

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

August 2005

Members:

Sen. Bill Diamond, Chair

Sen. John M. Nutting

Sen. Dean F. Clukey

Rep. Patricia A. Blanchette, Chair

Rep. Stan Gerzofsky

Rep. Carol A. Grose

Rep. Rosaire "Ross" Paradis, Jr.

Rep. Stephen P. Hanley

Rep. Richard M. Sykes

Rep. John W. Churchill

Rep. Christian D. Greeley

Rep. Kimberly J. Davis

Rep. Gary E. Plummer

Staff:

Marion Hylan Barr, Legislative Analyst

Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207) 287-1670



Maine State Legislature

OFFICE OF POLICY & LEGAL ANALYSIS

13 State House Station, Room 215 Cross State Office Building
Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 organized by committees 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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).

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:

- CARRIED OVER Bill Carried Over to Second Regular Session
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
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
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 the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Criminal Justice and Public Safety

House Amendment "B" to Committee Amendment "A" (H-247) proposed to provide that the Department of Corrections or the department's contracted medical service provider shall pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no less than 125% of the reimbursement rate applicable to that provider and that service as established for the Medicare program. The amendment proposed to add an appropriations and allocations section. This amendment was not adopted.

LD 17 was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

LD 29 **An Act To Provide Justice to Those Found Not Guilty Due to Mental Disease or Defect and Decrease Costs to the State** **ONTP**

<u>Sponsor(s)</u> FAIRCLOTH		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
--------------------------------	--	---------------------------------	--	---------------------------

LD 29 proposed to specify that proper use of prescribed medications may be a condition of release for a person found not criminally responsible by reason of mental disease or mental defect. LD 29 proposed to lessen the burden of proof for a petitioner seeking the release or discharge of a person hospitalized after having been found not criminally responsible by reason of mental disease or mental defect for committing a Class B, C, D or E crime. For discharge or release, the bill proposed that a petitioner must demonstrate by a preponderance of the evidence that the modified release treatment program, release on conditions or discharge may be granted without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The petitioner's burden of proof in a case for release or discharge where a person was found not criminally responsible by reason of mental disease or defect for murder or a Class A crime would remain proof by clear and convincing evidence. (Taylor v. Commissioner of Mental Health and Mental Retardation, 481 A.2d 139 (1984)) LD 29 also proposed to make technical changes to the statutes, including making terminology consistent.

LD 53 **An Act To Clarify the Law Regarding Unlawful Interference with Law Enforcement Dogs** **PUBLIC 69**

<u>Sponsor(s)</u> FISCHER DIAMOND		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-119
---	--	-----------------------------------	--	------------------------------------

LD 53 proposed to amend the law regarding interference with law enforcement dogs by applying the crime to any person who harms a dog that the person knows or reasonably should have known is used for law enforcement purposes.

Committee Amendment "A" (H-119) proposed to replace the bill and to make 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B, subsection 1, paragraphs A and B. First, it proposed to add to each an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, it proposed to eliminate from each the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.

Joint Standing Committee on Criminal Justice and Public Safety

Enacted law summary

Public Law 2005, chapter 69 makes 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B regarding interference with law enforcement dogs. First, it adds to each of the 2 offenses an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, Public Law 2005, chapter 69 eliminates from each of the 2 offenses the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.

LD 83

An Act to Prohibit Payment Card Skimming

PUBLIC 72

Sponsor(s)
SNOWE-MELLO
FLETCHER

Committee Report
OTP-AM

Amendments Adopted
S-67

LD 83 proposed to create the Class C crime of unlawful use of a scanning device or reencoder. LD 83 proposed that a person is guilty of this crime if, without the card user's permission, the person intentionally or knowingly uses a scanning device or a reencoder to capture encoded information from a magnetic strip or stripe on a credit card, debit card or other payment card with the intent to defraud the card user, issuer or merchant. The bill further proposed that a person who has 2 or more convictions for this offense commits a Class B crime.

Committee Amendment "A" (S-67) proposed to replace the bill and to create the Class D crime of misuse of a scanning device or a reencoder. The amendment proposed that a person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of an authorized payment card user to capture encoded information from the user's payment card with the intent to defraud that authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

Enacted law summary

Public Law 2005, chapter 72 creates the Class D crime of misuse of a scanning device or a reencoder. A person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of an authorized payment card user to capture encoded information from the user's payment card with the intent to defraud that authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

LD 102

An Act To Allow the Part-time Assignment of State Police Officers to Municipalities

PUBLIC 53

Sponsor(s)
BLANCHETTE

Committee Report
OTP-AM

Amendments Adopted
H-97