

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

SECOND REGULAR SESSION

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

JULY 2000

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ONE HUNDRED NINETEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
July 2000

We are pleased to provide this summary of 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).

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:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101 & 107

Joint Standing Committee on Criminal Justice

LD 266

An Act to Require Records Checks for Persons Providing Direct Care to Clients of the Department of Mental Health, Mental Retardation and Substance Abuse Services

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER G LAWRENCE	ONTP	

LD 266 proposed to require criminal history record checks for direct care employees and prospective employees of the Department of Mental Health, Mental Retardation and Substance Abuse Services and facilities and entities providing services to clients of the department. The bill proposed to provide for the confidentiality of criminal history record information and access and review for the person whose record is checked. The bill proposed to require rulemaking as necessary to implement the new provision.

LD 308

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

PUBLIC 788

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY THOMPSON	OTP-AM	S-621

LD 308 was 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.

The bill proposed changes to provide for longer terms of imprisonment, longer periods of probation and the imposition of supervised release when a term of imprisonment expires for dangerous sexual offenders.

Committee Amendment "A" (S-279) proposed to strike sections 2 and 3 of the bill and change 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 proposed to add a fiscal note to the bill. This amendment was not adopted.

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

Committee Amendment "B" (S-621) proposed to make technical changes to the bill that reflect changes that were made to certain sections of law by Public Law 1999, chapter 24 as proposed in Committee Amendment "A" (S-279). The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 788 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.

Public Law 1999, chapter 788 makes 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.

Public Law 1999, chapter 788 defines 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. Public Law 1999, chapter 788 makes 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 like 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, Title 17-A, section 1203, subsection 1 is replaced with subsection 1-A to allow a 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, Public Law 1999, chapter 788 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.

LD 353

An Act Regarding the Administration of Polygraph Tests to Prospective Law Enforcement Personnel

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MUSE	ONTP MAJ OTP-AM MIN	

LD 353 proposed to eliminate employees of or applicants for employment with law enforcement agencies from the list of exceptions for which employers may request polygraph tests. The bill proposed to specify that only law enforcement officers or applicants for employment as law enforcement officers may be asked to undergo polygraph tests.

Committee Amendment "A" (H-819) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to specify that only the following employees or applicants for employment with a law enforcement agency may be polygraphed: a law enforcement officer, police communications operator, transport officer, motor carrier inspector, criminal intelligence analyst, court officer or forensic laboratory employee. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

LD 354

An Act to Establish Certain Crimes of Domestic Violence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MUSE DOUGLASS	ONTP MAJ OTP-AM MIN	

LD 354 proposed to create 2 new offenses in the criminal code: domestic violence assault for assault against a family member and domestic violence terrorizing for terrorizing a family member. As proposed, both of these new offenses would be Class D crimes, except in cases of assault by a person 18 years of age or older against a person under 6 years of age, which would be a Class C crime. As proposed, both of these new offenses would require a judge, not a bail commissioner to set bail.

Committee Amendment "A" (H-951) was the minority report of the Joint Standing Committee on Criminal Justice, and it proposed to add a fiscal note to the bill. This amendment was not adopted.