

CHAPTER 101

ISSUE OF PROCESS AND ARREST

§701. Criminal prosecutions by indictment; excepted cases

No person shall be held to answer in any court for an alleged offense, unless on an indictment found by a grand jury, except for contempt of court and in the following cases:

1. **Use of charging instrument other than an indictment.** When a prosecution utilizing a charging instrument other than an indictment is expressly authorized by rule of court; or [PL 1997, c. 4, §1 (RPR).]

2. **District Courts and courts martial.** In proceedings before the District Court, the District Court acting as a juvenile court and courts martial.

SECTION HISTORY

PL 1971, c. 544, §49 (AMD). PL 1979, c. 663, §94 (AMD). PL 1997, c. 4, §1 (AMD).

§702. Justices, judges and justices of the peace may issue processes

The Justices of the Supreme Judicial Court and of the Superior Court, Judges of the District Court and justices of the peace may issue processes for the arrest of persons charged with offenses. For purposes of this section and section 706, full faith and credit must be given to offenses subject to the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation under the terms of Title 30, section 6209-A or 6209-B. [PL 1995, c. 388, §4 (AMD); PL 1995, c. 388, §8 (AFF).]

SECTION HISTORY

PL 1965, c. 356, §20 (AMD). PL 1987, c. 736, §21 (AMD). PL 1991, c. 484, §6 (AMD). PL 1995, c. 388, §4 (AMD). PL 1995, c. 388, §8 (AFF).

§703. Officer's oath to complaint

When it is the duty of an officer to make complaint before a judge, clerk or justice of the peace, the officer may make oath to it according to the officer's knowledge and belief. [RR 2023, c. 2, Pt. D, §46 (COR).]

SECTION HISTORY

PL 1965, c. 425, §9 (AMD). PL 1987, c. 736, §22 (AMD). RR 2023, c. 2, Pt. D, §46 (COR).

§704. Arrests without warrant; liability

A sheriff, deputy sheriff, constable, city or deputy marshal or police officer shall arrest and detain persons found violating any law of the State or any legal ordinance or bylaw of a town until a legal warrant can be obtained and may arrest and detain those persons against whom a warrant has been issued though the officer does not have the warrant in the officer's possession at the time of the arrest, and the officer is entitled to legal fees for that service; but if, in so doing, the officer acts wantonly or oppressively, or detains a person without a warrant longer than is necessary to procure it, the officer is liable to that person for the damages suffered thereby. [RR 2023, c. 2, Pt. D, §47 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §47 (COR).

§705. Arrests in other counties

When a person charged with an offense in any county, before or after the issue of the warrant, removes, escapes or is found out of that county, the officer having the warrant may pursue and arrest

the person in any other county and command aid as in the officer's own county. [RR 2023, c. 2, Pt. D, §48 (COR).]

SECTION HISTORY

PL 1965, c. 356, §21 (AMD). RR 2023, c. 2, Pt. D, §48 (COR).

§706. District Court; warrants

Judges of District Courts have all authority and powers formerly granted by law to judges of municipal courts. [PL 1999, c. 368, §1 (AMD).]

When a complaint or an information charging a person with the commission of an offense, or a duly authenticated arrest warrant issued by the Tribal Court of the Passamaquoddy Tribe or the Penobscot Nation, is presented to any Judge of the District Court, to a justice of the peace or to any other officer of the District Court authorized to issue process, the judge, justice of the peace or other officer shall issue a warrant in the name of the District Court for the arrest of that person, in that form and under the circumstances that the Supreme Judicial Court provides by rule. A clerk of the District Court may accept a guilty plea upon payment of fines as set by the judge. [PL 1999, c. 368, §1 (AMD).]

A Judge of the District Court may try those brought before the judge for offenses within the judge's jurisdiction, although the penalty or fine accrues wholly or partly to the municipality of which the judge is a resident. [PL 1999, c. 368, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 356, §§22-24 (AMD). PL 1987, c. 736, §23 (AMD). PL 1991, c. 484, §7 (AMD). PL 1999, c. 368, §1 (AMD).

§707. Certain District Court clerks may issue process

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §25 (NEW). PL 1981, c. 456, §A57 (AMD). PL 1987, c. 736, §24 (RP).

§708. Preparation of complaints

The clerk may, in the absence or unavailability of a justice of the peace or of a prosecuting attorney or any of the justice of the peace's or prosecuting attorney's assistants, prepare and draft complaints upon the request of any law enforcement officer, except that a complaint may not issue to any person who is not a law enforcement officer or for any criminal homicide or Class A, B or C crime unless approved by the district attorney or the district attorney's designee or the Attorney General or the Attorney General's designee. [RR 2023, c. 2, Pt. D, §49 (COR).]

Except in prosecutions instituted by the Attorney General or the Attorney General's designee, the district attorney or the district attorney's designee shall, whenever practical, prepare all complaints for criminal homicide and Class A, B and C crimes and for all complainants who are not law enforcement officers. A complaint may not be filed nor process issued until such time as the complainant has made oath to the complaint or process before the proper official. [RR 2023, c. 2, Pt. D, §49 (COR).]

Each district attorney shall establish written guidelines for the approval of issuance of complaints pursuant to this section. In those guidelines, the district attorney may extend the above procedure to Class D and E crimes, as long as the approval of the district attorney is not necessary for any complaint issued with the approval of the Attorney General or the Attorney General's designee. [RR 2023, c. 2, Pt. D, §49 (COR).]

Whenever a complaint is not approved for prosecution by the district attorney or the district attorney's designee or the Attorney General or the Attorney General's designee, the district attorney or

the district attorney's designee or the Attorney General or the Attorney General's designee shall, if requested, inform the complainant, orally or in writing, of the reasons the complaint was not approved. [RR 2023, c. 2, Pt. D, §49 (COR).]

SECTION HISTORY

PL 1969, c. 504, §§24-I (NEW). PL 1973, c. 567, §20 (AMD). PL 1977, c. 579, §E1 (RPR). PL 1987, c. 736, §25 (AMD). RR 2023, c. 2, Pt. D, §49 (COR).

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