additional suspension for noncompliance will be imposed.
8. It removes from the laws governing registration exemptions for various types of tractors and log skidders the requirement that the equipment be operated by the owner of the farm, the woodlot, or the equipment in order to qualify for the exemption. It extends the exemption from the prohibition against operating a farm tractor with a revoked or suspended license that currently exists for farm tractor operation to include log skidder and converted logging tractor operation.

Amends 29-A MRSA §101, sub-§11
Amends 29-A MRSA §406, sub-§§ 1 and 2
Amends 29-A MRSA §455, sub-§2
Amends 29-A MRSA §456-C, sub-§1
Amends 29-A MRSA §510, sub-§1 ¶B
Amends 29-A MRSA §510, sub-§2, ¶A
Amends 29-A MRSA §510, sub-§3, ¶B
Amends 29-A MRSA §510, sub-§4

Amends 29-A MRSA §515-B, sub-§3
Amends 29-A MRSA §521, sub-§5
Amends 29-A MRSA §523, sub-§4
Amends 29-A MRSA §956, sub-§3
Amends 29-A MRSA §1304, sub-§1, ¶H
Amends 29-A MRSA §1851, sub-§§5 to 7
Amends 29-A MRSA §2472, sub-§2-B

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC496.asp

Chapter 507 – LD 1782

An Act to Make Technical Amendments to the Criminal History Record Information Act and the Intelligence and Investigative Record Information Act and a Related Provision in the Maine Revised Statutes, Title 20-A

This bill makes changes to the Maine Revised Statutes, Title 16 as follows:

1. Amends section 703, subsection 2, paragraph E by replacing the phrase "indefinitely postponed" with the phrase "postponed for a period of more than one year."
2. Amends section 705, subsection 3 by replacing the incorrect term "use" in the final sentence with "employment."
3. Amends section 804 by adding the omitted words "is or" to conform with section 802 and includes the inadvertently omitted word "Maine" before the term "criminal justice agency."
4. Amends section 805, subsection 3, paragraph B by adding "or court decision" for purposes of completeness.
5. Amends section 806, subsection 1 by adding government agencies or subunits of government agencies in this State or another state that by statute are responsible for licensing or regulating the programs or facilities that provide care to children or incapacitated or dependent adults and changing the conditions under which intelligence and investigative record information may be provided to these agencies and investigatory agencies. The licensing agencies were unintentionally omitted from subsection 1 when it replaced former section 614, subsection 3, paragraphs B and B-1.
6. Amends section 806, subsection 2 by adding "foster parent or guardian" for purposes of completeness.
7. Amends section 807 by adding the inadvertently omitted word "Maine" before the words "criminal justice agency."
8. Amends section 809 by adding the inadvertently omitted word "confidential" to describe the words "intelligence and investigative record information."
9. The bill also makes a correction in Title 20-A. It amends Title 20-A, section 6103, subsection 1 to correct an error made in Public Law 2013, chapter 267 concerning sharing criminal history record information with the Department of Education. The law prior to 2013 authorized the sharing of conviction data, which was defined to be public information. Chapter 267 inadvertently and incorrectly revised the type of information available to confidential criminal history record information. The bill corrects that error by limiting the information to be provided to the Department of Education to public criminal history record information and corrects a cross-reference.

10. The bill also amends Title 16, section 703, subsection 2, paragraph F regarding confidential criminal history record information to be consistent with other changes proposed in the bill. This recommendation of the Criminal Law Advisory Commission was inadvertently omitted from the bill. It also restores the ability of an insurer to receive confidential investigative records. A prior law change inadvertently changed the long-standing practice of law enforcement's sending this information to insurers.

Amends 16 MRSA §702, sub-§2, ¶¶E and F
Amends 16 MRSA §705, sub-§3
Amends 16 MRSA §804, First ¶
Amends 16 MRSA §805, sub-§3, ¶B

Amends 16 MRSA §806, sub-§§ 1 and 2
Amends 16 MRSA §807
Amends 16 MRSA §809
Amends 20-A MRSA §6103, sub-§1

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC507.asp

Chapter 519 – LD 1764

An Act to Implement Certain Recommendations of the Criminal Law Advisory Commission

This bill implements the following Criminal Law Advisory Commission recommendations.

1. In regard to the prohibition on the possession of firearms for certain persons, the bill provides that in cases of deferred disposition, a person is deemed to have been convicted when the court imposes the sentence except for certain crimes involving domestic violence in which case the person is prohibited from possessing a firearm when the deferred disposition period begins and not at the point when the sentence is imposed.
2. In the laws concerning limitations on the authority of a bail commissioner to set bail for an alleged violation of a condition of release, it imposes the same limitations on the setting of post-conviction bail as previously imposed on the setting of preconviction bail for that alleged violation.
3. It makes a technical correction to the laws concerning competency of a juvenile.
4. It adds a justice of the peace to those judicial officers authorized to issue a warrant to obtain portable electronic device content information and to obtain location information and, as to the latter, grant an extension of the warrant.
5. In the laws concerning computer crimes in the Maine Criminal Code, it adds a definition for "criminal justice agency."
6. In the laws concerning deferred disposition in the Maine Criminal Code, it clarifies that preconviction bail applies to a person on a deferred disposition until sentence imposition, notwithstanding the definition of "preconviction" for purposes of the Maine Bail Code.
7. It replaces an outdated directive to reflect recent changes made to the Maine Revised Statutes, Title 17-A, section 1304 regarding the proration of sentences for inmates committed to the custody of a sheriff for nonpayment of fines.

Amends 15 MRSA §393, sub-§1
Amends 15 MRSA §1023, sub-§4, ¶D
Amends 15 MRSA §1092, sub-§4
Amends 15 MRSA §3318-B, sub-§2
Amends 16 MRSA §642

Amends 16 MRSA §648
Enacts 17-A MRSA §431, sub-§9-A
Amends 17-A MRSA §1348-A, sub-§4
Amends 30-A MRSA §1606, sub-§2

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC519.asp

Chapter 537 – LD 1730

An Act to Assist Victims of Human Trafficking (effective 4/10/14)

This bill amends the victims' compensation laws to include two additional crimes for which a victim may seek compensation, as well as providing additional funding sources. It allows a victim of aggravated sex trafficking or sex trafficking to seek compensation from the Victims' Compensation Fund for medical and other costs. It also assesses victim's compensatory fees of \$1,000 on any person convicted of aggravated sex trafficking, \$500 on any person convicted of sex trafficking, \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of engaging in prostitution and \$500 on a person for the first conviction and \$1,000 for each subsequent conviction of patronizing prostitution of a minor or patronizing prostitution of a mentally disabled person. This bill establishes an affirmative defense to the crime of engaging in prostitution. The person charged with engaging in prostitution may raise the affirmative defense that the person engaged in prostitution because the person was compelled to do so as described in the provisions regarding the crime of aggravated sex trafficking.

*Amends 5 MRSA §3360, sub-§3, ¶¶G, H, J
Amends 5 MRSA §3360-I, first ¶*

Amends 17-A MRSA §853-A, sub-§4

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC537.asp

Chapter 579 – LD 1686

An Act to Address Preventable Deaths from Drug Overdose (effective 4/29/2014)

This bill authorizes the prescription, possession and administration of opioid antagonists under certain circumstances. It provides that law enforcement officers and municipal firefighters may administer intranasal naloxone hydrochloride only if they have received medical training as determined by the Medical Direction and Practices Board.

Enacts 22 MRSA c. 556-A

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC579.asp

Chapter 585 – LD 1734

An Act to Create a Cold Case Homicide Unit in the Office of the Attorney General

This bill directs the Attorney General in collaboration with the Commissioner of Public Safety to establish a cold case homicide unit within the Department of the Attorney General to work exclusively on unsolved murders in the State. The unit must consist of personnel from the Office of the Attorney General and the Bureau of State Police, and must include at a minimum one assistant attorney general, two State Police detectives, and one employee of the crime laboratory. The Attorney General is required to adopt rules for the operation of the unit. The Attorney General and Commissioner are required to pursue any federal funding available in order to establish the cold case unit.

Enacts 5 MRSA §200-J

Repeals 25 MRSA §1505-A

The enactment and repeal do not take effect unless sufficient federal funding becomes available to support the costs of the unit.

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC585.asp

Chapter 604 – LD 1729

An Act to Increase the Period of Time for the Calculation of a Prior Conviction for Operating under the Influence

This bill amends the laws governing criminal operating under the influence to provide that the period of time for the calculation of a prior conviction for a Class B or C crime of operating under the influence is unlimited. The bill also changes the time from which a prior conviction is calculated from the date of the docket entry of conviction to the date the sentence is imposed. Finally, the bill increases the administrative suspension period for persons with multiple OUI offenses in a 10-year period, specifically from 90 to 150 days if the person has one OUI conviction, three years if the person has 2 OUI offenses, six years if the person has 3 OUI offenses, and eight years if the person has 4 or more OUI offenses.

*Amends 29-A MRSA §2402, first ¶
Amends 29-A MRSA §2411, sub-§1-A, ¶D*

*Amends 29-A MRSA §2412, sub-§5
Amends 29-A MRSA §2451, sub-§3*

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC604.asp

RESOLVE Chapter 97 – LD 1589

Resolve, to Ensure Notification to the Public of the Location in Maine of Persons Convicted in Foreign Countries of Certain Crimes

Resolved: That the Commissioner of Public Safety shall convene a task force to develop a procedure for notifying affected members of the public of the location in this State of a person who was convicted in a foreign country of a crime that, if committed in this State, would subject a person to inclusion on this State's sex offender registry. The task force must be composed of three (3) members of the Maine Sheriffs' Association or their designees, three (3) members of the Maine Chiefs of Police Association or their designees, the Attorney General or a designee, and the Commissioner or a designee. The Commissioner shall submit a report of the task force's findings to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by December 3, 2014.

http://www.mainelegislature.org/legis/bills/bills_126th/chapters/RESOLVE97.asp