

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**

July 2007

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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.

Joint Standing Committee on Criminal Justice and Public Safety

LD 514

An Act To Protect Community Safety by Amending Maine's Bail Code

PUBLIC 374

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-198

This bill adds to the factors that a judicial officer must consider before allowing the pretrial release of a defendant on personal recognizance or an unsecured appearance bond the determination that the defendant's release will not compromise the safety of the community.

Committee Amendment "A" (S-198)

The amendment makes the following substantive changes to the Maine Bail Code.

1. It amends the definition of "bail" in the preconviction context for crimes bailable as of right to include the imposition of conditions, in accordance with the Maine Revised Statutes, Title 15, section 1026, designed to ensure the safety of others in the community. The bill attempted to accomplish this change but did not capture all necessary provisions.
2. It conforms the language and structure of the parallel definitions of preconviction and post-conviction bail.
3. It adds a definition for the phrase "ensure the safety of others in the community."
4. It amends the standards for release for a crime bailable as of right preconviction in Title 15, section 1026 to require a judicial officer to consider, in addition to the appearance of the defendant at the time and place required and the integrity of the judicial process, both the defendant's potential for engaging in new criminal conduct and the defendant's potential danger to a specific person or to persons in the community generally. The addition of these 2 considerations in Title 15, section 1026 does not change the underlying fact that a judicial officer is without authority to deny bail relative to a crime bailable as of right preconviction except following a revocation of preconviction bail pursuant to Title 15, section 1094. More specifically, in the context of consideration by a judicial officer as to the defendant's potential dangerousness, Title 15, section 1026 does not allow for "preventative detention." Instead, section 1026 allows a judicial officer to impose one or more bail conditions determined by the officer to be reasonably necessary to ensure community safety.
5. It precludes, in the context of a crime bailable as of right, a judicial officer from imposing a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure that the defendant will refrain from any new criminal conduct or to ensure the safety of others in the community.
6. It adds to the factors to be considered in the release decision for a crime bailable as of right preconviction "any evidence that the defendant poses a danger to the safety of others in the community."
7. It removes the reference to "history of dangerousness" in Title 15, sections 1027 and 1051 relating to crimes bailable only as a matter of discretion preconviction and post-conviction bail since that factor is now expressly listed in Title 15, section 1026.
8. It adds "ensuring the safety of others in the community" to Title 15, section 1097 relating to setting bail following a revocation of preconviction bail.

Enacted Law Summary

Public Law 2007, chapter 374 adds to the factors that a judicial officer must consider before allowing the pretrial release of a defendant on personal recognizance or an unsecured appearance bond the determination that the

Joint Standing Committee on Criminal Justice and Public Safety

defendant's release will not compromise the safety of the community. Specifically, Public Law 2007, chapter 374 makes the following substantive changes to the Maine Bail Code.

1. It amends the definition of "bail" in the preconviction context for crimes bailable as of right to include the imposition of conditions, in accordance with the Maine Revised Statutes, Title 15, section 1026, designed to ensure the safety of others in the community.
2. It conforms the language and structure of the parallel definitions of preconviction and post-conviction bail.
3. It adds a definition for the phrase "ensure the safety of others in the community."
4. It amends the standards for release for a crime bailable as of right preconviction in Title 15, section 1026 to require a judicial officer to consider, in addition to the appearance of the defendant at the time and place required and the integrity of the judicial process, both the defendant's potential for engaging in new criminal conduct and the defendant's potential danger to a specific person or to persons in the community generally. The addition of these 2 considerations in Title 15, section 1026 does not change the underlying fact that a judicial officer is without authority to deny bail relative to a crime bailable as of right preconviction except following a revocation of preconviction bail pursuant to Title 15, section 1094. More specifically, in the context of consideration by a judicial officer as to the defendant's potential dangerousness, Title 15, section 1026 does not allow for "preventative detention." Instead, section 1026 allows a judicial officer to impose one or more bail conditions determined by the officer to be reasonably necessary to ensure community safety.
5. It precludes, in the context of a crime bailable as of right, a judicial officer from imposing a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure that the defendant will refrain from any new criminal conduct or to ensure the safety of others in the community.
6. It adds to the factors to be considered in the release decision for a crime bailable as of right preconviction "any evidence that the defendant poses a danger to the safety of others in the community."
7. It removes the reference to "history of dangerousness" in Title 15, sections 1027 and 1051 relating to crimes bailable only as a matter of discretion preconviction and post-conviction bail since that factor is now expressly listed in Title 15, section 1026.
8. It adds "ensuring the safety of others in the community" to Title 15, section 1097 relating to setting bail following a revocation of preconviction bail.

LD 517 **Resolve, To Promote Public Safety by Establishing a Multiple-OUI Registry**

ONTP

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

This resolve requires the Secretary of State to create and maintain an online registry accessible to the public that lists the names, dates of birth and municipalities of residence and includes photographs of people convicted of a second or subsequent OUI and requires the information to remain on the registry for the period of time that their licenses are suspended for that offense.