

# 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  
120th Legislature*

*First Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Criminal Justice*

*August 2001*

**Members:**

*Sen. Michael J. McAlevey, Chair  
Sen. William B. O'Gara  
Sen. Paul T. Davis*

*Rep. Edward J. Povich, Chair  
Rep. Michael W. Quint  
Rep. Charles E. Mitchell  
Rep. Lillian LaFontaine O'Brien  
Rep. Patricia A. Blanchette  
Rep. Stanley J. Gerzofsky  
Rep. Judith B. Peavey  
Rep. Edgar Wheeler  
Rep. James H. Tobin, Jr.  
Rep. Lois A. Snowe-Mello*

**Staff:**

*Marion Hylan Barr, Legislative Analyst  
Jon Clark, Senior Analyst*

*Office of Policy and Legal Analysis  
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

**120th Legislature**  
**First Regular Session**

**Summary Of Legislation Before The Joint Standing Committees**  
**August 2001**

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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*  
*FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*..... *Emergency bill failed to get 2/3 vote*  
*FAILED ENACTMENT/FINAL PASSAGE*..... *Bill failed to get majority vote*  
*FAILED MANDATE ENACTMENT*..... *Bill imposing local mandate failed to get 2/3 vote*  
*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 21, 2001**.

*David E. Boulter, Director*  
 Offices Located in the State House, Rooms 101/107/135

## Joint Standing Committee on Criminal Justice

of endangerment of a dependent person, a legal duty may be inferred if the defendant has assumed responsibility for the care of the dependent person.

**LD 292**                      **An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties and to Include Burglary of a Motor Vehicle in the Presumption Provision for Theft**                      **PUBLIC 426**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-16

LD 292 proposed to add to the provision in the Maine Criminal Code that provides for the enhancement of theft penalties a prior conviction for burglary of a motor vehicle, in violation of the Maine Revised Statutes, Title 17-A, section 405.

**Committee Amendment "A" (H-16)** proposed to clarify the bill by establishing that burglary committed inside a motor vehicle may be used as a prior conviction for purposes of the enhancement of theft penalties. The amendment also proposed to create the presumption that a defendant is guilty of burglary of a motor vehicle if a defendant is in exclusive possession of property recently taken under circumstances constituting a theft or robbery and burglary of a motor vehicle. A similar presumption currently exists for burglary involving a structure.

This amendment also proposed to add a fiscal note.

### *Enacted law summary*

Public Law 2001, chapter 426 establishes that burglary committed inside a motor vehicle may be used as a prior conviction for purposes of the enhancement of theft penalties and creates the presumption that a defendant is guilty of burglary of a motor vehicle if a defendant is in exclusive possession of property recently taken under circumstances constituting a theft or robbery and burglary of a motor vehicle. A similar presumption currently exists for burglary involving a structure. This law was proposed by the Criminal Law Advisory Commission.

**LD 313**                      **An Act Regarding Prisoner Participation in Public Work Projects or Improvements to Charitable Organizations' Property**                      **PUBLIC 171**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
LESSARD DAVIS P		OTP-AM		H-262

LD 313 proposed to allow county sheriffs to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. It also proposed to provide that a prisoner could qualify for a reduced sentence through performing public service work, whether that work is performed on the property of a charitable organization or on property of the county.

## Joint Standing Committee on Criminal Justice

**Committee Amendment "A" (H-262)** proposed to make the following substantive changes to the bill:

1. To remove those portions of the bill that repeal provisions of law providing rights of appeal for an inmate whose privilege of release from jail has been revoked; under this amendment, the rights of appeal provided in current law are maintained;
2. To change the law governing the disbursement of an inmate's employment wages; under current law, the court determines the disbursement according to certain guidelines established in law; under this amendment the sheriff would make the determination according to the same guidelines;
3. To change the law governing the prorating of an inmate's sentence for participation in public-works related projects; under current law an inmate's sentence must be reduced one day for each 16 hours worked; under this amendment, the sentence could be reduced up to one day for each 16 hours worked;
4. To modify that portion of the bill that repeals the authority of a court to withdraw an inmate's privilege to participate in a home-release monitoring program; under this amendment, the court could withdraw the privilege but must first provide an opportunity for the sheriff to comment;
5. To modify that portion of the bill that repeals the authority of a court to determine whether the inmate is responsible for the cost of participating in the home-release program, based on the inmate's ability to pay; under this amendment, the sheriff would be granted the authority to make this determination;
6. To change the law that directs the court to require the inmate under a home-release program to pay certain fees related to the costs of the program unless the inmate does not have the financial resources to pay these fees; under this amendment, the sheriff would be directed to undertake this responsibility;
7. To add a requirement that the Commissioner of Corrections submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters concerning the management by sheriffs of inmate releases; and
8. To repeal the provisions transferring the decision-making authority with respect to releases of prisoners from the county jails from the courts to the sheriffs 90 days after the adjournment of the First Regular Session of the 121st Legislature; at this time the authority would revert back to the courts.

The amendment also proposed to add a fiscal note to the bill.

### ***Enacted law summary***

Public Law 2001, chapter 171 allows county sheriffs instead of a court to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. It requires the Commissioner of Corrections to submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters concerning the management by sheriffs of inmate releases under these new provisions. It repeals this transfer from the court to the sheriffs of the decision-making authority with respect to releases of prisoners from the county jails 90 days after the adjournment of the First Regular Session of the 121st Legislature. On that date the authority reverts back to the courts. It also

## Joint Standing Committee on Criminal Justice

makes clear that a prisoner can qualify for a reduced sentence through performing public service work, whether that work is performed on the property of a charitable organization or on property of the county.

**LD 349**                      **An Act Concerning the Transportation of Juvenile Offenders**                      **DIED ON  
ADJOURNMENT**

<u>Sponsor(s)</u> PEAVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-455
-----------------------------	--	-----------------------------------	--	------------------------------------

LD 349 proposed to relieve the county of the cost of transporting juveniles other than to a courthouse. The cost of other court-ordered transportation would be the responsibility of the State.

**Committee Amendment "A" (H-455)** replaced the bill and proposed to repeal juvenile transportation provisions in the Maine Revised Statutes, Title 34-A and create one transportation provision in the Maine Juvenile Code. The new provision proposed to direct county sheriffs to provide court-ordered and court-related transportation of juvenile detainees and require the Department of Corrections to reimburse the transporting county for those costs. The amendment also proposed to add a fiscal note and an appropriation.

LD 349 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

**LD 385**                      **An Act to Amend the Laws Governing Bail**                      **ONTP**

<u>Sponsor(s)</u> SKOGLUND PENDLETON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
--	--	---------------------------------	--	---------------------------

LD 385 proposed to allow sheriffs to appoint county jail employees to act as bail commissioners. The bill proposed that a fee received by a sheriff serving as a bail commissioner would have to be paid to the county.

**LD 407**                      **An Act Relating to Out-of-state Travel for Work Purposes for  
Persons on Probation or on Supervised Release**                      **ONTP**

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

LD 407 proposed to allow a convicted person who is placed on probation or on supervised release out-of-state travel for work purposes only.