

MAINE STATE LEGISLATURE

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STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
SECOND REGULAR SESSION

JOINT STANDING COMMITTEE ON
JUDICIARY
BILL SUMMARY



MAY 1986

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JOINT STANDING COMMITTEE
BILL SUMMARIES
MAY 1986

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature, covering the Second Regular Session of the 112th Legislature. The summaries are arranged by LD number under each committee.

All Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor if it is a floor amendment or the designation "CA" if it is a committee amendment. If the amendment was adopted in the House, the letter H appears after the sponsor. If it was adopted in the Senate, the letter S appears.

Final action for each bill is listed to the right of the title. If final House action and Senate action differ, both are listed.

Key to Committee Reports and Floor Action:

OTP	Ought to Pass
OTP-ND	Ought to Pass in New Draft
OTP-ND-NT	Ought to Pass in New Draft, New Title
OTP-AM	Ought to Pass as Amended
ONTP	Ought Not to Pass
LVWD	Leave to Withdraw
INDEF PP	Indefinitely Postponed

2. The right to use this land for recreation; and
3. Any other trust rights to use intertidal land recognized by the Maine common law and not specifically abrogated by statute.

The bill states that the above rights do not include:

1. Removal from intertidal land of any sand, soil, rocks, or other minerals;
2. Interference with any structure, development, or improvement on intertidal land in accordance with State laws;
3. Depositing of refuse or waste on intertidal land or in water covering the land; or
4. Use or operation of motorized vehicles, other than navigable watercraft, unless specifically authorized by state law or municipal ordinance.

Under the bill, municipalities have jurisdiction to police and control public use of intertidal land, except where the exercise of these municipal police powers is superseded by state law.

Intertidal land is defined as land affected by tides between the mean high watermark and either 100 rods seaward from the high watermark or the mean low watermark, whichever is closer to the mean high watermark.

**LD
2397**

AN ACT TO AMEND THE INSANITY DEFENSE AND
CERTAIN PROCEDURES RELATING TO COMMITTED
INSANITY ACQUITTEES

PL 1985
c. 796

Sponsor: Insanity Defense and Related Statutes and
Procedures Study Subcommittee
Committee Report: New Draft of LD 2108.

SUMMARY: The bill requires initial examinations of the mental condition of criminal defendants prior to trial to be conducted by the State Forensic Service or by an independent psychiatrist or psychologist designated by the court. The court shall order the defendant to be further examined if the examiner's report indicates that further observation is required, the defendant suffers from a mental disease or defect affecting his criminal responsibility or his competence to stand trial, or the defendant enters or persists in a plea of not guilty by reason of insanity for more than 21 days after the examiner's report is filed.

The bill requires that the Attorney General, the office of the district attorney that prosecuted an insanity acquittee, and the office of the district attorney in the district in which the petition for release was filed or in which the person may be released, be notified of any petition or hearing for modified release treatment or release from hospitalization of the insanity acquittee. The prosecutor is given authority to employ and present at any release hearing the testimony of an independent mental health professional who has examined the insanity acquittee.

The bill requires the Commissioner of Mental Health and Mental Retardation to inform local law enforcement officials of the community into which an insanity acquittee is released of that release.

The bill eliminates the volitional element of the insanity defense. The volitional test permits a criminal defendant to argue that, due to mental disease or defect, he lacked substantial capacity at the time of the crime to conform his conduct to the requirements of the law. The elimination of this "inability to control" test from the insanity defense leaves only the cognitive test. The cognitive test permits the defendant to argue that, due to mental disease or defect, he lacked substantial capacity at the time of the crime to appreciate the wrongfulness of his conduct.

The bill also revises the definition of "mental disease or defect" contained in the insanity defense. This revision makes "mental disease or defect" consistent with the elimination of the volitional element of the insanity defense. It also requires mental disease or defect to be shown by a severely abnormal mental condition that grossly and demonstrably impairs the person's perception or understanding of reality.

The bill changes the terminology of an insanity acquittal from "not guilty by reason of insanity" to "not criminally responsible by reason of insanity."