

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE

MAY 1998

MEMBERS:

Sen. Robert E. Murray, Jr., Chair
Sen. William B. O'Gara
Sen. Betty Lou Mitchell

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ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
May 1998

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

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
- INDEF PP*.....Bill Indefinitely Postponed
- ONTP*..... Ought Not To Pass report accepted
- OTP ND*..... Committee report Ought To Pass In New Draft
- OTP ND/NT*..... Committee report Ought To Pass In New Draft/New Title
- P&S XXX*..... Chapter # of enacted Private & Special Law
- 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 the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

a plan to address the remaining needs by January 1, 2004; and to report the plan to the Criminal Justice Committee by January 15, 1999. Resolve 1997, chapter 124 also appropriates funding for the provision of equipment for drug and alcohol testing to be used by probation officers to ensure compliance with the conditions of probation and for the per diem and expenses of legislative members of a probation services study group. General Fund appropriations for 14 new probation officers and two full-time and one part-time support staff and for taking DNA samples that appeared in Committee Amendment “A” (H-971) to LD 2185 were removed and included in the supplemental budget bill, now Public Law 1997, chapter 643.

LD 2189 **Resolve, Regarding Legislative Review of Certification and Monitoring of Batterer Intervention Programs, a Major Substantive Rule of the Department of Corrections** **RESOLVE 92**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 2189 proposed to provide for legislative review of certification and monitoring of batterer intervention programs, a major substantive rule of the Department of Corrections.

Enacted law summary

Resolve 1997, chapter 92 authorizes the final adoption of rules by the Department of Corrections authorizing certification and monitoring of batterer intervention programs.

LD 2232 **An Act to Improve the Delivery and Effectiveness of State Correctional Services** **PUBLIC 752**

<u>Sponsor(s)</u> MURRAY POVICH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-603
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LD 2232 proposed to do the following:

1. Eliminate an outdated requirement that the Department of Corrections review the Maine Juvenile Code and recommend legislation;
2. Replace the reference to the Maine Youth Center as the place of commitment to a Department of Corrections juvenile correctional facility to reflect the restructuring of the juvenile system;
3. Eliminate outdated references to detention prior to the opening of the Northern Maine Regional Juvenile Detention Facility;
4. Reiterate the requirement already found in the Maine Juvenile Code that a detention hearing be held within 48 hours and put it in a place in the code where it is more likely to be found;

5. Replace the reference to the Maine Youth Center as the place of detention with "a detention facility" to reflect the restructuring of the juvenile system;
6. Replace the reference to the Maine Youth Center as the place for diagnostic evaluation with "a detention facility" to reflect the restructuring of the juvenile system;
7. Allow the court to enforce a restitution order against a juvenile who has defaulted in the same way as an order is enforced against an adult except that a juvenile may not be confined in a county jail pending payment of restitution;
8. Eliminate the term of confinement of 30 days or less that is presently one of the dispositions that a juvenile court may impose on a juvenile adjudicated of a juvenile crime;
9. Clarify existing statutory language to reflect that commitment is to a Department of Corrections juvenile correctional facility;
10. Require the court to notify the Commissioner of Corrections or the commissioner's designee immediately after detention or commitment is ordered and to inquire as to the juvenile facility to which the juvenile is to be transported;
11. Clarify the holding of juveniles taken into interim care;
12. Clarify the definitions of "correctional facility," "juvenile client" and "juvenile detainee";
13. Change a provision that currently applies only to the Maine Youth Center school and apply it to all educational programs for confined juveniles;
14. Eliminate the reference to Thomaston as the location for the Maine State Prison and replace it with Knox County;
15. Revise the purpose of the Maine Youth Center to be consistent with the State's assumption of responsibility for juvenile detention and the restructuring of the juvenile system;
16. Clarify that the commissioner's power of guardianship extends to juvenile detainees for necessary medical services only;
17. Change the location of the Downeast Correctional Facility from Machiasport to Washington County;
18. Revise the purpose of the Northern Maine Regional Juvenile Detention Facility to be consistent with the State's assumption of responsibility for juvenile detention and with the elimination of short terms of confinement as a disposition;
19. Complete the transition from the existing juvenile system to the restructured system and direct the department to submit legislation to make state law consistent with the changes; and
20. Clarify that the requirements to pay victim restitution and court fines from money received while incarcerated is absolute.

Committee Amendment "A" (S-603) proposed to do the following:

1. Authorize financing for Phase I of the Adult Correctional Facilities Plan by allowing the Maine Governmental Facilities Authority to issue bonds in the amount of \$85,000,000 for this purpose;
2. Remove language that would have eliminated 30-day "shock" sentences for juveniles;
3. Make further technical corrections; and
4. Add an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 752 makes a number of technical changes to update language in the corrections statutes. Public Law 1997, chapter 752 allows the court to enforce a restitution order against a juvenile who has defaulted in the same way an order is enforced against an adult, except that a juvenile may not be confined in a county jail pending payment of restitution. Public Law 1997, chapter 752 clarifies the holding of juveniles taken into interim care and the Commissioner of Corrections' power of guardianship for medical services for juveniles. Public Law 1997, chapter 752 changes statutory references to the locations of the Maine State Prison and Downeast Correctional Facility to their respective counties. Public Law 1997, chapter 752 completes the transition to the restructured juvenile system and directs the Department of Corrections to submit legislation to make the law consistent with those changes. Finally, Public Law 1997, chapter 752 authorizes financing for Phase I of the Adult Correctional Facilities Plan by allowing the Maine Governmental Facilities Authority to issue bonds in the amount of \$85,000,000 for this purpose.

LD 2248

An Act Authorizing the State to Appeal Decisions Granting Preconviction Bail

DIED BETWEEN HOUSES

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM	MAJ
OTP-AM	MIN

LD 2248 Current law allows a defendant who is refused preconviction bail to petition the Superior Court for a de novo determination of that refusal. This bill proposed to give the State the same right to petition the Superior Court for a de novo determination of a decision that grants a defendant preconviction bail.

Committee Amendment "A" (S-544) replaced the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to clarify that an attorney for the State or a defendant may make a motion to the court for reconsideration of the court's preconviction or post-conviction bail decision. The judge or justice may, after notice, hold a hearing on the motion or may summarily deny the motion without hearing. The amendment also proposed to add a fiscal note. (Not adopted)

Committee Amendment "B" (S-545) replaced the bill and was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to clarify that an attorney for the State or a defendant may make a motion to the court for reconsideration of the court's preconviction or post-conviction bail decision. The judge or justice may, after notice, hold a hearing on the motion or may summarily deny the motion without hearing. The amendment also proposed to provide the State with the right to appeal a preconviction bail proceeding under the Maine Revised Statutes, Title 15, section 1026. The appeal allows for a de novo determination of bail. If