

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

May 2004

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Sen. Pamela Henderson Hatch
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Maine State Legislature



*Office Of Policy And Legal Analysis
Office Of Fiscal And Program Review*

*121st Maine Legislature
Second Regular Session and
Second Special Session*

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla/billsumm.htm).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
- CONF CMTE UNABLE TO AGREE Committee of Conference unable to agree; bill died
- DIED BETWEEN BODIES..... House & Senate disagree; bill died
- DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
- DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
- EMERGENCY Enacted law takes effect sooner than 90 days
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
- FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
- FAILED MANDATE ENACTMENT Bill imposing local mandate failed to get 2/3 vote
- NOT PROPERLY BEFORE THE BODY Ruled out of order by the presiding officers; bill died
- INDEF PP Bill Indefinitely Postponed
- ONTP..... Ought Not To Pass report accepted
- OTP-ND Committee report Ought To Pass In New Draft
- P&S XXX..... Chapter # of enacted Private & Special Law
- PASSED..... Joint Order passed in both bodies
- PUBLIC XXX..... Chapter # of enacted Public Law
- RESOLVE XXX..... Chapter # of finally passed Resolve
- UNSIGNED..... Bill held by Governor
- VETO SUSTAINED Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Criminal Justice and Public Safety

LD 617 **An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROTUNDO WALCOTT	ONTP	

LD 617 proposed to reduce from 10 days to 48 hours the time within which a sex offender or sexually violent predator must register with the Department of Public Safety, State Bureau of Identification to comply with the Sex Offender Registration and Notification Act of 1999.

LD 617 was not enacted, but an amended version of the bill was incorporated into Committee Amendment "A" (H-860) to LD 1903, which was enacted as Public Law 2003, chapter 711.

LD 891 **An Act To Require Law Enforcement Agencies To Adopt Policies Concerning Recording and Preservation of Interviews** **PUBLIC 677**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING NORBERT	OTP-AM MAJ ONTP MIN	H-880 MILLS J S-405

LD 891 proposed to require police departments and other law enforcement agencies to videotape examinations that concern the commission of a crime and that are conducted within police departments or other law enforcement facilities.

Committee Amendment "A" (S-405) proposed to replace the bill, was the majority report of the committee and was based upon similar legislation in other jurisdictions. The amendment proposed to make a statement inadmissible if the statement was made as a result of custodial interrogation that was conducted at a police station or other place of detention, unless the statement was recorded electronically and was presented in a substantially accurate and unaltered manner, or the person seeking to have the statement admitted demonstrated by a preponderance of evidence that the statement was reliable, in addition to any demonstration of voluntariness required by law. The amendment proposed that this requirement apply to interrogations of persons accused of murder or gross sexual assault.

The amendment also proposed to define certain terms, including "custodial interrogation," "electronic recording" and "place of detention". The amendment proposed to exempt certain statements from the recording requirement. Specifically, it proposed to allow use of unrecorded statements for impeachment purposes; if recording was not feasible; if the statement was made in open court, such as at a court proceeding, grand jury proceeding or preliminary hearing; if the statement was made spontaneously and not in response to a question; or if the custodial interrogation took place out of the State.

Additionally, the amendment proposed to make a recorded statement confidential and exempt from public inspection as a public record; to allow law enforcement agencies to purchase recording equipment from the Department of

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Administrative and Financial Services, Bureau of General Services for nominal cost and to authorize the Department of Public Safety to make grants to law enforcement agencies for training and equipment. The amendment also proposed to add a fiscal note.

House Amendment "A" to Committee Amendment "A" (H-880) proposed to direct the Board of Trustees of the Maine Criminal Justice Academy to set minimum standards for and all law enforcement agencies to formally adopt written policies regarding procedures to deal with the digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases.

House Amendment "B" to Committee Amendment "A" (H-940) proposed to incorporate the provisions of House Amendment "A" to Committee Amendment "A" and to add a mandate preamble and a fiscal note. This amendment was not adopted.

Senate Amendment "A" to Committee Amendment "A" (S-415) proposed to amend the appropriations and allocations section of the committee amendment to correct the program name and the text of the initiative. This amendment was not adopted.

Senate Amendment "B" to Committee Amendment "A" (S-490) proposed to provide that a "place of detention" does not include a police vehicle. It also proposed to provide that a statement made by a person accused of murder, felony murder, gross sexual assault or a juvenile crime that if committed by an adult would be a Class A crime may be declared inadmissible by the court if the statement was made as a result of a custodial interrogation that was conducted at a place of detention and the statement was not an electronic recording presented in a substantially accurate and unaltered manner. It further proposed to provide that an unrecorded statement was not be subject to these provisions if the person being interrogated requested, in writing or in a recording, that the statement not be recorded. This amendment was not adopted.

Senate Amendment "C" to Committee Amendment "A" (S-513) proposed to incorporate the provisions of House Amendment "A" to Committee Amendment "A" and to provide that the minimum standards for policies for the recording and preservation of interviews of suspects in serious crimes under the Maine Revised Statutes, Title 25, section 2803-B, subsection 1, paragraph J must designate that such interviews be electronically recorded. This amendment was not adopted.

Senate Amendment "D" to Committee Amendment "A" (S-514) proposed to incorporate the provisions of House Amendment "A" to Committee Amendment "A" and to provide that the minimum standards for policies for the recording and preservation of interviews of suspects in serious crimes under the Maine Revised Statutes, Title 25, section 2803-B, subsection 1, paragraph J must designate that such interviews be electronically recorded. This amendment also proposed to add a mandate preamble. This amendment was not adopted.

Enacted Law Summary

Public Law 2003, chapter 677 directs the Board of Trustees of the Maine Criminal Justice Academy to set minimum standards for and all law enforcement agencies to formally adopt written policies regarding procedures to deal with the digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases.