

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*

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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).

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.

Public Law 1999, chapter 374 creates the new crime of marijuana cultivation and eliminates the inclusion of growing or cultivating marijuana under the crime of trafficking. The penalties for the new crime of marijuana cultivation are the same as they had been when included under the offense of trafficking. Marijuana cultivation is treated the same as trafficking for purposes of aggravation of charges under the Maine Revised Statutes, Title 17-A, section 1105. Public Law 1999, chapter 374 also specifies that it is a Class E crime to grow or cultivate 5 or fewer plants.

Public Law 1999, chapter 374 incorporates LD 48, "An Act to Amend the Definition of "Traffick" in the Drug Laws."

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. 374 and other drug laws were enacted simultaneously.

LD 2018 **An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code** **PUBLIC 358**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 2018 proposed to provide that in the event a defense is precluded solely because the statutory requirement that the person's belief be reasonable has not been met, conviction of a crime for which recklessness or criminal negligence suffices is nonetheless available to the State if the State can prove beyond a reasonable doubt to the fact finder that the person's holding of the belief is grossly deviant from what a reasonable and prudent person would believe in the same situation. As proposed, the modification would eliminate the current requirement that holding the belief be analyzed under the distinct culpable mental states of acting "recklessly" or with "criminal negligence," as defined in the Maine Revised Statutes, Maine Criminal Code, Section 35, and also the further requirement for criminal liability that the crime charged be satisfied by the same culpable mental state. See, e.g., *State v. Davis*, 528 A.2d 1267, 1269-1270 (Me. 1987) (in the context of a self-defense claim in an assault case); *State v. Lagasse*, 410 A.2d 537, 543 (Me. 1980) (in the context of a self-defense claim in a manslaughter case).

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

Enacted law summary

Public Law 1999, chapter 358 provides that in the event a defense is precluded solely because the statutory requirement that the person's belief be reasonable has not been met, conviction of a crime for which recklessness or criminal negligence suffices is nonetheless available to the State if the State can prove beyond a reasonable doubt to the fact finder that the person's holding of the belief is grossly deviant from what a reasonable and prudent person would believe in the same situation. The modification eliminates the current requirement that holding the belief be analyzed under the distinct culpable mental states of acting "recklessly" or with "criminal negligence," as defined in the Maine Revised Statutes, Maine Criminal Code, Section 35, and also the further requirement for criminal liability that the crime charged be satisfied by the same culpable mental state.

LD 2019 **An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors** **PUBLIC 438**

<u>Sponsor(s)</u> SAXL M		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-536
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LD 2019 proposed to eliminate the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16, or 18 if the perpetrator was a school employee.

Committee Amendment "A" (H-536) proposed to eliminate the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16. The amendment also proposed to add an application section and a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 438 eliminates the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16. Public Law 1999, chapter 585 similarly eliminated the statute of limitations for criminal prosecution for gross sexual assault or incest if the victim was under the age of 16 at the time of the crime.

LD 2021

Resolve, to Establish the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims

**RESOLVE 84
EMERGENCY**

Sponsor(s)
NORBERT
LONGLEY

Committee Report
OTP-AM

Amendments Adopted
H-455
S-232 MURRAY
S-457 MICHAUD

LD 2021 was a concept bill draft pursuant to Joint Rule 208. This bill proposed to establish an alternative process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims.

Committee Amendment "A" (H-455) proposed to replace the bill. The amendment proposed to create a resolve to establish the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims. As proposed, the commission, with the assistance of experts and interested parties, would review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims; identify needs of sexual assault victims; review other states' processes for providing forensic examinations; and make necessary recommendations to propose changes to the State's current process. The amendment proposed that the commission report its findings to the Joint Standing Committee on Criminal Justice by December 15, 1999. The amendment also proposed to add a fiscal note to the resolve.

Senate Amendment "A" to Committee Amendment "A" (S-232) proposed to change the membership of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims by removing the President of the Maine Association of Criminal Defense Lawyers and adding the Executive Director of the Maine Hospital Association.

Senate Amendment "B" to Committee Amendment "A" (S-457) proposed to clarify that, following the receipt of the commission's report, the Joint Standing Committee on Criminal Justice may report out a bill to the Second Regular Session of the 119th Legislature. The amendment also proposed to strike language that entitles members other than Legislators to a per diem equal to the legislative per diem.

Enacted law summary

Resolve 1999, chapter 84 establishes the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims. The commission, with the assistance of experts and interested parties, is required to review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims; identify needs of sexual assault victims; review other states' processes for providing forensic