



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1128

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H.P. 806

House of Representatives, March 22, 2021

### **An Act Relating to Personnel Working in Public Safety**

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Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative COREY of Windham.

Cosponsored by Representatives: COSTAIN of Plymouth, FAY of Raymond, NEWMAN of Belgrade, PICKETT of Dixfield, RUDNICKI of Fairfield, Senators: CYRWAY of Kennebec, DIAMOND of Cumberland.

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

2 **PART A**

3 **Sec. A-1. 14 MRSA §5545**, as amended by PL 2015, c. 335, §5, is further amended  
4 to read:

5 **§5545. Habeas corpus for prisoner as witness**

6 A court may issue a writ of habeas corpus, when necessary, to bring before it a prisoner  
7 for trial in a cause pending in such court, or to testify as a witness when ~~his~~ the prisoner's  
8 personal attendance is ~~deemed~~ determined necessary for the attainment of justice.

9 Whenever, under this section or under any other section in this chapter, a court issues  
10 a writ of habeas corpus ordering before it a prisoner confined in any penal or correctional  
11 institution under the control of the Department of Corrections, or confined in any county  
12 jail, its order as to the transportation of the prisoner to and from the court must be directed  
13 to the sheriff of the county in which the court is located. It is the responsibility of the sheriff  
14 or any one or more of the sheriff's authorized deputies or transport officers pursuant to any  
15 such order to safely transport a prisoner to and from the court and to provide safe and secure  
16 custody of the prisoner during the proceedings, as directed by the court. At the time of  
17 removal of a prisoner from an institution, the transporting officer shall leave with the head  
18 of the institution an attested copy of the order of the court, and upon return of the prisoner  
19 shall note that return on the copy.

20 Any prisoner who escapes from custody of the sheriff or any of ~~his~~ the sheriff's  
21 deputies, transport officers or any other law enforcement officer following removal for  
22 appearance in court, from a penal or correctional institution or from a county jail, and prior  
23 to return ~~thereto~~, ~~shall be~~ is chargeable with escape from the penal or correctional  
24 institution or county jail from which ~~he~~ the prisoner was removed, and ~~shall be punished~~ is  
25 subject to punishment in accordance with Title 17-A, section 755.

26 For purposes of this section, "transport officer" has the same meaning as in Title 30-A,  
27 section 451, subsection 15.

28 **Sec. A-2. 17-A MRSA §2, sub-§5-E** is enacted to read:

29 **5-E. Correctional facility law enforcement officer.** "Correctional facility law  
30 enforcement officer" means a corrections officer who is certified pursuant to Title 25,  
31 section 2803-A as a corrections employee with law enforcement powers.

32 **Sec. A-3. 17-A MRSA §2, sub-§25-A** is enacted to read:

33 **25-A. Transport officer.** "Transport officer" has the same meaning as in Title 30-A,  
34 section 451, subsection 15.

35 **Sec. A-4. 17-A MRSA §101, sub-§5**, as repealed and replaced by PL 2009, c. 336,  
36 §5, is amended to read:

37 **5.** For purposes of this chapter, use by a law enforcement officer, a transport officer,  
38 a corrections officer or a corrections supervisor of the following is use of nondeadly force:

39 A. Chemical mace or any similar substance composed of a mixture of gas and  
40 chemicals that has or is designed to have a disabling effect upon human beings; or

1 B. A less-than-lethal munition that has or is designed to have a disabling effect upon  
2 human beings. For purposes of this paragraph, "less-than-lethal munition" means a  
3 low-kinetic energy projectile designed to be discharged from a firearm that is approved  
4 by the Board of Trustees of the Maine Criminal Justice Academy.

5 **Sec. A-5. 17-A MRSA §107, sub-§5,** as amended by PL 1995, c. 215, §2, is  
6 repealed.

7 **Sec. A-6. 17-A MRSA §107, sub-§5-A,** as amended by PL 2003, c. 143, §3, is  
8 repealed.

9 **Sec. A-7. 17-A MRSA §107, sub-§5-B** is enacted to read:

10 5-B. A corrections officer, corrections supervisor, correctional facility law  
11 enforcement officer or another individual responsible for the custody, care or treatment of  
12 persons in custody, pursuant to an order of a court or as a result of arrest, is justified in  
13 using a reasonable degree of nondeadly force upon another person:

14 A. When and to the extent the corrections officer, corrections supervisor, correctional  
15 facility law enforcement officer or other individual reasonably believes it necessary to  
16 prevent an escape from custody or to enforce the rules of the correctional facility; or

17 B. In self-defense or to defend a 3rd person from what the corrections officer,  
18 corrections supervisor, correctional facility law enforcement officer or other individual  
19 reasonably believes to be the imminent use of unlawful nondeadly force encountered  
20 while seeking to prevent an escape from custody or while enforcing the rules of the  
21 correctional facility.

22 **Sec. A-8. 17-A MRSA §107, sub-§5-C** is enacted to read:

23 5-C. A corrections officer, corrections supervisor or correctional facility law  
24 enforcement officer responsible for a person in custody, pursuant to an order of a court or  
25 as a result of arrest, is justified in using deadly force when the corrections officer,  
26 corrections supervisor or correctional facility law enforcement officer reasonably believes  
27 such force is necessary:

28 A. For self-defense or to defend a 3rd person from what the corrections officer,  
29 corrections supervisor or correctional facility law enforcement officer reasonably  
30 believes is the imminent use of unlawful deadly force; or

31 B. To prevent an escape from custody when the corrections officer, corrections  
32 supervisor or correctional facility law enforcement officer reasonably believes the  
33 person has committed a crime involving the use or threatened use of deadly force, is  
34 using a dangerous weapon in attempting to escape or otherwise indicates that the person  
35 is likely to seriously endanger human life or to inflict serious bodily injury unless  
36 apprehended without delay and:

37 (1) The corrections officer, corrections supervisor or correctional facility law  
38 enforcement officer has made reasonable efforts to advise the person that the  
39 corrections officer, corrections supervisor or correctional facility law enforcement  
40 officer is attempting to prevent the escape from custody and the corrections officer,  
41 corrections supervisor or correctional facility law enforcement officer reasonably  
42 believes that the person is aware of this advice; or

1           (2) The corrections officer, corrections supervisor or correctional facility law  
2           enforcement officer reasonably believes that the person in custody otherwise  
3           knows the corrections officer, corrections supervisor or correctional facility law  
4           enforcement officer is attempting to prevent the escape from custody.

5           For the purposes of this subsection, a reasonable belief that another person has committed  
6           a crime involving use or threatened use of deadly force is a reasonable belief in facts,  
7           circumstances and the law that, if true, would constitute such an offense by the person. If  
8           the facts and circumstances reasonably believed would not constitute such an offense, an  
9           erroneous but reasonable belief that the law is otherwise justifies the use of deadly force to  
10           prevent an escape.

11           **Sec. A-9. 17-A MRSA §107, sub-§5-D** is enacted to read:

12           **5-D.** A corrections officer, corrections supervisor, correctional facility law  
13           enforcement officer or law enforcement officer is justified in using deadly force against a  
14           person confined in the Maine State Prison when the corrections officer, corrections  
15           supervisor, correctional facility law enforcement officer or law enforcement officer  
16           reasonably believes that deadly force is necessary to prevent an escape from custody by  
17           that person. The corrections officer, corrections supervisor, correctional facility law  
18           enforcement officer or law enforcement officer shall make reasonable efforts to advise the  
19           person that if the attempt to escape does not stop immediately, deadly force will be used.  
20           This subsection does not authorize any corrections officer, corrections supervisor,  
21           correctional facility law enforcement officer or law enforcement officer who is not  
22           employed by a state agency to use deadly force.

23           **Sec. A-10. 17-A MRSA §107, sub-§5-E** is enacted to read:

24           **5-E.** A private person who has been directed by a corrections officer, corrections  
25           supervisor or correctional facility law enforcement officer responsible for a person in  
26           custody, pursuant to an order of a court or as a result of arrest, to assist the corrections  
27           officer, corrections supervisor or correctional facility law enforcement officer in preventing  
28           an escape from custody is justified in using:

29           A. A reasonable degree of nondeadly force when and to the extent that the private  
30           person reasonably believes such force to be necessary to carry out the corrections  
31           officer's, corrections supervisor's or correctional facility law enforcement officer's  
32           direction, unless the private person reasonably believes the order is illegal; or

33           B. Deadly force only when the private person reasonably believes such force to be  
34           necessary for self-defense or to defend a 3rd person from what the private person  
35           reasonably believes to be the imminent use of unlawful deadly force or when the  
36           corrections officer, corrections supervisor or correctional facility law enforcement  
37           officer directs the private person to use deadly force and the private person reasonably  
38           believes the corrections officer, corrections supervisor or correctional facility law  
39           enforcement officer is authorized to use deadly force under the circumstances.

40           **Sec. A-11. 17-A MRSA §107, sub-§5-F** is enacted to read:

41           **5-F.** A transport officer is justified in using a reasonable degree of nondeadly force  
42           upon another person:

1 A. When and to the extent the transport officer reasonably believes it is necessary to  
2 prevent the escape of a person in custody, pursuant to an order of a court or as a result  
3 of an arrest, unless the transport officer knows that the detention is illegal; or

4 B. In self-defense or to defend a 3rd person from what the transport officer reasonably  
5 believes to be the imminent use of unlawful nondeadly force encountered while seeking  
6 to prevent an escape of a person in custody.

7 **Sec. A-12. 17-A MRSA §107, sub-§5-G** is enacted to read:

8 **5-G.** A transport officer is justified in using deadly force only when the transport  
9 officer reasonably believes such force is necessary:

10 A. For self-defense or to defend a 3rd person from what the transport officer  
11 reasonably believes is the imminent use of unlawful deadly force; or

12 B. To prevent the escape of a person in custody, pursuant to an order of a court or as  
13 a result of an arrest, when the transport officer reasonably believes the person has  
14 committed a crime involving the use or threatened use of deadly force, is using a  
15 dangerous weapon in attempting to escape or otherwise indicates that the person is  
16 likely to seriously endanger human life or to inflict serious bodily injury unless  
17 apprehended without delay and:

18 (1) The transport officer has made reasonable efforts to advise the person that the  
19 transport officer is attempting to prevent the escape from custody and the transport  
20 officer reasonably believes that the person is aware of this advice; or

21 (2) The transport officer reasonably believes that the person in custody otherwise  
22 knows the transport officer is attempting to prevent the escape from custody.

23 For the purposes of this subsection, a reasonable belief that another person has committed  
24 a crime involving use or threatened use of deadly force is a reasonable belief in facts,  
25 circumstances and the law that, if true, would constitute such an offense by the person. If  
26 the facts and circumstances reasonably believed would not constitute such an offense, an  
27 erroneous but reasonable belief that the law is otherwise justifies the use of deadly force to  
28 prevent an escape.

29 **Sec. A-13. 17-A MRSA §107, sub-§5-H** is enacted to read:

30 **5-H.** A private person who has been directed by a transport officer to assist the  
31 transport officer in preventing an escape from custody is justified in using:

32 A. A reasonable degree of nondeadly force when and to the extent that the private  
33 person reasonably believes such force to be necessary to carry out the transport officer's  
34 direction, unless the private person reasonably believes the order is illegal; or

35 B. Deadly force only when the private person reasonably believes such force to be  
36 necessary for self-defense or to defend a 3rd person from what the private person  
37 reasonably believes to be the imminent use of unlawful deadly force or when the  
38 transport officer directs the private person to use deadly force and the private person  
39 reasonably believes the transport officer is authorized to use deadly force under the  
40 circumstances.

41 **Sec. A-14. 17-A MRSA §110**, as enacted by PL 1997, c. 289, §1, is amended to  
42 read:

1           **§110. Threat to use deadly force against a law enforcement officer, corrections officer,**  
2                                   **corrections supervisor or transport officer**

3           A person otherwise justified in threatening to use deadly force against another is not  
4 justified in doing so with the use of a firearm or other dangerous weapon if the person  
5 knows or should know that the other person is a law enforcement officer, corrections  
6 officer, corrections supervisor or transport officer, unless the person knows that the law  
7 enforcement officer, corrections officer, corrections supervisor or transport officer is not in  
8 fact engaged in the performance of the ~~law enforcement~~ officer's or supervisor's public  
9 duty, or unless the person is justified under this chapter in using deadly force against the  
10 ~~law enforcement~~ officer or supervisor. A law enforcement officer, corrections officer,  
11 corrections supervisor or transport officer may not make a nonconsensual warrantless entry  
12 into a dwelling place solely in response to a threat not justified under this section.

13           **Sec. A-15. 17-A MRSA §1002-A, sub-§1, ¶B,** as amended by PL 2001, c. 383,  
14 §112 and affected by §156, is further amended to read:

15           B. That other person is a law enforcement officer, corrections officer, corrections  
16 supervisor or transport officer in uniform. Violation of this paragraph is a Class D  
17 crime; or

18           **Sec. A-16. 17-A MRSA §1004, sub-§4, ¶A,** as enacted by PL 2005, c. 264, §1, is  
19 amended to read:

20           A. A law enforcement officer, corrections officer ~~or~~, corrections supervisor or  
21 transport officer engaged in the performance of the law enforcement officer's,  
22 corrections officer's ~~or~~, corrections supervisor's or transport officer's public duty if the  
23 officer's or corrections supervisor's appointing authority has authorized such use of an  
24 electronic weapon; or

25           **Sec. A-17. 17-A MRSA §1058, sub-§2, ¶A,** as amended by PL 2007, c. 466, Pt.  
26 C, §6, is further amended to read:

27           A. A law enforcement officer, a corrections officer ~~or~~, a corrections supervisor or a  
28 transport officer engaged in the performance of the law enforcement officer's,  
29 corrections officer's ~~or~~, corrections supervisor's or transport officer's public duty;

30           **Sec. A-18. 25 MRSA §2801-A, sub-§8,** as amended by PL 2013, c. 147, §5, is  
31 repealed and the following enacted in its place:

32           **8. Transport officer.** "Transport officer" has the same meaning as in Title 30-A,  
33 section 451, subsection 15.

34           **Sec. A-19. 25 MRSA §2803-A, sub-§8-C,** as amended by PL 2013, c. 147, §11,  
35 is further amended to read:

36           **8-C. Training of transport officers.** To establish certification standards and a  
37 training program for transport officers. This program must include:

38           A. The preservice law enforcement training under section 2804-B; ~~and~~

39           B. In-service law enforcement training that is specifically approved by the board as  
40 prescribed in section 2804-E; and

1 C. Either as part of the training required by paragraph A or B or as part of another  
2 board-approved training, a minimum of 8 hours of mental health first aid training that  
3 is:

4 (1) Taught using an evidence-based curriculum with fidelity to the model of  
5 mental health first aid training;

6 (2) Approved by the board; and

7 (3) Co-instructed by a mental health professional and a corrections officer or a law  
8 enforcement officer who is at the time certified in the State as a law enforcement  
9 officer or who was formerly certified in the State as a law enforcement officer. For  
10 the purposes of this subparagraph, "mental health professional" means a person  
11 who is a licensed clinical professional counselor, licensed clinical social worker,  
12 licensed allopathic or osteopathic physician, licensed psychologist, registered  
13 physician assistant, certified psychiatric clinical nurse specialist or certified nurse  
14 practitioner or a person who has an educational degree that is a prerequisite to such  
15 licensure, registration or certification.

16 **Sec. A-20. 30-A MRSA §451, sub-§15** is enacted to read:

17 **15. Transport officer.** "Transport officer" means a person who:

18 A. Possesses a current and valid certification issued by the board of trustees of the  
19 Maine Criminal Justice Academy pursuant to Title 25, section 2803-A, subsection 8-C;

20 B. Is responsible for transferring or conveying from one place to another individuals  
21 who are confined in a jail, prison or state correctional facility pursuant to an order of a  
22 court or as the result of an arrest and does not have general law enforcement authority  
23 outside of the scope of duty set forth in this paragraph or powers of arrest, unless the  
24 transport officer is also a law enforcement officer as defined in Title 25, section  
25 2801-A, subsection 5; and

26 C. May be, but is not required to be, a law enforcement officer as defined in Title 25,  
27 section 2801-A, subsection 5 or a corrections officer as defined in Title 25, section  
28 2801-A, subsection 2.

29 **Sec. A-21. 30-A MRSA §1501, sub-§4** is enacted to read:

30 **4. Jailer and subordinates may be transport officers.** The jailer and jailer's  
31 subordinate assistants and employees may be transport officers.

## 32 **PART B**

33 **Sec. B-1. 20-A MRSA §12553**, as amended by PL 1999, c. 234, §§4 to 6, is further  
34 amended to read:

### 35 **§12553. Tuition waiver**

36 The child or spouse of a firefighter, ~~law enforcement~~ officer or emergency medical  
37 services person, as defined in Title 25, section 1611, who has been killed or who has  
38 received an injury during the performance of that firefighter's, ~~law enforcement~~ officer's or  
39 emergency medical services person's duties, which results in death, may attend, as provided  
40 in this section, any state postsecondary educational institution free of tuition charges.





1 employed by the Office of the Attorney General pursuant to Title 5, section 202; a person  
2 employed by the Department of Corrections as an investigative officer as defined in Title  
3 34-A, section 1001, subsection 10-A; a law enforcement officer; a transport officer as  
4 defined in section 2801-A, subsection 8; a corrections officer as defined in section 2801-A,  
5 subsection 2; a juvenile community corrections officer as described in Title 34-A, section  
6 5602; a probation officer; ~~a security~~; a police officer appointed by the Commissioner of  
7 Public Safety pursuant to section 2908; a motor vehicle detective or supervisor appointed  
8 by the Secretary of State pursuant to Title 29-A, section 152; a military security police  
9 officer appointed by the Adjutant General; a University of Maine System police officer;  
10 or a marine patrol officer in this State.

11 **Sec. B-4. 25 MRSA §1612, sub-§1**, as amended by PL 2019, c. 658, §6, is further  
12 amended to read:

13 **1. Amount; recipients.** In a case in which the chief determines under rules adopted  
14 pursuant to this section that ~~a law enforcement~~ an officer as defined in section 1611,  
15 subsection 5 has died while in the line of duty, in a case in which the State Fire Marshal  
16 determines under rules adopted pursuant to this section that a firefighter has died while in  
17 the line of duty, in a case in which the director determines under rules adopted pursuant to  
18 this section that an emergency medical services person has died while in the line of duty or  
19 in a case in which the Commissioner of Corrections determines under rules adopted  
20 pursuant to this section that a corrections officer has died while in the line of duty prior to  
21 July 1, 2021, the State shall pay a benefit of \$100,000.

22 Beginning July 1, 2021 and annually thereafter, the benefit amount must be indexed to the  
23 Consumer Price Index whenever there is a percentage increase in the Consumer Price Index  
24 from July 1st to June 30th of the previous year. A firefighter, ~~law enforcement~~ officer,  
25 emergency medical services person or corrections officer who dies while in the line of duty  
26 must be paid the benefit amount as indexed immediately prior to that firefighter's, ~~law~~  
27 ~~enforcement~~ officer's, ~~or~~ emergency medical services person's ~~or~~ ~~corrections officer's~~  
28 death. The Department of Administrative and Financial Services shall adopt rules to  
29 calculate the annual percentage increase in the death benefit.

30 The State shall pay the benefit as follows:

31 A. If there is no surviving child of the firefighter, ~~law enforcement~~ officer, ~~or~~  
32 emergency medical services person ~~or corrections officer~~, to the surviving spouse of  
33 the person;

34 B. If there is a surviving child or children and a surviving spouse of the firefighter, ~~law~~  
35 ~~enforcement~~ officer, ~~or~~ emergency medical services person ~~or corrections officer~~, 1/2  
36 to the surviving child or children in equal shares and 1/2 to the surviving spouse;

37 C. If there is no surviving spouse of the firefighter, ~~law enforcement~~ officer, ~~or~~  
38 emergency medical services person ~~or corrections officer~~, to the child or children in  
39 equal shares; or

40 D. If there is no surviving child or spouse, to the parent or parents of the firefighter,  
41 ~~law enforcement~~ officer, ~~or~~ emergency medical services person ~~or corrections officer~~  
42 in equal shares.

43 **Sec. B-5. 25 MRSA §1612, sub-§4**, as amended by PL 2019, c. 658, §6, is further  
44 amended to read:

