

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE  
119TH LEGISLATURE**

**FIRST REGULAR SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
CRIMINAL JUSTICE**

**JULY 1999**

**MEMBERS:**

*Sen. Robert E. Murray, Jr., Chair  
Sen. William B. O'Gara  
Sen. Paul T. Davis*

*Rep. Edward J. Povich, Chair  
Rep. Roger D. Frechette  
Rep. Christopher T. Muse  
Rep. Nancy L. Chizmar  
Rep. Michael W. Quint  
Rep. Michael J. McAlevey  
Rep. Judith B. Peavey  
Rep. Julie Ann O'Brien  
Rep. James H. Tobin, Jr.  
Rep. Roger L. Sherman*

**Staff:**

*Marion Hylan Barr, Legislative Analyst*

*Office of Policy and Legal Analysis  
Room 101/107/135, 13 State House Station  
Augusta, ME 04333  
(207)287-1670*



**Maine State Legislature**  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013  
Telephone: (207) 287-1670  
Fax: (207) 287-1275

**ONE HUNDRED NINETEENTH LEGISLATURE**  
**FIRST REGULAR SESSION**

**Summary Of Legislation Before The Joint Standing and Select Committees**  
**August 1999**

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. 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 and select committees.

The document is organized for convenient reference to information on bills considered by the 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](http://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:

*CARRIED OVER*.....Bill carried over to Second Regular Session  
*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  
*ENACTMENT FAILED*..... Bill failed to get vote required for enactment or final passage  
*NOT PROPERLY BEFORE THE BODY*..... Ruled out of order by the presiding officers; bill died  
*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 First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

**An Act to Implement the Recommendations of the 118th Legislative Joint CARRIED OVER  
 Select Committee to Implement a Program for the Control, Care and  
 Treatment of Sexually Violent Predators**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY THOMPSON		

LD 308 comprises the unanimous statutory recommendations of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, created by Joint Order, House Paper 1653, 118th Maine Legislature. The complete recommendations and background information are contained in the Select Committee's final report.

This bill proposes to make a number of changes to the current punishment provisions in the Maine Criminal Code, Part III in an effort to allow courts to deal more effectively with the dangerous sexual offender. These changes provide for longer terms of imprisonment, longer periods of probation and the imposition of supervised release when a term of imprisonment expires.

The bill proposes to define what is meant by "dangerous sexual offender." The definition targets those sexual offenders who commit a new gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253 after having been previously convicted and sentenced for a serious sexual assault. Because prior intervention of the criminal justice system has failed to deter the offender and because the offender's own repetitive criminal behavior currently serves as the most accurate indicator of future dangerousness, the new sentencing options are consistent with the "just deserts" philosophy of the Maine Criminal Code and serve primarily to enhance public safety through restraint and post-release management. The bill proposes 4 changes respecting punishment for the dangerous sexual offender.

First, Title 17-A, section 1252, subsection 4-B removes the current ceiling for terms of imprisonment for the "dangerous sexual offender." A court is authorized to impose a straight term of imprisonment or a split term of imprisonment of "any term of years."

Second, Title 17-A, section 1202, subsection 1-A removes the current probation period caps for the "dangerous sexual offender." A court is authorized to impose a period of probation of "any term of years."

Third, Title 17-A, chapter 50 proposes a new post-release mechanism identified as "supervised release." Supervised release is used in conjunction with the imposition of a straight term of imprisonment and is modeled to some degree upon federal law regarding supervised release (see 18 U.S.C. §3583). A term of supervised release of "any term of years" may be imposed by a court at the time of imposing a straight term of imprisonment. Sanctioning for a violation of a supervised release operates as does sanctioning for a violation of probation. As with probation, the sanction imposed upon revocation is intended to sanction the violator for failing to abide by the court-ordered conditions. Even in the context of new criminal conduct, the violator is sanctioned for the breach of trust, leaving the actual punishment for any new underlying criminal conduct to the court ultimately responsible for imposing punishment for that new crime.

Fourth, the bill replaces Title 17-A, section 1203, subsection 1 with subsection 1-A to allow the court to revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a "dangerous sexual offender" refuses to actively participate in a sex offender treatment program, in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections. By virtue of new Title 17-A, section 1233, supervised release may be revoked by a court before the completion of the straight term of imprisonment.

Finally, the bill also provides for the inclusion of a period of supervised release after imprisonment for any person convicted of a Title 17-A, section 253 offense. Unlike the dangerous sexual offender group, however, the length of the

period authorized depends upon the class of the gross sexual assault for which the person is convicted (up to 10 years for a Class A section 253 violation and up to 6 years for a Class B or Class C section 253 violation). Additionally, as is true of the dangerous sexual offender group, the time of additional imprisonment to serve may equal all or part of the period of supervised release with no credit being given for any time actually served on supervised release, but may not exceed 1/3 of the straight term of imprisonment imposed.

**Committee Amendment "A" (S-279)** proposes to strike sections 2 and 3 of the bill and changes the history line of section 5 of the bill to account for changes made by Public Law 1999, chapter 24, sections 2 and 3. The amendment also proposes to add a fiscal note to the bill.

LD 308 was recommitted to committee and carried over to the Second Regular Session of the 119th Legislature.

**LD 322**                      **An Act to Amend the OUI Laws Related to License Suspensions**                      **ONTP**

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

LD 322 proposed to allow second-time and third-time OUI offenders to receive work-restricted licenses upon a showing of need and that those offenders have completed concrete steps in rehabilitation. The bill proposed to require second-time and third-time OUI offenders with work-restricted licenses to display a decal visible to other motorists and to submit to random stops and testing by law enforcement personnel.

**LD 338**                      **An Act to Strengthen Manslaughter and Homicide Penalties When the Victim is Under 16 Years of Age**                      **ONTP**

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

LD 338 proposed to amend the crime of murder to include causing the death of a child by engaging in a pattern or practice of assault or torture of the child. A similar bill, LD 474, An Act Relating to the Crime of Murder and to the Murder of Children, was carried over to the Second Regular Session of the 119th Legislature.

**LD 344**                      **An Act to Make a Traffic Infraction That Results in Bodily Injury to the Offending Driver or Another Person a Class E Crime**                      **ONTP**

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

LD 344 proposed to make traffic infractions that result in bodily injury to the operator or another person a Class E crime.