

**128<sup>th</sup> Legislature**  
**Second Regular Session & Second Special Session**

**New and Amended Public Laws Relevant to Law Enforcement Officers**

**Laws Effective August 1, 2018, unless otherwise noted**

**2018 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 2018 Case Law Update constitute the training outline of the  
Maine Criminal Justice Academy for recertification training in law updates for the year 2018.*

**Chapter 338 – LD 1716**

**An Act to Protect Persons Who Provide Assistance to Law Enforcement Dogs, Search and Rescue Dogs, and Service Dogs**

This enacted law extends Good Samaritan liability protection to cover emergency medical services persons and law enforcement dog handlers who treat law enforcement dogs, search and rescue dogs, and service dogs in emergency situations. Such persons who voluntarily, without the expectation of monetary or other compensation, render first aid, emergency treatment or rescue assistance to a law enforcement dog, search and rescue dog or service dog that is unconscious, ill, injured or in need of rescue assistance is not liable for damages for an injury alleged to have been sustained by the dog nor for damages for the death of the dog alleged to have occurred by reason of an act or omission in the rendering of the first aid, emergency treatment or rescue assistance unless it is established that the injury or the death was caused willfully, wantonly or recklessly or by gross negligence on the part of the emergency medical services person, security services dog handler or law enforcement officer.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC338.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC338.asp)

**Chapter 354 – LD 1813**

**An Act to Protect Children from Being Photographed by Certain Persons**

This enacted law adds a definition of "indirect contact" to Title 17-A, section 261, and applies that definition to prohibit a person from photographing another person under 14 years of age if the person has been notified, in writing or otherwise, not to engage in this conduct by a law enforcement officer, corrections officer or judicial officer. The notification not to engage in that conduct expires one year after the date the notification is given. The definition of "photographing" is based on a definition of "photograph" in Title 17-A, section 281, subsection 3, which states that "photograph" means to make, capture, generate, or save a print, negative, slide motion picture, computer data file, videotape, or other mechanically, electronically, or chemically reproduced visual image or material.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC354.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC354.asp)

**Chapter 377 – LD 1795 (Effective April 11, 2018)**

**An Act to Amend the Maine Criminal Code and Related Statutes as Recommended by the Criminal Law Advisory Commission**

This enacted law makes the following corrections to the criminal and related laws and to the law on possession of more than 2 1/2 ounces of marijuana:

Public Law 2017, chapter 144, section 3, failed to distinguish, in the laws on service of process on providers of electronic communication service and providers of remote computing service, between foreign entities that are governed by laws of states other than Maine and those that are governed by laws of foreign countries. The bill distinguishes these two types of foreign entities and provides a cross-reference to the Maine Rules of Evidence for each type of foreign entity.

Public Law 2017, chapter 1, section 20, designated possession of up to 2 1/2 ounces of marijuana by a person under 18 years of age a violation of the Maine Juvenile Code, which was one of two options for prosecution under prior law. Chapter 1 repealed the option of prosecution of possession as a civil violation. This enacted law retains the designation of possession as a juvenile crime and restores the designation of possession as a civil violation. Neither the juvenile crime nor the civil violation applies to possession of up to 2 1/2 ounces by a person under 21 years of age who is a qualified patient for the purposes of the Medical Use of Marijuana Act.

Public Law 2017, chapter 300, created a new version of the crime of gross sexual assault, specifically, engaging in a sexual act with another person when that other person has not expressly or impliedly acquiesced to the sexual act. The law neglected to create a corresponding registration provision for the newly defined variant of gross sexual assault. The bill designates gross sexual assault based on lack of acquiescence to the sexual act as a Tier II offense under the Sex Offender Registration and Notification Act of 2013. The registration obligation will apply to conduct committed on or after April 11, 2018.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC377.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC377.asp)

### **Chapter 397 – LD 1838**

#### **An Act to Include in the Crime of Harassment by Telephone or by Electronic Communication Device the Distribution of Certain Photographic Images and Videos**

This enacted law establishes new variants of the crime of harassment by telephone or by electronic communication device. The law prohibits using a telephone or electronic communication device, with the intent to cause affront or alarm or for the purpose of arousing or gratifying sexual desire, to send an image or video of a sexual act or of the actor's or another person's genitals if the person called or contacted is under 14 years of age, is 14 or 15 years of age when the actor is at least 5 years older or suffers from a mental disability that is reasonably apparent or known to the actor. The law designates these new variants of harassment by telephone or electronic communication device as Class D crimes.

It also prohibits using a telephone or by electronic communication device to send an image or video of a sexual act or the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. The amendment designates this new variant of harassment by telephone or by electronic communication device as a Class E crime.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC397.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC397.asp)

**Chapter 404 – LD 858**

**An Act to Strengthen the Law Regarding Dangerous Dogs and Nuisance Dogs**

This enacted law does the following:

It amends the definition of "dangerous dog" to mean a dog or wolf hybrid that causes the death of or inflicts serious bodily injury on an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury or death; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent serious bodily injury by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog that inflicts bodily injury on an individual or a domesticated animal who is not trespassing on the dog owner's or keeper's premises at the time of the injury and has previously been determined by a court of competent jurisdiction to be a nuisance dog.

It adds a new designation and definition of "nuisance dog" to mean a dog or wolf hybrid that causes bodily injury, other than serious bodily injury, to an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear bodily injury, other than serious bodily injury, by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog or wolf hybrid that causes damage to property or crops not owned by the dog or wolf hybrid owner or keeper while the dog or wolf hybrid is not on the owner's or keeper's premises.

It provides that the fee for a dangerous dog license is \$100, the fee for a nuisance dog license is \$30, and all licenses that are issued must state whether the court has determined the dog to be a dangerous dog or a nuisance dog.

It directs the Department of Agriculture, Conservation and Forestry to develop and implement a dog licensing database within one year of the effective date of this legislation.

It prohibits a person from training or encouraging a dog that is not directly involved with a protection dog training program recognized by the Department of Public Safety, Bureau of State Police, to be aggressive toward or attack another person or domesticated animal; transferring ownership of a dog determined by a court to be a dangerous dog without the permission of the court, unless the transfer is to an animal control officer or an animal shelter that has a contract with a municipality to euthanize the dog for the municipality or tethering a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog. A violation is a civil violation for which a fine not to exceed \$100 may be adjudged in addition to court costs.

It raises the maximum fine that the court may order for a dog determined to be a dangerous dog or nuisance dog to \$5,000 and expands the list of penalties that the court may order if the court determines the dog to be a dangerous dog or a nuisance dog.

It adds that an owner or keeper of a dog who violates a court order entered pursuant to a dangerous dog or a nuisance dog finding is in civil contempt of court and adds that a violation of a court order of the expanded list of penalties by a dog owner is a Class D crime.

It adds that the owner or keeper of a dog determined by a court to be a dangerous dog or a nuisance dog is required to notify the municipality in which the dog resides in writing and within 30 days if ownership of the dog is transferred, the residence of the dog is changed, or the dog is deceased.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC404.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC404.asp)

**Chapter 409 – LD 1719 (Effective May 2, 2018)**

**An Act to Implement a Regulatory Structure for Adult Use Marijuana**

This enacted law facilitates the development and administration of a regulated marketplace in the State for adult use marijuana and the regulation of the personal use of marijuana and the home cultivation of marijuana for personal adult use pursuant to the Marijuana Legalization Act, as approved by the voters at referendum in November 2016. The new law repeals the Marijuana Legalization Act, as codified in Title 7, chapter 417, and recodifies it as the Marijuana Legalization Act in a new Title 28-B, Adult Use Marijuana.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC409.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC409.asp)

**Chapter 410 – LD 1388**

**An Act to Prohibit the Falsification of Medical Records**

This enacted law provides that the falsification of health care records maintained by a health care provider with the intent to deceive another person is a Class D crime under the Criminal Code, except that it is a Class C crime if any reliance on the falsification causes bodily injury or the impairment of a person's mental or behavioral condition.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC410.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC410.asp)

**Chapter 416 – LD 1740**

**An Act Regarding Criminal Forced Labor, Aggravated Criminal Forced Labor, Sex Trafficking, and Human Trafficking**

This enacted law creates the crimes of criminal forced labor, a Class C crime, and aggravated criminal forced labor, a Class B crime. A person is guilty of criminal forced labor if the person, without the legal right to do so, intentionally or knowingly compels another person to provide labor or services having economic value through certain coercive acts. A person is guilty of aggravated criminal forced labor if the person compelled to provide labor or services has not in fact attained 18 years of age.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC416.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC416.asp)

**Chapter 432 – LD 1091 (Effective July 4, 2018)**

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

Among other provisions, this enacted law:

Amends Title 17-A, section 505, subsection 2 by adding to the definition of "public way" the words "a way upon which the public has access as invitees or licensees."

Amends Title 17-A, section 1101 by enacting definitions of "cocaine" and "heroin." The definition of "cocaine" mirrors that currently found in Title 17-A, section 1102, subsection 1, paragraph F. The definition of "heroin" as "any compound, mixture or preparation containing heroin (diacetylmorphine) in any quantity" is in response to *State v. Pinkham, Sr.*, 2016 ME 59, 137 A. 3d 203.

Amends Title 30-A, section 3821, subsection 3, to clarify that hotel and lodging house registers must be kept for two years and must be available for inspection by an agent of the authority that licenses the hotel or lodging house.

Amends Title 34-A, section 1216, subsection 1, paragraph D to clarify that dissemination of certain information pertaining to a person receiving services from the Department of Corrections may be made to any criminal justice agency if necessary to carry out the administration of criminal justice or administration of juvenile criminal justice.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC432.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC432.asp)

**Chapter 447 – LD 238 (Effective July 9, 2018)**

**An Act to Amend the Maine Medical Use of Marijuana Act**

Allows a facility that tests medical marijuana samples for the cannabinoid profile, potency, and contaminants to operate in the absence of rules adopted by the Department of Health and Human Services if the facility has obtained documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body.

Clarifies that qualifying patients, primary caregivers, and registered dispensaries may manufacture marijuana products from harvested marijuana, including production of marijuana concentrate by processes of marijuana extraction that do not involve certain inherently hazardous substances.

Establishes a process for persons or entities that are not qualifying patients, primary caregivers, or registered dispensaries to manufacture marijuana products from harvested marijuana, including marijuana concentrate by processes of marijuana extraction that do not involve certain inherently hazardous substances, to become registered to manufacture marijuana products.

Establishes a method for qualifying patients, primary caregivers, and registered dispensaries to become authorized by law to produce marijuana concentrate by processes involving inherently hazardous substances if certain safety and compliance standards are met.

Establishes a process for persons or entities that are not qualifying patients, registered caregivers, or registered dispensaries to become authorized to produce marijuana concentrate by processes involving inherently hazardous substances.

Repeals specific provisions of law regarding municipal authority to establish a moratorium on registered primary caregivers near schools and municipal authority to regulate dispensaries. This, instead, enacts a new provision of law that allows municipalities to regulate registered primary caregivers, registered dispensaries, marijuana testing facilities and marijuana manufacturing facilities, except that municipalities are not allowed to prohibit or limit the number of registered primary caregivers.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC447.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC447.asp)

### **Chapter 452 – LD 1539**

#### **An Act to Amend Maine's Medical Marijuana Law**

Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;

Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;

Increases the possession limit in law for qualifying patients and unregistered caregivers from 2.5 ounces to 8 pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;

Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;

Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;

Authorizes qualifying patients, caregivers, and dispensaries to manufacture marijuana products if certain substances that are considered hazardous are not used;

Authorizes qualifying patients, caregivers, and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;

Establishes a registration process for persons and entities that are not qualifying patients, caregivers, or dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;

Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, if that use is consistent with the facility's policy;

Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;

Establishes packaging, labeling, and marketing requirements for the sale of medical marijuana;

Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;

Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;

Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;

Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;

Directs the Department of Health and Human Services to issue 6 registration certificates to dispensaries, in addition to the 8 dispensaries existing on April 1, 2018, to different entities, except that an existing dispensary may be awarded one additional registration certificate if its application is approved by the department;

Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;

Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;

Clarifies that municipalities may regulate registered caregivers, registered dispensaries, medical marijuana manufacturing facilities and marijuana testing facilities, except that municipalities may not prohibit or limit the number of registered caregivers; and

Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC452.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC452.asp)



**Chapter 456 – LD 8 (Effective December 13, 2018)**

**An Act to Provide Training for Forest Rangers to Carry Firearms**

This enacted law amends the powers and duties of the Board of Trustees of the Maine Criminal Justice Academy to include that the board establish certification standards and a training program for forest rangers and the state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry. The training program must include preservice law enforcement training, an additional basic forest ranger training program developed by the state supervisor of the forest protection unit and approved by the board that is specific to the duties of a forest ranger, in-service law enforcement training that is specifically approved by the board as prescribed, and a firearms training program equivalent to a firearms training program of a full-time law enforcement officer that is developed and approved by the board. The training program exempts forest rangers from basic law enforcement training, but completion of the basic training under exempts a person from the preservice training requirement. The training program satisfies requirements necessary for forest rangers to carry firearms in the course of their duties.

[http://legislature.maine.gov/legis/bills/bills\\_128th/chapters/PUBLIC456.asp](http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC456.asp)