

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

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STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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 (or Accepted ONTP report).....	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 non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

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into the next year.

This bill requires that district attorneys determine if, in the case where there are proceeds from a forfeited bail of an offender, that offender owes outstanding restitution. If the offender is in default of a restitution obligation, the forfeited bail must be used to satisfy the restitution obligation. Any remaining forfeited bail must be placed in the Extradition Account.

Committee Amendment "A" (H-19)

This amendment clarifies that proceeds from forfeited bail of an offender who is in default of a restitution obligation may be used to satisfy the obligation only in the proceeding brought under that default proceeding. When an offender who has been sentenced to pay restitution fails to pay the restitution, the offender may be required to appear in court pursuant to the Maine Revised Statutes, Title 17-A, section 1329. As part of that proceeding, the court may issue a bench warrant and require the offender to post bail. If the offender fails to appear in the restitution proceeding, the court may forfeit the bail. Under current law, forfeited bail may be transferred only to the District Attorney's Extradition Account under Title 15, section 224-A and is not available to satisfy the restitution order. The amendment requires that proceeds of a bail forfeiture in the restitution default proceeding instead be used first to satisfy the restitution order, with any remaining forfeited bail transferred to the Extradition Account.

Enacted Law Summary

Public Law 2007, chapter 31 requires that district attorneys determine if, in the case where there are proceeds from a forfeited bail of an offender, that offender owes outstanding restitution. Proceeds from forfeited bail of an offender who is in default of a restitution obligation may be used to satisfy the obligation only in the proceeding brought under that default proceeding. When an offender who has been sentenced to pay restitution fails to pay the restitution, the offender may be required to appear in court pursuant to the Maine Revised Statutes, Title 17-A, section 1329. As part of that proceeding, the court may issue a bench warrant and require the offender to post bail. If the offender fails to appear in the restitution proceeding, the court may forfeit the bail. Under current law, forfeited bail may be transferred only to the District Attorney's Extradition Account under Title 15, section 224-A and is not available to satisfy the restitution order. Public Law 2007, chapter 31 requires that proceeds of a bail forfeiture in the restitution default proceeding instead be used first to satisfy the restitution order, with any remaining forfeited bail transferred to the Extradition Account.

LD 220

An Act To Clarify and Expand Maine Criminal Laws Related to Sexual Assault

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY SHERMAN		H-93

The bill clarifies and expands criminal laws relating to sexual assault in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution and the perpetrator of the crime either is, or will be, a teacher, employee or other official where the victim is enrolled or is a law enforcement officer where the student resides or is enrolled.

Committee Amendment "A" (H-93)

This amendment replaces the bill. The amendment clarifies that for purposes of sexual assault in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution, the law recognizes that a teacher or other school employee's instructional, supervisory or disciplinary authority over the student does not disappear during school vacations and summer recess. The teacher or other school employee may not raise as a defense to prosecution that the conduct occurred during a school vacation or summer recess if the teacher or other school employee maintained that status immediately prior to the vacation or recess. The amendment also specifies that the same standards be applied to law enforcement officers who are

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employees of or are assigned to perform duties at a private or public elementary, secondary or special education school, facility or institution.

LD 220 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

**LD 238 An Act To Require Maine To Submit DNA Samples of Sex Offenders to
the National DNA Registry**

ONTP

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

This bill requires that persons convicted of the following Class D crimes, which require registration under the Sex Offender Registration and Notification Act of 1999 (SORNA) be added to the list of those offenses requiring that a DNA sample be taken under Maine's DNA Data Base and Data Bank Act:

1. 17-A, §284, sub-§1, A, (possession of sexually explicit material);
2. 17-A, §302, sub-§1, A, sub-(1)-(3) and §302, sub-§1, B, sub-(1), (criminal restraint);
3. 17-A, §511, sub-§1, D, (violation of privacy);
4. 17-A, §556, sub-§1, A, (incest); and
5. 17-A §855, sub-§1, A, (patronizing prostitution of a minor).

The bill also directs that any sample taken from a person convicted of an offense for which the person has to register under the SORNA must be sent to CODIS. CODIS is the FBI's national DNA identification index system that allows for storage and exchange of DNA records submitted by state and local forensic DNA labs.

LD 239 An Act To Provide a Felony Penalty for Assault on a Firefighter

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE		H-21

A person who intentionally, knowingly or recklessly causes bodily injury to a law enforcement officer while that officer is in performance of official duties (Title 17-A §752-A) or to a medical care provider while the provider is providing emergency medical care (Title 17-A §752-C), the person is guilty of a Class C crime of assault. This bill creates a Class C assault for intentionally, knowingly or recklessly causing bodily injury to a firefighter if the assault occurs while the firefighter is performing official duties.

Committee Amendment "A" (H-21)

This amendment is the majority report of the Criminal Justice and Public Safety Committee. The amendment specifies that the Class C assault on a firefighter applies only in situations where the firefighter is performing official duties at the scene of a fire or other emergency.

LD 239 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.