

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



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

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

October 2018

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STATE OF MAINE

128TH LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions 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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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

This bill was reported out of committee during the Second Regular Session of the 128th Legislature and then carried over on the Special Appropriations Table to the Second Special Session by joint order S.P. 748.

This bill makes aggravated trafficking in fentanyl powder a Class A crime.

Committee Amendment "A" (H-736)

This amendment incorporates a fiscal note.

LD 1795

An Act To Amend the Maine Criminal Code and Related Statutes as Recommended by the Criminal Law Advisory Commission

**PUBLIC 377
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM OTP	H-650

This emergency bill makes the following corrections to the criminal and related laws and to the law on possession of more than 2 1/2 ounces of marijuana.

1. Public Law 2017, chapter 144, section 3 failed to distinguish, in the laws on service of process on providers of electronic communication service and providers of remote computing service, between foreign entities that are governed by laws of states other than Maine and those that are governed by laws of foreign countries. The bill distinguishes these two types of foreign entities and provides a cross-reference to the Maine Rules of Evidence for each type of foreign entity.
2. Public Law 2017, chapter 1, section 20 designated possession of up to 2 1/2 ounces of marijuana by a person under 18 years of age a violation of the Maine Juvenile Code, which was one of two options for prosecution under prior law. Chapter 1 repealed the option of prosecution of possession as a civil violation. The bill retains the designation of possession as a juvenile crime and restores the designation of possession as a civil violation. Neither the juvenile crime nor the civil violation applies to possession of up to 2 1/2 ounces by a person under 21 years of age who is a qualified patient for the purposes of the Medical Use of Marijuana Act.
3. Public Law 2017, chapter 300 created a new version of the crime of gross sexual assault, specifically, engaging in a sexual act with another person when that other person has not expressly or impliedly acquiesced to the sexual act. The law neglected to create a corresponding registration provision for the newly defined variant of gross sexual assault. The bill designates gross sexual assault based on lack of acquiescence to the sexual act as a Tier II offense under the Sex Offender Registration and Notification Act of 2013. The registration obligation will apply to conduct committed on or after the effective date of this Act.

Committee Amendment "A" (H-650)

This amendment is the majority report of the committee. The amendment eliminates the reference to the fine amount for Class E crimes to avoid confusion regarding the status of the juvenile crimes of possession of under 2 1/2 ounces of marijuana, possession of drug paraphernalia, illegal transportation of drugs by a minor and certain offenses involving alcoholic beverages. Instead, the amendment changes the language of the provision to explicitly state that the maximum fine is \$1,000. The amendment does not change the maximum fine.

Enacted Law Summary

Public Law 2017, chapter 377 makes the following corrections to the criminal and related laws and to the law on possession of more than 2 1/2 ounces of marijuana.

1. Public Law 2017, chapter 144, section 3 failed to distinguish, in the laws on service of process on providers of

Joint Standing Committee on Criminal Justice and Public Safety

electronic communication service and providers of remote computing service, between foreign entities that are governed by laws of states other than Maine and those that are governed by laws of foreign countries. This law distinguishes these two types of foreign entities and provides a cross-reference to the Maine Rules of Evidence for each type of foreign entity.

2. Public Law 2017, chapter 1, section 20 designated possession of up to 2 1/2 ounces of marijuana by a person under 18 years of age a violation of the Maine Juvenile Code, which was one of two options for prosecution under prior law. Chapter 1 repealed the option of prosecution of possession as a civil violation. This law retains the designation of possession as a juvenile crime and restores the designation of possession as a civil violation. Neither the juvenile crime nor the civil violation applies to possession of up to 2 1/2 ounces by a person under 21 years of age who is a qualified patient for the purposes of the Medical Use of Marijuana Act.

3. Public Law 2017, chapter 300 created a new version of the crime of gross sexual assault, specifically, engaging in a sexual act with another person when that other person has not expressly or impliedly acquiesced to the sexual act. The law neglected to create a corresponding registration provision for the newly defined variant of gross sexual assault. This law designates gross sexual assault based on lack of acquiescence to the sexual act as a Tier II offense under the Sex Offender Registration and Notification Act of 2013. The registration obligation applies to conduct committed on or after April 11, 2018.

Public Law 2017, chapter 377 was enacted as an emergency measure effective April 11, 2018.

LD 1813 An Act To Protect Children under 14 Years of Age from Being Photographed by Certain Persons

PUBLIC 354

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POULIOT M KATZ R	OTP-AM	H-656

This bill establishes as a Class D crime the intentional photographing of a minor without the consent of the minor's parent or guardian by a person required to register as a sex offender.

Committee Amendment "A" (H-656)

This amendment replaces the bill and changes the title. It adds a definition of "indirect contact" to the Maine Revised Statutes, Title 17-A, section 261 and applies that definition to prohibit a person from photographing another person under 14 years of age if the person has been convicted of a sexual assault against or sexual exploitation of another person under 14 years of age and the person has been notified, in writing or otherwise, not to engage in this conduct by a law enforcement officer, corrections officer or judicial officer. The notification expires after one year. The definition of "photographing" is based on a definition of "photograph" in Title 17-A, section 281, subsection 3.

Enacted Law Summary

Public Law 2017, chapter 354 adds a definition of "indirect contact" to the Maine Revised Statutes, Title 17-A, section 261 and applies that definition to prohibit a person from photographing another person under 14 years of age if the person has been convicted of a sexual assault against or sexual exploitation of another person under 14 years of age and the person has been notified, in writing or otherwise, not to engage in this conduct by a law enforcement officer, corrections officer or judicial officer. The notification expires after one year.