

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

H.P. 1266 - L.D. 1764

**An Act To Implement Certain Recommendations of the Criminal Law  
Advisory Commission Relative to the Maine Bail Code, the Maine Juvenile  
Code and the Maine Criminal Code and Related Statutes**

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

**Sec. 1. 15 MRSA §393, sub-§1**, as amended by PL 2009, c. 651, §1, is further amended to read:

**1. Possession prohibited.** A person may not own, possess or have under that person's control a firearm, unless that person has obtained a permit under this section, if that person:

A-1. Has been convicted of committing or found not criminally responsible by reason of insanity of committing:

- (1) A crime in this State that is punishable by imprisonment for a term of one year or more;
- (2) A crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year;
- (3) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, is punishable by a term of imprisonment exceeding one year. This subparagraph does not include a crime under the laws of another state that is classified by the laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less;
- (4) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, does not come within subparagraph (3) but is elementally substantially similar to a crime in this State that is punishable by a term of imprisonment for one year or more; or
- (5) A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority was required to plead and prove that the person committed the crime with the use of:

- (a) A firearm against a person; or
  - (b) Any other dangerous weapon;
- C. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:
- (1) Under paragraph A-1, subparagraphs (1) to (4) and bodily injury to another person was threatened or resulted; or
  - (2) Under paragraph A-1, subparagraph (5);
- D. Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of that person, or from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:
- (1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or
  - (2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury; or
- E. Has been:
- (1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection 4-A, paragraphs A to C;
  - (2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or
  - (3) Found not competent to stand trial with respect to a criminal charge.

For the purposes of this subsection, a person is deemed to have been convicted upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

In the case of a deferred disposition, unless the person is alleged to have committed one or more of the offenses listed in section 1023, subsection 4, paragraph B-1, a person is deemed to have been convicted when the court imposes the sentence. In the case of a deferred disposition for a person alleged to have committed one or more of the offenses listed in section 1023, subsection 4, paragraph B-1, that person may not possess a firearm beginning at the start of the deferred disposition period.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by

reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

**Sec. 2. 15 MRSA §1023, sub-§4, ¶D**, as enacted by PL 2011, c. 341, §2, is amended to read:

D. Set preconviction or post-conviction bail for a violation of condition of release pursuant to section 1092, except as provided in section 1092, subsection 4; or

**Sec. 3. 15 MRSA §1092, sub-§4**, as enacted by PL 2011, c. 341, §3, is amended to read:

**4. Limitations on authority of bail commissioner to set bail.** A court may, but a bail commissioner may not, set bail for a defendant granted preconviction or post-conviction bail who has been arrested for an alleged violation of this section if:

A. The condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above or for a Class D or Class E crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12;

B. The underlying crime for which preconviction or post-conviction bail was granted is classified as Class C or above; or

C. The underlying crime for which preconviction or post-conviction bail was granted is a crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12.

If a bail commissioner does not have sufficient information to determine whether the violation of the condition of release meets the criteria set forth under this subsection, the bail commissioner may not set bail on the violation of the condition of release.

**Sec. 4. 15 MRSA §3318-B, sub-§2**, as enacted by PL 2011, c. 282, §5, is amended to read:

**2. No substantial probability that juvenile will be competent in the foreseeable future.** If, following the competency determination hearing provided in section 3318-A, subsection § 7, the Juvenile Court finds that the juvenile is incompetent to proceed and that there does not exist a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall promptly hold a hearing to determine whether or not the Juvenile Court should:

A. Order the Commissioner of Health and Human Services to evaluate the appropriateness of providing mental health and behavioral support services to the juvenile; or

B. Order the juvenile into the custody of the Commissioner of Health and Human Services utilizing the procedures set forth in section 3314, subsection 1, paragraph C-1 for purposes of placement and treatment.

At the conclusion of the hearing the Juvenile Court shall dismiss the petition or, if post-adjudication, vacate the adjudication order and dismiss the petition.

**Sec. 5. 16 MRSA §642**, as enacted by PL 2013, c. 402, §1, is amended to read:

**§642. Authority to obtain and disclose content information held by a provider of electronic communication service**

**1. Authority to obtain.** A government entity may obtain portable electronic device content information directly from a provider of electronic communication service only in accordance with a valid warrant issued by a duly authorized ~~judge or justice~~, judge or justice of the peace using procedures established pursuant to Title 15, section 55 or as otherwise provided in this subchapter.

**2. Authority to disclose.** A provider of electronic communication service may disclose portable electronic device content information to a government entity only pursuant to a warrant issued by a duly authorized ~~judge or justice~~, judge or justice of the peace or as otherwise provided in this subchapter.

**Sec. 6. 16 MRSA §648**, as reallocated by RR 2013, c. 1, §29, is amended to read:

**§648. Warrant needed for acquisition of location information**

Except as provided in this subchapter, a government entity may not obtain location information without a valid warrant issued by a duly authorized ~~judge or justice~~, judge or justice of the peace using procedures established pursuant to Title 15, section 55.

A ~~judge or justice~~, judge or justice of the peace may issue a warrant for the location information of an electronic device pursuant to this section for a period of time necessary to achieve the objective of the authorization, but in any case the warrant is not valid for more than 10 days after the issuance. A ~~judge or justice~~, judge or justice of the peace may grant an extension of a warrant upon a finding of continuing probable cause and a finding that the extension is necessary to achieve the objective of the authorization. An extension may not exceed 30 days.

**Sec. 7. 17-A MRSA §431, sub-§9-A** is enacted to read:

**9-A.** "Criminal justice agency" means a governmental agency of the State or any subunit of a governmental agency of the State at any governmental level that performs the administration of criminal justice pursuant to statute. "Criminal justice agency" includes the Department of the Attorney General and district attorneys' offices. As used in this subsection, "administration of criminal justice" means activities relating to the investigation of all or specific crimes and the prosecution of offenders.

**Sec. 8. 17-A MRSA §1348-A, sub-§4**, as enacted by PL 2009, c. 336, §15, is amended to read:

**4.** For purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence. Notwithstanding Title 15, section 1003, subsection 9, prior to sentence imposition, preconviction bail applies to the person.

**Sec. 9. 30-A MRSA §1606, sub-§2**, as amended by PL 2001, c. 171, §9, is further amended to read:

**2. Sentence prorated.** Inmates participating in a public works-related project or an improvement of property owned by a charitable organization under this section may have their sentences to the jail prorated at the rate of up to one day removed from the sentences for every 16 hours of participation in the project, except that inmates committed to the custody of the sheriff for nonpayment of fines under Title 17-A, section 1304 must have their sentences prorated at the rate of ~~\$5 removed from the fines for every one hour of participation in the project~~ that is applicable to the individual inmate pursuant to Title 17-A, section 1304, subsection 3, paragraph A, subparagraph (1).