

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).

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.

Committee Amendment "A" (H-534) proposed to require that a court-ordered examination of a defendant before trial must be completed within 45 days of the arrest if the defendant is incarcerated. It also proposed to require the State Forensic Service to notify the court when the examination is completed.

Enacted law summary

Public Law 1999, chapter 373 changes the time frame for the completion of a court-ordered mental examination of an incarcerated person accused of a crime from 90 days to 45 days from the date of arrest. Public Law 1999, chapter 373 also requires the State Forensic Service to notify the court when the examination is completed.

Note: LD 2252, An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine, Public Law 1999, chapter 510 amends Public Law 1999, chapter 373. Public Law 1999, chapter 510 corrects misuse of the word "arrest." A psychological evaluation must be completed within 45 days from the date of the court order instead of the date of the defendant's arrest.

LD 1566 **An Act to Clarify the Definition of Terms Relating to Scheduled Drugs** **PUBLIC 239**

<u>Sponsor(s)</u> SCHNEIDER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-420
--------------------------------	--	-----------------------------------	--	------------------------------------

LD 1566 proposed to clarify the definition of "cultivate" as it relates to the prohibition against growing marijuana. The bill proposed to limit to 1 1/4 ounces the amount of marijuana a person may possess and be subject to civil, as opposed to criminal, penalties. This bill was the recommendation of the Attorney General.

Committee Amendment "A" (H-420) proposed to strike section 2 of the bill that defines "usable amount of marijuana" as a usable amount weighing not more than 1 1/4 ounces.

Enacted law summary

Public Law 1999, chapter 239 clarifies the definition of "cultivate" as it relates to the prohibition against growing marijuana. "Cultivate" means to sow a seed; to grow, raise or tend a plant; to harvest a plant; or to knowingly possess a plant.

LD 1572 **An Act to Establish Lifetime Probation for Multiple Sex Offenders** **ONTP**

<u>Sponsor(s)</u> O'BRIEN L		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
--------------------------------	--	---------------------------------	--	---------------------------

LD 1572 proposed to require that a person convicted of a Class A, B or C sex offense who has two or more other convictions of any Class A, B or C sex offense or a comparable offense in another jurisdiction must be placed on probation for life or sentenced to a term of imprisonment of 15 years. As proposed, if the person is placed on probation for life, the person may be sentenced to a term of imprisonment up to 15 years, and if the person is sentenced to a term of imprisonment of 15 years, the person may be placed on any period of probation up to life.

LD 1575 **An Act to Criminalize Internet Dissemination of Child Pornography** **PUBLIC 444**

Sponsor(s)
SCHNEIDER
LONGLEY

Committee Report
OTP-AM

Amendments Adopted
H-418
H-600 POVICH

LD 1575 proposed to:

1. Clarify the definition of "disseminate" to make clear that the dissemination of sexually explicit materials via computer is covered by the laws regulating sexual exploitation of minors and does not, in fact, require receipt by another as a precondition to the completion of the act of dissemination;
2. Clarify that representations of person who do not in fact exist but who are depicted to be under 18 years of age are within the scope of the prohibition and that any person actually viewing the visual image or material, including jurors, may render an opinion as to the age of the representation or person depicted;
3. Clarify the modality of reproducing visual images or material to include, in addition to mechanical, electronic or chemical reproduction;
4. Make it an affirmative defense that the person depicted was the spouse of any actor and add affirmative defenses for medical, scientific or law enforcement purposes;
5. Modify the existing prohibitions from covering persons under 14 years of age to persons under 18 years of age in conformity with the laws of the United States and neighboring jurisdictions, such as Massachusetts;
6. Create a new crime of aggravated dissemination, which is a Class B crime, and prohibit the dissemination of sexually explicit visual images or materials to persons the offender believes or knows to be a minor. As proposed, this section would encompass as an aggravated offense the dissemination of sexually explicit visual images or material to a person the offender believes to be a minor, but who is, in fact, an adult law enforcement officer acting undercover; and
7. Allow for a simple criminal forfeiture procedure for equipment used to facilitate a violation of the sexual exploitation of minors laws.

Committee Amendment "A" (H-418) proposed to retain the expansion of the definition of "disseminate" and the description of the crime of "dissemination of sexually explicit materials" to cover the dissemination of sexually explicit materials over the Internet. The amendment proposed to delete the following from the bill:

1. "Attempt" from the proposed definition of "disseminate;"
2. The provisions raising the age of persons protected by the laws from 14 years of age to 18 years of age;
3. The proposal to include the "representation" of a minor in the definition of minor and in the definition of the offense of dissemination of sexually explicit materials;
4. Proposed authorized methods for determining the age of the person depicted;
5. Changes in defenses and the terms "uncovered or covered;" and
6. The proposed new crime of aggravated dissemination of sexually explicit materials.

The amendment also proposed to add a fiscal note.

House Amendment "A" (H-600) proposed to clarify that a defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial.

Enacted law summary

Public Law 1999, chapter 444 clarifies the definition of "disseminate" and the description of the crime of "dissemination of sexually explicit materials" to cover the dissemination of sexually explicit materials over the Internet. Public Law 1999, chapter 444 also allows for the criminal forfeiture of equipment used to facilitate a violation of the sexual exploitation of minors laws.

LD 1583 An Act to Amend the Definition of Sex Offender and to Require Sheriffs to Notify the State Bureau of Identification of a Sex Offender's Release from Jail for Purposes of Registration and Notification CARRIED OVER

<u>Sponsor(s)</u> O'BRIEN L		<u>Committee Report</u>		<u>Amendments Adopted</u>
--------------------------------	--	-------------------------	--	---------------------------

LD 1583 proposes to expand the definition of "sex offender" for purposes of the Sex Offender Registration and Notification Act to include all sex offenses in the Maine Revised Statutes, Title 17-A, chapter 11 that are Class A, B or C crimes and the crime of sexual exploitation of a minor. For purposes of registration and notification, the bill also proposes to require county sheriffs to notify the Department of Public Safety, State Bureau of Identification when a sex offender is released from a county jail.

This bill has been carried over to the Second Regular Session.

LD 1588 An Act to Increase the Penalties for Persons in Possession of Methamphetamine in Conformity with the Penalties for Similarly Dangerous Drugs PUBLIC 422

<u>Sponsor(s)</u> SCHNEIDER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-535
--------------------------------	--	-----------------------------------	--	------------------------------------

LD 1588 proposed to bring the general treatment of methamphetamine into conformity with the treatment of cocaine for persons charged with possession, furnishing and trafficking. This bill proposed to treat methamphetamine in virtually the same manner as cocaine hydrochloride is treated under existing law for purposes of aggravated trafficking, trafficking, furnishing and possession. The bill also proposed to provide for possession of any amount of methamphetamine to be a Class C offense, similar to the treatment of heroin under existing law. The bill was the recommendation of the Attorney General.

Committee Amendment "A" (H-535) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 422 brings the general treatment of methamphetamine into conformity with the treatment of cocaine for persons charged with possession, furnishing and trafficking. This bill treats methamphetamine in virtually the same manner as cocaine hydrochloride, is treated under existing law for purposes of aggravated trafficking, trafficking, furnishing and possession. The bill also provides for possession of any amount of methamphetamine to be a Class C offense, similar to the treatment of heroin under existing law.

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 422 and other drug laws were enacted simultaneously.