

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
119TH LEGISLATURE**

**FIRST REGULAR SESSION**

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

**JULY 1999**

**MEMBERS:**

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Sen. William B. O'Gara  
Sen. Paul T. Davis*

*Rep. Edward J. Povich, Chair  
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**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.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE	OTP-AM	S-307 S-423 MICHAUD

LD 1330 proposed to remove the provision of law that allowed the Commissioner of Corrections to hire intermittent employees.

**Committee Amendment "A" (S-307)** proposed to replace the bill. The amendment proposed to continue to allow the Commissioner of Corrections to hire intermittent employees, but it provides that intermittent positions in the institutional services unit must be identified through a separate agreement with labor and may be used only at the preidentified posts and sites. The amendment proposed that the use of intermittent employees for the purpose of overtime must be governed by an agreement between the parties. The amendment also proposed to add a fiscal note.

**Senate Amendment "A" to Committee Amendment "A" (S-423)** proposed to add necessary language, for fiscal year 1999-00 only, to grant the Department of Corrections the needed authority to establish intermittent positions. It also proposed to require the department to report to the Legislature by January 14, 2000 concerning utilization of that authority.

***Enacted law summary***

Public Law 1999, chapter 459 continues to allow the Commissioner of Corrections to hire intermittent employees, but it provides that intermittent positions in the institutional services unit must be identified through a separate agreement with labor and may be used only at the preidentified posts and sites. Use of intermittent employees for the purpose of overtime must be governed by an agreement between the parties.

Public Law 1999, chapter 459 also adds necessary language, for fiscal year 1999-00 only, to grant the Department of Corrections the needed authority to establish intermittent positions, and requires the department to report to the Legislature by January 14, 2000 concerning utilization of that authority.

**LD 1334                      An Act Concerning the Distribution of Certain Fines and Forfeitures                      ONTP**

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

LD 1334 proposed to establish within the Department of the Attorney General the Tobacco Revenues Grants Committee, which has the authority to award to law enforcement agencies funds derived from one-half of the fines and forfeitures collected from persons found in violation of the retail tobacco sales law.

**LD 1347                      An Act Addressing an Allegation of Prior Conviction When the Sentence Is Enhanced                      PUBLIC 196**

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

LD 1347 proposed to:

1. Transfer the basic allegation requirement relating to a prior conviction to be used for sentencing enhancement, including the definition of sentencing enhancement, from the Maine Revised Statutes, Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A;
2. Transfer the issue of identity from Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A; and
3. Repeal the remaining procedural portions of Title 15, section 757 and direct, in the new section 9-A of the Criminal Code, Title 17-A, that the manner of alleging a prior conviction in a charging instrument and conditions for using that prior conviction at trial be as the Supreme Judicial Court provides by rule.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

***Enacted law summary***

Public Law 1999, chapter 196 transfers the basic allegation requirement relating to a prior conviction to be used for sentencing enhancement, including the definition of sentencing enhancement, from the Maine Revised Statutes, Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A. PL 1999, chapter 196 transfers the issue of identity from Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A and repeals the remaining procedural portions of Title 15, section 757 and directs that the manner of alleging a prior conviction in a charging instrument and conditions for using that prior conviction at trial be as the Supreme Judicial Court provides by rule.

**LD 1361                      An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to 6 Months                      PUBLIC 442**

<u>Sponsor(s)</u> SCHNEIDER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-458
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LD 1361 proposed to increase the requirement that the drugs be confiscated from a 48-hour period to a period of one year when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct. The bill also proposed to incorporate the cultivation statute. This bill was the recommendation of the Attorney General.

**Committee Amendment "A" (H-458)** proposed to retitle and replace the bill. The amendment proposed to increase the requirement that the drugs be confiscated from a 48-hour period to a 6-month period when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct that involves trafficking, furnishing or aggravated trafficking or furnishing. As proposed, drugs confiscated pursuant to a possession charge continue to be limited to the 48-hour confiscation period. The amendment also proposed to create a new section in the Maine Revised Statutes, Title 17-A, chapter 45 to address all aggravation based on confiscation.

The summary of the bill incorrectly indicated that the bill included the cultivation statute; neither the bill nor the amendment includes cultivation for purposes of aggregation based upon confiscation.

The amendment also proposed to add a fiscal note.

***Enacted law summary***

Public Law 1999, chapter 442 increases the requirement that the drugs be confiscated from a 48-hour period to a 6-month period when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct that involves trafficking, furnishing or aggravated trafficking or furnishing. Drugs confiscated pursuant to a possession charge continue to be limited to the 48-hour confiscation period. Public Law 1999, chapter 442 also creates a new section in the Maine Revised Statutes, Title 17-A, chapter 45 to address all aggravation based on confiscation.