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## **An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes**

**Emergency preamble.** Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Supreme Judicial Court made changes effective January 1, 2006 in the Maine Rules of Criminal Procedure and in trial court procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes; and

**Whereas,** as a consequence of these changes to the court rules and procedures, it is necessary that this legislation be enacted as an emergency in order that it take effect immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 4 MRSA §107-A** is enacted to read:

### **§ 107-A. Authority of clerks to issue process for arrest of persons**

The Chief Justice of the Superior Court may authorize any clerk or deputy clerk of the Superior Court to issue process for the arrest of persons charged with crimes if the Chief Justice of the Superior Court is satisfied that the clerk or deputy clerk has the necessary training and learning to perform that function. When authorized by the Chief Justice of the Superior Court to issue process and acting in that capacity, the clerk or deputy clerk is considered a justice of the peace with the same authority as a District Court clerk or deputy clerk described in section 161. A clerk or deputy clerk who is authorized to issue process serves in that capacity at the pleasure of the Chief Justice of the Superior Court.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

### **SUMMARY**

In view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes, effective January 1, 2006, the purpose of this bill is to empower the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has heretofore been given to District Court clerks.

Specifically, the bill does the following.

1. It allows the Chief Justice of the Superior Court to authorize any clerk or deputy clerk of the Superior Court to issue process for the arrest of persons charged with crimes if the Chief Justice of the

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Superior Court is satisfied that the clerk or the deputy clerk has the necessary training and learning to perform that function.

2. It provides that the clerk or the deputy clerk, when authorized by the Chief Justice of the Superior Court to issue process and acting in that capacity, is considered a justice of the peace with the same authority granted to a District Court clerk or deputy clerk, as described in the Maine Revised Statutes, Title 4, section 161.

3. It provides that a clerk or a deputy clerk who is authorized to issue process serves in that capacity at the pleasure of the Chief Justice of the Superior Court.