

# MAINE STATE LEGISLATURE

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## CRIMINAL JUSTICE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 562, L.D. 753, Bill, "An Act to Allow Police to Take Intoxicated Persons into Custody"

Amend the bill by striking out the title and substituting the following:

**'An Act to Require Law Enforcement Agencies to Collect Data Regarding Public Intoxication, to Extend Immunity from Liability to Law Enforcement Officers and to Establish a Group to Study Involuntary Commitment of Persons Suffering from Chronic and Life-threatening Substance Abuse'**

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** public intoxication is a serious problem that threatens the health and safety of the people of this State; and

**COMMITTEE AMENDMENT**

2       Whereas, it is imperative that law enforcement agencies  
3 immediately begin to collect data in order to identify how to  
4 best address the problem of public intoxication and to determine  
5 how to get help for those persons who need treatment; and

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

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

14               Sec. 1. 17 MRSA §§2005 and 2006 are enacted to read:

16       §2005. Law enforcement agency responsibilities

18               1. Definitions. As used in this section, unless the  
19 context indicates otherwise, the following terms have the  
20 following meanings.

22               A. "Intoxicated" means the state of having a disturbed  
23 mental capacity resulting from the introduction of alcohol,  
24 drugs or similar substances into the body.

26               B. "Public intoxication" means the state of being  
27 intoxicated in a public place.

28               C. "Public place" has the same meaning as provided in  
30 section 2003-A, subsection 1, paragraph D.

32               2. Records. A law enforcement agency shall keep records of  
33 all incidents of public intoxication that are reported in that  
34 law enforcement agency's jurisdiction.

36               3. Reporting. Beginning April 30, 1998 and monthly  
37 thereafter, each law enforcement agency shall submit a copy of  
38 its records of all known incidents of public intoxication to the  
39 Department of Public Safety. These records may not include  
40 individuals' names. Beginning June 30, 1998 and quarterly  
41 thereafter, the Department of Public Safety shall forward these  
42 records to the Department of Mental Health, Mental Retardation  
43 and Substance Abuse Services, Office of Substance Abuse. The  
44 records must include at least the following information:

46               A. The number of reported cases of public intoxication;

48               B. The number of persons who are reported more than one  
49 time pursuant to paragraph A;

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2        C. The number of persons voluntarily transported to a  
state-licensed treatment facility or shelter as a result of  
reported incidents of public intoxication;

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6        D. The number of persons voluntarily transported to their  
residence or left with a family member or friend as a result  
of reported incidents of public intoxication; and

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10       E. The number of intoxicated persons left at the scene of  
the reported incident or at another public place.

12       **§2006. Immunity from liability**

14       A law enforcement officer is not liable in a civil action  
for failing to provide assistance to a person intoxicated in a  
16       public place if that person refuses the law enforcement officer's  
assistance.

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20       **Sec. 2. Study.** The Department of Mental Health, Mental  
Retardation and Substance Abuse Services, Office of Substance  
22       Abuse shall convene a study group to review and analyze the data  
reported to that office by law enforcement agencies pursuant to  
the Maine Revised Statutes, Title 17, section 2005.

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26       **1. Membership.** The study group must include the following  
members:

28       A. One member of the Senate, appointed by the President of  
the Senate;

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32       B. One member of the House of Representatives, appointed by  
the Speaker of the House;

34       C. The Attorney General or the Attorney General's designee;

36       D. The Commissioner of Public Safety or the commissioner's  
designee;

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40       E. One member representing the Maine Sheriffs' Association,  
appointed by the association;

42       F. One member representing the Maine Chiefs of Police  
Association, appointed by the association;

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46       G. One member representing the Maine Hospital Association,  
appointed by the association;

48       H. One member representing private substance abuse  
treatment providers, appointed by the Director of the Office  
50       of Substance Abuse; and

1. One member representing advocacy groups, appointed by the Director of the Office of Substance Abuse.

The Speaker of the House shall appoint the chair.

2. Duties. The study group shall make recommendations, along with any necessary implementing legislation, regarding the development of a comprehensive and effective network of services for persons who are found publicly intoxicated and who are or may be chemically dependent and may pose a serious threat of harm to themselves or to others. The study group shall also consider the implications of reinstating involuntary commitment for persons suffering from chronic and life-threatening substance abuse. If appropriate, the study group shall make further recommendations, along with any necessary implementing legislation, regarding the development of a plan for involuntary commitment. Any recommendations regarding involuntary commitment must address constitutional and procedural safeguards of persons who may be involuntarily committed.

3. Staffing. The Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse shall provide staffing for the study group and may request legislative drafting assistance from the Legislative Council.

4. Reimbursement. Study group members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for attendance at meetings of the study group.

5. Report. The study group shall report its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over criminal justice matters by January 1, 1999. The joint standing committee of the Legislature having jurisdiction over criminal justice matters may report out legislation regarding the study group's recommendations and implementing legislation to the First Regular Session of the 119th Legislature.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

|                                    | 1997-98 | 1998-99 |
|------------------------------------|---------|---------|
| <b>LEGISLATURE</b>                 |         |         |
| <b>Study Commissions - Funding</b> |         |         |
| Personal Services                  | \$330   | \$1,100 |
| All Other                          | 300     | 1,000   |
|                                    | <hr/>   | <hr/>   |

# COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 562, L.D. 753

2 TOTAL \$630 \$1,470

4 Provides funds for the per

6 diem and expenses of

8 legislative members of a

study group convened to

review certain data provided

by law enforcement agencies.

10 **Emergency clause.** In view of the emergency cited in the

12 preamble, this Act takes effect when approved.'

14 Further amend the bill by inserting at the end before the

16 summary the following:

18 **FISCAL NOTE**

|                                   | 1997-98 | 1998-99 |
|-----------------------------------|---------|---------|
| <b>APPROPRIATIONS/ALLOCATIONS</b> |         |         |
| General Fund                      | \$630   | \$1,470 |

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22 The Legislature will require additional General Fund

24 appropriations of \$630 and \$1,470 in fiscal years 1997-98 and

26 1998-99, respectively, for the per diem and expenses of

28 legislative members of a study group reviewing data reported by

30 law enforcement agencies. The Legislature can absorb the cost of

32 providing drafting assistance to the study group utilizing

existing budgeted resources.

34 The Department of Mental Health, Mental Retardation and

36 Substance Abuse Services will incur some minor additional costs

38 to convene the study group and to review the records forwarded by

the Department of Public Safety. These costs can be absorbed

within the department's existing budgeted resources.

40 The Department of Public Safety will incur some minor

42 additional costs to collect public intoxication reports. These

44 costs can be absorbed within the department's existing budgeted

resources.

46 This bill may decrease the number of civil suits filed in

48 the court system. The Judicial Department may realize some minor

50 savings from reductions of workload and administrative costs

associated with the minimal number of cases that will no longer

be filed. Reductions in the collection of filing fees may

decrease General Fund revenue by minor amounts.

# COMMITTEE AMENDMENT

R.S.

2 This bill requires local law enforcement agencies to keep  
3 records of all incidents of public intoxication and report all  
4 known incidents on a monthly basis to the Department of Public  
5 Safety. The additional costs of this state mandate are minor.  
6 Pursuant to the Mandate Preamble, the two-thirds vote of all  
7 members elected to each House exempts the State from the  
8 constitutional requirement to fund 90% of the additional local  
9 costs.'

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SUMMARY

This amendment renames and replaces the bill.

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1. It defines the terms "intoxicated" and "public intoxication."

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2. Beginning April 30, 1998 and monthly thereafter, it requires law enforcement agencies to report incidents of public intoxication to the Department of Public Safety. These records may not include individuals' names. Beginning June 30, 1998 and quarterly thereafter, the Department of Public Safety will forward the records to the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse. The records must include the number of reported cases of public intoxication; the number of persons who are reported more than one time for public intoxication; the number of persons transported to a state-licensed treatment facility or shelter as a result of reported incidents of public intoxication; the number of persons transported to their residence or left with a family member or friend as a result of these reported incidents of public intoxication; and the number of intoxicated persons left at the scene of the reported incident or at another public place.

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3. It specifies that a law enforcement officer is not liable in a civil action for failing to provide assistance to a person intoxicated in a public place if that person refuses the law enforcement officer's assistance.

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4. It creates a study group to review the reports regarding public intoxication submitted to the Office of Substance Abuse by law enforcement agencies. The study group shall make recommendations to develop a comprehensive and effective network of services for persons who are found publicly intoxicated and who are chemically dependent and may pose a serious threat of harm to themselves or to others. The study group shall also consider the implications of reinstating involuntary commitment for persons suffering from chronic and life-threatening substance abuse. The study group shall report its recommendations and any implementing legislation to the joint standing committee of the

COMMITTEE AMENDMENT "A" to H.P. 562, L.D. 753

Legislature having jurisdiction over criminal justice matters by  
January 1, 1999.

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5. It also adds a fiscal note to the bill.

**COMMITTEE AMENDMENT**