131st Maine Legislature – Second Regular Session

2024 NEW LAW UPDATE

New and Amended Statutes Relevant to Law Enforcement Officers

Effective August 9, 2024
(Unless otherwise noted)

DIRIGO SAFETY, LLC

JULY 19, 2024

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Preparer's Note

This New Law Update contains summaries of selected public laws of interest and relevance to most Maine law enforcement officers. The Update includes the new or amended statutory citations as well as links to the chaptered laws and the LDs that started it all. It is strongly recommended that the entire text of the chaptered law be examined for a more comprehensive understanding, particularly before taking any enforcement action.

As you know, Maine has diverse types of law enforcement officers. To keep the length of this document manageable, new, or amended laws that may be of interest only to officers who focus on specialized enforcement are not included.

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131st Maine Legislature

Link to LDs
https://legislature.maine.gov/bills/billdirectory_ps.asp?snum=131&ldFrom=1

2nd Regular Session
Link to Chaptered Laws
https://legislature.maine.gov/ros/LawsOfMaine/#Law/131/R2/ACTPUB/547

Questions, suggestions, or other comments?

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Chapter 498 – LD 2050
An Act to Expand Accreditation Options for Laboratories That Conduct Blood-alcohol or Drug Testing
This law expands the number of laboratories that are qualified to analyze blood obtained in OUI cases for alcohol or drug presence under 29-A M.R.S. §2524 – Administration of Tests.

Amends 29-A MRSA §2524, sub-§2

Chapter 499 – LD 1576
An Act to Update the Laws Governing Electronic Device Information as Evidence
This law amends the provisions of law that govern state and local government entities' ability to obtain a search warrant for the content of *portable* electronic device communications. Specifically, this law expands both the requirement and ability to obtain a warrant to all electronic devices capable of accessing electronic communication or remote computing services, which are services that provide Internet storage to the public and are commonly referred to as "cloud storage services."

Amends 16 MRS c. 3, sub-c. 10
Enacts 16 MRS §641, sub-§3-A
Amends 16 MRS §641, sub-§5
Repeals 16 MRS §641, sub-§6
Repeals & Replaces 16 MRS §641, sub-§7
Amends 16 MRSA §641, sub-§8
Amends 16 MRSA §642
Amends 16 MRSA §643, first ¶
Amends 16 MRSA §643, sub-§3
Amends 16 MRSA §644, sub-§1
Amends 16 MRSA §644, sub-§3

Chapter 507 – LD 2054
An Act to Exclude Certain Operating Under the Influence Crimes from the Immunity Provisions That Are Triggered When Law Enforcement Is Called for a Suspected Overdose
This law adds operating under the influence, or OUI, and operating or attempting to operate a watercraft, snowmobile, or all-terrain vehicle, or ATV, under the influence to the list of crimes that do not qualify for immunity from arrest, prosecution, and certain revocation and termination proceedings when assistance has been requested for a suspected drug-related overdose.

Amends 17-A MRSA §1111-B, sub-§1, ¶A
Amends 17-A MRSA §1111-B, sub-§1, ¶A
Amends 17-A MRSA §1111-B, sub-§1, ¶A
Amends 17-A MRSA §1111-B, sub-§1, ¶A

Chapter 519 – LD 2085 (Effective March 6, 2024)
An Act to Update Maine's Domestic Violence and Stalking Laws
This law aligns Maine laws with the new standard set by *Counterman v. Colorado*, 600 U.S. 66 (2023). It amends relevant sections of the Maine Criminal Code and the protection from abuse laws to provide that, with respect to a violation of the protection from abuse laws or the crime of terrorizing, stalking, or harassment by telephone based on the content of the actor's speech, the actor must have consciously disregarded a risk that the actor's speech would place a reasonable person in fear of bodily injury.

[In *Counterman*, the U.S. Supreme Court said that the First Amendment requires at least recklessness to establish criminal liability for threatening behavior. There must be

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evidence that a person consciously disregarded a substantial and unjustifiable risk that the person's conduct would cause harm to another. The First Amendment demands a subjective mental state requirement shielding some threats from liability because bans on speech have the potential to chill or deter speech outside their boundaries. The Court said that an important tool to prevent that outcome is to condition liability on the State's showing of a culpable mental state, in this case, recklessness.]

Amends 17-A MRSA §210, sub-§1
Repeals and Replaces 17-A MRSA §210-A, sub-§2, ¶A
Repeals and Replaces 17-A MRSA §506, sub-§1, ¶A
Amends 19-A MRSA §4102, sub-§1, ¶B
Amends 19-A MRSA §4102, sub-§1, ¶E

Chapter 525 – LD 2045
An Act to Establish Training and Certification Standards for Probation and Parole Officers
This law requires the Board of Trustees of the Maine Criminal Justice Academy to establish training and certification standards, set requirements for board-approved courses, prescribe curricula, and certify graduates of board-approved courses for probation and parole officers. The law also requires those officers to meet the training and certification standards established by the board.

Amends 25 MRSA §2801-A, sub-§5
Enacts 25 MRSA §2801-A, sub-§7-A
Amends 25 MRSA §2801-B, sub-§1, ¶A
Enacts 25 MRSA §2803-A, sub-§5-C
Enacts 25 MRSA §2804-M
Enacts 25 MRSA §2804-N

Chapter 557 – LD 2161
An Act to Make Technical Corrections to the Maine Juvenile Code, the Maine Criminal Code, and the Intelligence and Investigative Record Information Act
This law clarifies provisions in the Maine Juvenile Code regarding sealing juvenile records by adding a cross-reference and correcting a reference to juvenile history record information. The law repeals a provision of law in the Intelligence and Investigative Record Information Act that contains incorrect terminology and an unnecessary requirement that a request for a copy of a complaint by a person who made the complaint be made pursuant to the Freedom of Access Act. The law also corrects a reference to a repealed statute in a provision in the Maine Criminal Code regarding sentences of imprisonment by adding the term "former" to the statutory citation.

Amends 15 MRSA §3010, sub-§3
Amends 15 MRSA §3308-C, sub-§10, ¶E
Repeals 16 MRSA §805-A, sub-§2
Amends 17-A MRSA §1604, sub-§5, ¶B

Chapter 621 – LD 2130
An Act to Prohibit Unauthorized Paramilitary Training
This law prohibits a person from teaching, training in, or demonstrating the use, application, or making of a firearm, explosive, or incendiary device if the person intends or knows that the teaching, training, or demonstrating is intended to be used in or in furtherance of civil disorder. It also prohibits a person from assembling with others for the purpose of practicing or being trained or instructed in the use, application, or making of a firearm, explosive or incendiary device, or in techniques capable of causing injury or death

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if the person intends or knows that the practicing, training or instruction is intended to be used in or in furtherance of civil disorder. The law exempts certain activities from this prohibition and establishes that a violation is a Class D crime. The law also authorizes the Attorney General to bring a civil action against a violator to restrain or prevent the violation by temporary or permanent injunction.

Enacts 25 MRSA c. 252-B

Chapter 675 – LD 2224
An Act to Strengthen Public Safety by Improving Maine's Firearm Laws and Mental Health System

This law does the following.

1. It provides that a person may not possess or have a firearm under that person's control if that person is restricted under an order issued by another jurisdiction similar to an extreme risk protection ("yellow flag") order in Maine.

2. It provides that a person may not knowingly or recklessly sell or transfer a firearm to someone prohibited from owning, possessing, or having a firearm under that person's control. It changes the classification of the crime of selling or transferring a firearm to a person prohibited from owning, possessing, or having a firearm under that person's control, from a Class D crime to a Class C crime.

3. It provides that a seller who is not a federally licensed firearms dealer and who transfers ownership of a firearm to a buyer at a gun show or as a result of an advertisement, posting, display, or other listing on the Internet or in a publication, may not complete the transaction unless the seller facilitates the transaction through a federally licensed firearms dealer. The dealer must perform a background check of the putative buyer by using the Federal Bureau of Investigation National Instant Criminal Background Check System (NICS) in the same manner as if the dealer were the seller of the firearm that is the subject of the transaction. If the background check reveals that the putative buyer is prohibited from purchasing a firearm, the dealer must notify the seller of that fact and of the fact that the transaction may not proceed. The dealer may charge a reasonable fee for serving as the facilitator. This provision does not apply to a transaction in which the buyer and seller are family members or a transaction for a firearm that is a curio or relic if the sale, transfer, or exchange is between collectors of firearms as curios or relics who each have in their possession a valid collector of curios and relics license issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives or to a transaction for a firearm that is an antique firearm. A person who sells a firearm in violation of this section commits a Class C crime.

4. It provides that if a law enforcement officer is unable to take a person into protective custody to conduct a "yellow flag" assessment, the officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause for a protective custody warrant to a Superior Court justice, a District Court judge, or a justice of the peace. The justice, judge, or justice of the peace must issue a protective custody warrant and promptly transmit that warrant to the officer for execution upon finding the affidavit is sufficient to establish (1) probable cause to believe that the person is mentally ill and due to that condition presents a likelihood of serious harm; (2) probable cause to believe that the

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person possesses, controls or may acquire a dangerous weapon; and (3) that the officer has made reasonable attempts to take the person into custody without a warrant. It also provides that an assessment performed in connection with an extreme risk protection order may be facilitated using telehealth technology. It changes the required timing of certain events related to an extreme risk protection ("yellow flag") order.

5. It provides that if the medical assessment for a "yellow flag" order cannot be conducted while the person is in protective custody, it may be conducted within 24 hours after the person is released from protective custody if (1) the protective custody stemmed from a law enforcement officer's probable cause to believe the person may be mentally ill and presents a likelihood of serious harm because the person possesses, controls or may acquire a dangerous weapon, and (2) an involuntary hospitalization ("blue paper") examination has occurred.

6. It requires law enforcement to notify a restricted person of a "yellow flag" order as soon as practicable, but the requirement is extended if the person is medically incapacitated. In such instances, the notification must be made within 48 hours after law enforcement is notified that the person is no longer medically incapacitated.

7. It requires the Department of Health and Human Services to provide injury and violence prevention programs, including data collection, synthesis, and evaluation.

8. It requires the Department of Health and Human Services to plan for and assist a statewide network of crisis-receiving centers to provide immediate and short-term mental health and substance use disorder crisis stabilization services. A "crisis receiving center" is "a center that provides immediate and short-term walk-in access to an array of both clinical and nonclinical mental health and substance use disorder crisis stabilization services to all individuals seeking care regardless of severity or insurance coverage and within bounds of licensing."

9. It allows the medical practitioner to assess a person for a "yellow flag" order relying on information provided by a third party if it reasonably appears that the third party has had recent personal observations or conversations with the person being assessed.

10. It provides a right to a judicial hearing within 30 days (previously 14) of notifying the person subject to a "yellow flag" order that the person is restricted. Upon a showing of good cause, the court may extend the time to hold the hearing. The court may consider affidavits and other reliable hearsay when extending or dissolving the initial restrictions.

11. It requires law enforcement to provide a copy of the notification to the restricted person, including the date of notification.

Amends 15 MRSA §393, sub-§1, ¶E-1
Enacts 15 MRSA §394, sub-§1, ¶B-1
Enacts 15 MRSA §394, sub-§1, ¶B-2
Enacts 15 MRSA §394, sub-§1, ¶B-3
Amends 15 MRSA §394, sub-§2
Enacts 15 MRSA §395
Amends 22-A MRSA §203, sub-§2
Amends 25 MRSA §2804-C, sub-§2-E
Enacts 34-B MRSA §3613
Amends 34-B MRSA §3862-A
Amends 34-B MRSA §3862-A, sub-§1, ¶C
Amends 34-B MRSA §3862-A, sub-§2, ¶B
Amends 34-B MRSA §3862-A, sub-§2, ¶C-1
Enacts 34-B MRSA §3862-A, sub-§2-A
Amends 34-B MRSA §3862-A, sub-§3
Amends 34-B MRSA §3862-A, sub-§4
Amends 34-B MRSA §3862-A, sub-§6, ¶A
Amends 34-B MRSA §3862-A, sub-§6, ¶B
Amends 34-B MRSA §3862-A, sub-§6, ¶C
Amends 34-B MRSA §3862-A, sub-§6, ¶D

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Chapter 678 – LD 2238
An Act to Address Gun Violence in Maine by Requiring a Waiting Period for Certain Firearm Purchases

This law requires a 72-hour waiting period between an agreement for the purchase and sale of a firearm and the delivery of that firearm to the purchaser. A seller may not knowingly deliver a firearm to a buyer sooner than 72 hours after the agreement. The 72-hour waiting period must be concurrent with any waiting period imposed by any background check process required by federal or state law. A seller who violates the law commits a civil violation for which a fine of not less than $200 and not more than $500 may be adjudged. A seller who violates the law after having previously been adjudicated as violating the same law commits a civil violation for which a fine of not less than $500 and not more than $1,000 may be adjudged. Exempted from the 72-hour waiting period is the sale of a firearm if the seller knows that the person to whom the seller is selling the firearm is:

(1) A law enforcement officer.
(2) A corrections officer.
(3) A person who is employed by a contract security company or proprietary security organization or a person who is licensed as a private security guard.
(4) a firearm dealer.

Also exempt from the 72-hour waiting period are transactions:

(1) Where the buyer and seller are family members (spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child, or person related by consanguinity within the 2nd degree).
(2) For a firearm that is (a) a curio or relic, and the sale, transfer, or exchange is between collectors, who each have in their possession a valid collector of curios and relics license issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives.
(3) For an antique firearm.
(4) That do not require a background check under federal or state law.

Enacts 25 MRSA §2015

Resolve 165 – LD 2094

This resolve requires the Department of Public Safety to convene a stakeholder group to examine and propose long-term solutions to improve the recruitment, retention, and wellness of law enforcement officers. The group is to consist of 12 members:

1. The Commissioner of Public Safety or the commissioner's designee;
2. An individual representing the Maine Lodge of the Fraternal Order of Police;
3. An individual representing the Maine Association of Police;
4. An individual representing a statewide association advocating for state troopers;
5. An individual representing the Maine State Law Enforcement Association;
6. An individual representing the Maine Criminal Justice Academy;
7. An individual representing a coalition of mental health providers in the State who specialize in treating first responders as their sole practice;

8. An individual representing a postsecondary educational institution in the State with programs focused on law enforcement or mental health;
9. An individual representing the Maine Chiefs of Police Association;
10. An individual representing the Maine Sheriffs' Association;
11. A student representing a secondary school program focused on law enforcement
12. education in the State; and
13. An individual representing retired law enforcement officers in the State.

The stakeholder group shall develop a report with its findings and recommendations, including suggested legislation. The Department of Public Safety shall submit the report to the Legislature's Criminal Justice and Public Safety Committee no later than January 2, 2025. The Committee may report out a bill related to the report to the 132nd Legislature in 2025.

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