

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

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

August 2017

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STATE OF MAINE

128TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 128th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 128th Legislature is Wednesday, November 1, 2017. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Criminal Justice and Public Safety

taken into custody, the defendant may not be released until the results have been obtained from a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 74-C and approved by the Department of Public Safety conducted on the defendant. The validated, evidence-based domestic violence risk assessment that is recommended by the Maine Commission on Domestic and Sexual Abuse and approved by the Department of Public Safety is known as the Ontario Domestic Assault Risk Assessment, ODARA. The bill amends current law that requires the results of the ODARA, when the results are available, to apply the results only to arrests in which the defendant has not been taken into custody. The bill contains a delayed effective date of January 1, 2018.

LD 651 An Act To Expand Substance Abuse Prevention Projects

Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M HAMANN S	ONTP OTP-AM	

This bill provides an ongoing General Fund appropriation of \$1,200,000 beginning in fiscal year 2017-18 to the Department of Public Safety for the Substance Abuse Assistance Program.

Committee Amendment "A" (S-81)

This amendment is the minority report of the committee. This amendment replaces the bill and changes the title. It changes the name of the Substance Abuse Assistance Program to the Substance Use Disorder Prevention Assistance Program. This amendment, like the bill, provides \$1,200,000 annually to fund the program.

This amendment was not adopted.

LD 654 An Act To Amend the Laws Governing Certain Sexual Offenses

PUBLIC 300

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARPENTER M HERBIG E	OTP-AM ONTP	S-113 S-320 HAMPER J

This bill creates a new violation under the law defining the crime of gross sexual assault in which an actor is guilty of gross sexual assault if the actor engages in a sexual act with another person who has not consented to the sexual act; this violation is a Class C crime. The bill also amends the crime of gross sexual assault by repealing the defense to prosecution that the other person voluntarily consumed or allowed the actor to administer to that person drugs or other intoxicants. The bill also amends the crime of unlawful sexual contact and unlawful sexual touching by eliminating language specifying that the other person did not expressly or impliedly acquiesce to the sexual contact or sexual touching and replaces it with language specifying that the person did not consent to the sexual contact or sexual touching.

Committee Amendment "A" (S-113)

This amendment is the majority report of the committee. This amendment specifies that the Class C crime of gross sexual assault created in the bill applies when the other person has not expressly or impliedly acquiesced to the sexual act. The amendment strikes from the bill amendments to the laws on unlawful sexual contact and unlawful sexual touching and provides funding to the Maine Commission on Indigent Legal Services for an anticipated increase in the use of assigned counsel.

Joint Standing Committee on Criminal Justice and Public Safety

Senate Amendment "A" To Committee Amendment "A" (S-320)

This amendment removes the appropriations and allocations section added by Committee Amendment "A."

Enacted Law Summary

Public Law 2017, chapter 300 creates a new violation under the law defining the crime of gross sexual assault in which an actor is guilty of gross sexual assault if the actor engages in a sexual act with another person who has not expressly or impliedly consented to the sexual act; this violation is a Class C crime. The law amends the crime of gross sexual assault by repealing the defense to prosecution that the other person voluntarily consumed or allowed the actor to administer to that person drugs or other intoxicants.

LD 665 An Act To Give the Courts Sentencing Discretion When a Person with a Developmental Disability Has Been Convicted of a Crime Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK A	ONTP OTP-AM	

This bill provides that, notwithstanding any provision of law to the contrary, if the court finds that a convicted person has an abnormal condition of the mind as a result of an intellectual disability or an autism spectrum disorder, the court may in its discretion impose a sentence that is less severe than any mandatory minimum sentence that is required by law, including, but not limited to, the Maine Revised Statutes, Title 17-A, chapter 51 or 53. The bill defines "intellectual disability" as a disability characterized by significant limitations in both intellectual functioning and the conceptual, social and practical skills that are required for successful everyday functioning and that are recognized by professionals in the field of developmental disabilities as adaptive behavior.

Committee Amendment "A" (S-82)

This amendment is the minority report of the committee. The amendment changes the title of the bill. The amendment removes from the bill a requirement that the court find that the individual has an abnormal condition of the mind as a result of an intellectual disability or an autism spectrum disorder and instead requires the court to find that the individual has an intellectual disability or an autism spectrum disorder. The amendment provides that the sentencing discretion that the court has does not apply to a sentence for murder. The amendment adds an appropriations and allocations section.

This amendment was not adopted.

LD 670 An Act To Allow for Consistent Application of Credit for Driver's License Suspensions Imposed by the Court PUBLIC 99

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R CAMPBELL R	OTP	

Current law allows a defendant to receive credit for an OUI alcohol administrative suspension already served from the Secretary of State upon receipt of a court suspension. Because there is a lag between the time the court orders the suspension and the Secretary of State applies the credit for the administrative suspension, current law provides an exception that allows the court to stay the license suspension for up to seven days. This bill provides the same exception for OUI drug suspensions that is currently in effect for OUI alcohol suspensions.