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Legislative Document

No. 1636

S.P. 525

In Senate, April 25, 2019

An Act To Increase the Efficiency of the Criminal Justice System

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARPENTER of Aroostook.

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

2 **PART A**

3 **Sec. A-1. 12 MRSA §10451**, as affected by PL 2003, c. 614, §9 and amended by
4 c. 655, Pt. B, §55 and affected by §422, is further amended to read:

5 **§10451. Citation forms; enforcement**

6 **1. Forms.** The commissioner shall designate the Uniform Summons and Complaint
7 as the citation form to be used by the warden service for criminal violations defined in
8 this Part and shall designate the Violation Summons and Complaint as the citation form
9 to be used by the warden service for civil violations defined in this Part.

10 **2. Responsibility for issuance and disposition.** ~~The commissioner is responsible~~
11 ~~for all fish and wildlife citation forms approved by the Chief Judge of the District Court~~
12 ~~prior to May 1, 1991.~~ The Department of Public Safety is responsible for all Uniform
13 Summons and ~~Complaints~~ Complaint forms issued to the warden service. The
14 commissioner or the commissioner's designee is responsible for the further issuance of
15 Uniform Summons and Complaint books to individual ~~wardens~~ law enforcement officers
16 and for the proper disposition of those books.

17 **3. Lawful complaint.** ~~If the citation provided for in this section or a Uniform~~
18 ~~Summons and Complaint is duly sworn to as required by law and otherwise legally~~
19 ~~sufficient in respect to the form of a complaint and charging an offense, it may be filed in~~
20 ~~a court having jurisdiction and constitutes a lawful complaint for the purpose of the~~
21 ~~commencement of any criminal prosecution or civil violation proceeding.~~

22 **4. Lawful summons.** ~~A citation as provided for in this section or a Uniform~~
23 ~~Summons and Complaint, when served upon a person by a law enforcement officer, acts~~
24 ~~as a summons to appear in court or to otherwise respond in accordance with law on or~~
25 ~~before the date specified in the summons.~~

26 A. Any person who fails to appear in court as directed by the summons or to
27 otherwise respond in accordance with law on or before the date specified in the
28 summons commits a Class E crime.

29 B. Upon a person's failure to appear or respond in accordance with law, the court
30 may issue a warrant of arrest. It is an affirmative defense to prosecution under this
31 subsection that the failure to appear or respond resulted from just cause.

32 **5. Enforcement of civil violations.** Civil violations must be enforced as provided in
33 this subsection.

34 A. A law enforcement officer who has probable cause to believe that a civil violation
35 has been committed by a person shall issue or have delivered a written summons to
36 that person.

37 B. A law enforcement agency in this State shall use the Violation Summons and
38 Complaint for civil violations defined in this Part. The Violation Summons and
39 Complaint form must be uniform throughout the State, must be issued in books with

1 summonses in no less than quadruplicate. The form must include, at a minimum, the
2 signature of the law enforcement officer, a brief description of the alleged offense
3 and the date on or before which the person is to file a written answer with the
4 violations bureau established under Title 4, section 164, subsection 12. The Violation
5 Summons and Complaint must also include statements that indicate that signing the
6 summons does not constitute an admission of guilt or plea of guilty and that refusal to
7 sign after having been ordered to do so by a law enforcement officer is a separate
8 Class E crime. The form of the Violation Summons and Complaint must be approved
9 by the Chief Judge of the District Court prior to its use.

10 C. A person to whom a law enforcement officer is authorized to issue or deliver a
11 summons pursuant to paragraph A who intentionally fails or refuses to provide the
12 officer reasonably credible evidence of the person's correct name, address and date of
13 birth commits a Class E crime if the person persists in that failure or refusal after
14 having been informed by the officer of the provisions of this paragraph. If the person
15 furnishes the officer evidence of that person's correct name, address and date of birth
16 and the evidence does not appear to be reasonably credible, the officer shall attempt
17 to verify the evidence as quickly as is reasonably possible. During the period that
18 verification is being attempted, the officer may require the person to remain in the
19 officer's presence for a period not to exceed 2 hours. During this period, if the officer
20 reasonably believes that the officer's safety or the safety of others present requires,
21 the officer may search for any dangerous weapon by an external patting of the
22 person's outer clothing. If in the course of the search the officer feels an object that
23 the officer reasonably believes to be a dangerous weapon, the officer may take such
24 action as is necessary to examine the object but may take permanent possession of the
25 object only if it is subject to forfeiture under this Part or other provisions of state or
26 federal law. The requirement that the person remain in the presence of the officer
27 does not constitute an arrest.

28 After informing the person of the provisions of this paragraph, the officer may arrest
29 the person either if the person intentionally refuses to furnish evidence of that
30 person's correct name, address and date of birth or if, after attempting to verify the
31 evidence as provided for in this paragraph, the officer has probable cause to believe
32 that the person has intentionally failed to provide reasonably credible evidence of the
33 person's correct name, address and date of birth.

34 D. If, at any time subsequent to an arrest made pursuant to paragraph C, it appears
35 that the evidence of the person's correct name, address and date of birth was accurate,
36 the person must be released from custody and any record of that custody must show
37 that the person was released for that reason. If, upon trial for violating paragraph C, a
38 person is acquitted on the ground that the evidence of the person's correct name,
39 address and date of birth was accurate, the record of acquittal must show that that was
40 the ground.

41 E. A Violation Summons and Complaint, when issued or delivered to a person by a
42 law enforcement officer pursuant to paragraph A or served on the person in the
43 manner prescribed by rule of the Supreme Judicial Court, acts as an order to file a
44 written answer to the complaint on or before the date specified in the summons.

1 F. A law enforcement officer issuing a Violation Summons and Complaint pursuant
2 to paragraph A charging the commission of a civil violation shall file the original of
3 the Violation Summons and Complaint with the violations bureau, established under
4 Title 4, section 164, subsection 12, within 5 days of the issuance of that summons.

5 G. A law enforcement officer who has probable cause to believe that a violation of
6 this Part has taken place or is taking place may make application for a search warrant.
7 Evidence obtained pursuant to an unlawful search and seizure is not admissible in a
8 civil violation proceeding.

9 **Sec. A-2. 12 MRSA §10452**, as affected by PL 2003, c. 614, §9 and amended by
10 c. 655, Pt. B, §56 and affected by §422, is further amended to read:

11 **§10452. Refusal to sign**

12 A person may not refuse to sign a ~~citation~~ Violation Summons and Complaint or
13 Uniform Summons and Complaint issued pursuant to section 10451 after having been
14 ordered to do so by a law enforcement officer. A person who violates this section
15 commits a Class E crime.

16 **Sec. A-3. 12 MRSA §10453, first ¶**, as affected by PL 2003, c. 614, §9 and
17 amended by c. 655, Pt. B, §56 and affected by §422, is further amended to read:

18 A warden or other public employee may not dispose of ~~an official citation form a~~
19 Violation Summons and Complaint or Uniform Summons and Complaint issued pursuant
20 to section 10451, except in accordance with law and as provided for in any applicable
21 official policy or procedure of the Bureau of Warden Service.

22 **Sec. A-4. 12 MRSA §10553**, as affected by PL 2003, c. 614, §9 and amended by
23 c. 688, Pt. F, §2 and affected by §3, is further amended to read:

24 **§10553. Jurisdiction**

25 The ~~District Court~~ Unified Criminal Docket, as defined in Title 15, section 1003,
26 subsection 11, has ~~concurrent~~ jurisdiction ~~with the Superior Court~~ in all criminal
27 prosecutions under this Part. The ~~District Court~~ violations bureau, established under Title
28 4, section 164, subsection 12, has jurisdiction in all civil prosecutions under this Part.
29 Any person arrested ~~or summoned as a violator~~ for a criminal violation of this Part must
30 with reasonable diligence be taken before the ~~District Court~~ Unified Criminal Docket in
31 the division nearest to where the offense is alleged to have been committed for
32 prosecution, and in such case jurisdiction is granted to the ~~District Court~~ Unified Criminal
33 Docket in adjoining divisions to be exercised in the same manner as if the offense had
34 been committed in that division. A law enforcement officer issuing a Violation Summons
35 and Complaint pursuant to section 10451 charging the commission of a civil violation
36 shall file the original of the Violation Summons and Complaint with the violations bureau
37 within 5 days of the issuance of that summons.

38 **Sec. A-5. 12 MRSA §10605, sub-§1**, as affected by PL 2003, c. 614, §9 and
39 amended by c. 655, Pt. B, §64 and affected by §422, is further amended to read:

1 **§17. Enforcement of civil violations**

2 **1.** A law enforcement officer who has probable cause to believe that a civil
3 violation has been committed by a person ~~must~~ shall issue or have delivered a written
4 summons to that person ~~directing the person to appear in the District Court to answer the~~
5 ~~allegation that the person has committed the violation.~~ The summons ~~must include the~~
6 ~~signature of the officer, a brief description of the alleged violation, the time and place of~~
7 ~~the alleged violation and the time, place and date the person is to appear in court.~~ The
8 ~~form used must be the Violation Summons and Complaint, as prescribed in Title 29-A,~~
9 ~~section 2601, for traffic infractions and the Uniform Summons and Complaint for other~~
10 ~~civil violations. A person to whom a summons is issued or delivered must give a written~~
11 ~~promise to appear. If the person refuses to sign the summons after having been ordered~~
12 ~~to do so by a law enforcement officer, the person commits a Class E crime. The law~~
13 ~~enforcement officer may not order a person to sign the summons for a civil violation~~
14 ~~unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title~~
15 ~~28-A, section 2052; or Title 29-A.~~

16 ~~Every law enforcement officer issuing a Violation Summons and Complaint charging the~~
17 ~~commission of a traffic infraction shall file the original of the Violation Summons and~~
18 ~~Complaint with the violations bureau within 5 days of the issuance of that Violation~~
19 ~~Summons and Complaint. Every law enforcement officer issuing a Uniform Summons~~
20 ~~and Complaint that charges the commission of an offense shall file the original of the~~
21 ~~Uniform Summons and Complaint with the District Court having jurisdiction over the~~
22 ~~offense or in such other location as instructed by the Chief Judge of the District Court~~
23 ~~without undue delay and, in any event, within 5 days after the issuance of the Uniform~~
24 ~~Summons and Complaint.~~

25 **1-A.** A law enforcement agency in this State shall use the Violation Summons and
26 Complaint for civil violations defined in this Title. The Violation Summons and
27 Complaint form must be uniform throughout the State, must be issued in books with
28 summonses in no less than quadruplicate and must meet the requirements of this section.
29 The form must include, at a minimum, the signature of the law enforcement officer, a
30 brief description of the alleged offense and the date on or before which the person is to
31 file a written answer with the violations bureau. The Violation Summons and Complaint
32 must also include statements that indicate that signing the summons does not constitute
33 an admission of guilt or plea of guilty and that refusal to sign after having been ordered to
34 do so by a law enforcement officer is a separate Class E crime. The form of the Violation
35 Summons and Complaint must be approved by the Chief Judge of the District Court prior
36 to its use. The law enforcement officer may not order a person to sign the summons for a
37 civil violation unless the civil violation is an offense defined in this Title or in Title 12,
38 Part 13; Title 17; Title 23, section 1980; Title 28-A, section 2052; or Title 29-A.

39 **2.** ~~Any~~ A person to whom a law enforcement officer is authorized to issue or
40 deliver a summons pursuant to ~~subsection~~ subsections 1 and 1-A who intentionally fails
41 or refuses to provide the officer reasonably credible evidence of the person's correct
42 name, address ~~or~~ and date of birth commits a Class E crime; if the person persists in that
43 failure or refusal after having been informed by the officer of the provisions of this
44 subsection. If the person furnishes the officer evidence of that person's correct name,
45 address and date of birth and the evidence does not appear to be reasonably credible, the

1 officer shall attempt to verify the evidence as quickly as is reasonably possible. During
2 the period that verification is being attempted, the officer may require the person to
3 remain in the officer's presence for a period not to exceed 2 hours. During this period, if
4 the officer reasonably believes that the officer's safety or the safety of others present
5 requires, the officer may search for any dangerous weapon by an external patting of the
6 person's outer clothing. If in the course of the search the officer feels an object that the
7 officer reasonably believes to be a dangerous weapon, the officer may take such action as
8 is necessary to examine the object, but may take permanent possession of the object only
9 if it is subject to forfeiture under this Part or other provisions of state or federal law. The
10 requirement that the person remain in the presence of the officer does not constitute an
11 arrest.

12 After informing the person of the provisions of this subsection, the officer may arrest the
13 person either if the person intentionally refuses to furnish ~~any~~ evidence of that person's
14 correct name, address ~~or~~ and date of birth or if, after attempting to verify the evidence as
15 provided for in this subsection, the officer has probable cause to believe that the person
16 has intentionally failed to provide reasonably credible evidence of the person's correct
17 name, address ~~or~~ and date of birth.

18 **3.** If, at any time subsequent to an arrest made pursuant to subsection 2, it appears
19 that the evidence of the person's correct name, address and date of birth was accurate, the
20 person must be released from custody and any record of that custody must show that the
21 person was released for that reason. If, upon trial for violating subsection 2, a person is
22 acquitted on the ground that the evidence of the person's correct name, address and date
23 of birth was accurate, the record of acquittal must show that that was the ground.

24 **4.** Any person who fails to appear in court as directed by a summons served on that
25 person pursuant to subsection 1 or to otherwise respond in accordance with law on or
26 before the date specified in the summons commits a Class E crime. Upon that person's
27 failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative
28 defense to prosecution under this subsection that the failure to appear or respond resulted
29 from just cause.

30 **5.** A Violation Summons and Complaint, when issued or delivered to a person by a
31 law enforcement officer pursuant to subsection 1 or 1-A or served on the person in the
32 manner prescribed by rule of the Supreme Judicial Court, acts as an order to file a written
33 answer to the complaint on or before the date specified in the summons.

34 **6.** It is unlawful and official misconduct for a law enforcement officer or other
35 officer or public employee to dispose of a Violation Summons and Complaint issued
36 pursuant to subsection 1 or 1-A or of the record of the issuance of a Violation Summons
37 and Complaint in a manner other than as required under this section or pursuant to rules
38 adopted by the Supreme Judicial Court. A person who solicits or aids in the disposition or
39 attempted disposition of a Violation Summons and Complaint or any portion thereof in
40 any unauthorized manner commits a Class E crime.

41 **7.** A law enforcement officer issuing a Violation Summons and Complaint pursuant
42 to subsection 1 or 1-A charging the commission of a civil violation shall file the original

1 of the Violation Summons and Complaint with the violations bureau, established under
2 Title 4, section 164, subsection 12, within 5 days of the issuance of that summons.

3 **PART C**

4 **Sec. C-1. 29-A MRSA §2601, sub-§1**, as amended by PL 2013, c. 482, §6, is
5 further amended to read:

6 **1. Form of Uniform Summons and Complaint.** Every law enforcement agency in
7 this State shall use traffic summonses for ~~civil violations defined in this Title and criminal~~
8 traffic offenses defined in Title 23, section 1980 or this Title in the form known as the
9 Uniform Summons and Complaint, which must be uniform throughout the State and must
10 be issued in books with summonses in no less than quadruplicate and meeting the
11 requirements of this chapter. The Uniform Summons and Complaint must include, at a
12 minimum, the signature of the officer, a brief description of the alleged offense, the time
13 and place of the alleged offense and the time, place and date the person is to appear in
14 court. The Uniform Summons and Complaint must also include a statement that signing
15 the summons does not constitute an admission of guilt or plea of guilty and that refusal to
16 sign after having been ordered to do so by a law enforcement officer is a separate Class E
17 crime. A person to whom a Uniform Summons and Complaint is issued or delivered
18 must give a written promise to appear. The form of the Uniform Summons and
19 Complaint must be approved by the Chief Judge of the District Court prior to its use.

20 **Sec. C-2. 29-A MRSA §2601, sub-§3**, as enacted by PL 1993, c. 683, Pt. A, §2
21 and affected by Pt. B, §5, is amended to read:

22 **3. Form of Violation Summons and Complaint.** Every law enforcement agency in
23 this State shall use traffic summonses for traffic infractions in the form known as the
24 Violation Summons and Complaint, which must be uniform throughout the State and
25 must be issued in books with summonses in no less than quadruplicate and meeting the
26 requirements of this chapter. The form must include, at a minimum, the signature of the
27 officer, a brief description of the alleged offense, the time and place of the alleged offense
28 and the date on or before which the person is to file a written answer with the violations
29 bureau. The Violation Summons and Complaint must also include a statement that
30 signing the summons does not constitute an admission or plea of guilty and that refusal to
31 sign after having been ordered to do so by a law enforcement officer is a separate Class E
32 crime. A law enforcement agency in this State shall use a Violation Summons and
33 Complaint for civil violations defined in this Title in the manner provided in this section.
34 The form of the Violation Summons and Complaint must be approved by the Chief Judge
35 of the District Court prior to its use.

36 **Sec. C-3. 29-A MRSA §2601, sub-§8**, as amended by PL 2013, c. 482, §7, is
37 further amended to read:

38 **8. When a lawful complaint.** If the Uniform Summons and Complaint is duly
39 sworn to as required by law and otherwise legally sufficient in respect to the form of a
40 complaint and to charging commission of the offense alleged in the summons to have
41 been committed, then the summons when filed with a court having jurisdiction constitutes
42 a lawful complaint for the purpose of the commencement of any prosecution of a ~~civil~~

1 violation under this Title or a misdemeanor or Class D or Class E crime under Title 23,
2 section 1980 or this Title. When filed with the violations bureau, the Violation Summons
3 and Complaint is considered a lawful complaint for the purpose of the commencement of
4 a civil violation or traffic infraction proceeding.

5 **Sec. C-4. 29-A MRSA §2601, sub-§9**, as enacted by PL 1993, c. 683, Pt. A, §2
6 and affected by Pt. B, §5, is amended to read:

7 **9. Responsibility of law enforcement officer to file summonses and complaints**
8 **with District Court.** A law enforcement officer issuing a Violation Summons and
9 Complaint charging the commission of a civil violation or traffic infraction shall file the
10 original of the Violation Summons and Complaint with the violations bureau within 5
11 days of the issuance of the Violation Summons and Complaint. A law enforcement
12 officer issuing a Uniform Summons and Complaint that charges the commission of an
13 offense shall file the original of the Uniform Summons and Complaint with the District
14 Court having jurisdiction over the offense or in such other location as instructed by the
15 Chief Judge of the District Court without undue delay and, in any event, within 5 days
16 after the issuance of the Uniform Summons and Complaint.

17 **Sec. C-5. 29-A MRSA §2601, sub-§10**, as amended by PL 1997, c. 653, §12, is
18 further amended to read:

19 **10. Refusal to sign.** A person who refuses to sign a Uniform Summons and
20 Complaint or a Violation Summons and Complaint after having been ordered to do so by
21 a law enforcement officer commits a Class E crime. A law enforcement officer may not
22 order a person to sign the ~~Uniform~~ Violation Summons and Complaint for a civil
23 violation unless the civil violation is an offense defined in Title 12, Part 13; Title 17; Title
24 23, section 1980; Title 28-A, section 2052; or this Title. Notwithstanding any other
25 provision of law, the venue for a violation of this subsection is the same judicial division
26 as for the Uniform Summons and Complaint or Violation Summons and Complaint that
27 the person refuses to sign.

28 **PART D**

29 **Sec. D-1. Effective date.** This Act takes effect January 1, 2020.

30 **SUMMARY**

31 Part A of this bill makes changes to law enforcement by Department of Inland
32 Fisheries and Wildlife game wardens. Specifically, it does the following:

33 1. Requires the Commissioner of Inland Fisheries and Wildlife to designate for the
34 warden service the Uniform Summons and Complaint as the citation form for criminal
35 violations and the Violation Summons and Complaint for civil violations;

36 2. Clarifies that the Department of Public Safety is responsible for all Uniform
37 Summons and Complaint forms issued to the warden service;

1 3. Designates the Uniform Summons and Complaint as the form for use in criminal
2 prosecutions and the Violation Summons and Complaint as the form for use in civil
3 prosecutions and provides procedures for their use and for prosecutions under the Maine
4 Revised Statutes, Title 12, Part 13;

5 4. Makes failure to sign a Violation Summons and Complaint form a Class E crime,
6 as is failure to sign the Uniform Summons and Complaint;

7 5. Makes improper disposal by a warden or other public employee of a Violation
8 Summons and Complaint form a Class E crime, as is improper disposal of a Uniform
9 Summons and Complaint;

10 6. Grants jurisdiction to the Unified Criminal Docket for criminal prosecutions under
11 Title 12, Part 13 and jurisdiction to the District Court violations bureau, established
12 pursuant to Title 4, section 164, subsection 12, for civil prosecutions and requires a
13 warden who issues a Violation Summons and Complaint to file the original with the
14 violations bureau within 5 days of issuance; and

15 7. Amends the definition of "habitual violators" in the inland fisheries and wildlife
16 laws to apply to criminal violations, civil violations and combinations of civil and
17 criminal violations.

18 Part B of this bill makes the following changes to the Maine Criminal Code:

19 1. Regarding civil violations that designate as inadmissible evidence that is obtained
20 pursuant to an unlawful search and seizure, eliminates language that limits that provision
21 to civil violations involving illegal possession of marijuana and butyl nitrite and isobutyl
22 nitrite;

23 2. Regarding civil violations, adds a provision authorizing a law enforcement officer
24 who has probable cause to make application for a search warrant;

25 3. Regarding indictment and jurisdiction, grants jurisdiction to the Unified Criminal
26 Docket to try Class D and E crimes, to impose sentence in Class A, B and C crimes in
27 which the Unified Criminal Docket has accepted a plea of guilty and to prosecute an
28 offense under Title 17, chapter 42 when the district attorney has designated the offense as
29 a civil violation;

30 4. Regarding indictment and jurisdiction, provides jurisdiction to the District Court
31 violations bureau in prosecutions for civil violations except for prosecutions pursuant to
32 Title 17, chapter 42; and

33 5. Provides for the use statewide of the standardized Violation Summons and
34 Complaint form and provides the procedures for the use of the form. It designates as
35 Class E crimes failure to sign the Violation Summons and Complaint form and improper
36 disposal of a Violation Summons and Complaint form by a law enforcement officer or
37 other public employee, and it requires the issuing law enforcement officer to file the
38 original with the violations bureau within 5 days of issuance.

1 Part C of this bill amends the motor vehicle and traffic laws to provide for the use
2 statewide of the standardized Violation Summons and Complaint form and provides the
3 procedures for the use of the form. It designates as Class E crimes failure to sign the
4 Violation Summons and Complaint form and improper disposal of a Violation Summons
5 and Complaint form by a law enforcement officer, and it requires the issuing law
6 enforcement officer to file the original with the District Court violations bureau within 5
7 days of issuance.

8 Part D of this bill provides an effective date for the legislation of January 1, 2020.