

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice*

May 2002

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120th Legislature
Second Regular Session

Summary Of Legislation Before The Joint Standing Committees
May 2002

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 arranged alphabetically by committee name 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>PASSED</i>	<i>Joint Order passed in both bodies</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 July 25, 2002.

Patrick T. Norton, Interim Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Criminal Justice

LD 601

**An Act to Provide for Relief from Mandatory Minimum Sentences
in Certain Cases**

ONTP

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

LD 601, which was carried over from the First Regular Session, proposed to grant a judge authority to deviate from a mandatory minimum sentence and a mandatory minimum fine in certain circumstances and proposed to repeal the mandatory minimum sentences for aggravated trafficking, furnishing or cultivation of scheduled drugs. LD 601 proposed to give a court authority to deviate from statutory mandatory minimum sentences if the gravity of the offense was not diminished or if the public's safety was not adversely affected and if imposing the mandatory sentence would be a substantial injustice and would frustrate the general purposes of sentencing. The bill proposed that, in deviating from imposing a minimum sentence, a court must consider a number of factors, including: the offense, a victim's wishes, prospects for offender rehabilitation and offender age and physical and mental condition.

Committee Amendment "A" (S-434) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to specify that a court may not suspend or deviate from a mandatory minimum sentence or mandatory minimum fine for violations of the Maine Revised Statutes, Title 29-A. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

LD 611

**An Act to Aid Implementation of the Maine Medical Marijuana Act
of 1998**

PUBLIC 580

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAND QUINT	OTP-AM MAJ ONTP MIN	S-451

LD 611 was a concept draft pursuant to Joint Rule 208.

This bill was jointly referred to the Health and Human Services Committee and the Criminal Justice Committee and proposed to create a pilot program allowing one medical marijuana distribution center in the State. The center would be incorporated as a nonprofit entity managed and overseen by a diverse community group. In particular, this bill proposed the following.

1. A single nonprofit center, referred to herein as the "center," would be incorporated for the purpose of cultivating and distributing medical marijuana to individuals qualified under the Maine Medical Marijuana Act of 1998. The center would also be authorized to distribute and/or lend cultivation equipment, supplies and seeds to qualified individuals for cultivation for personal use.
2. The center would be overseen and managed by a community board made up of a wide range of individuals drawn from the community area of the center's site. Members of the community board might include members drawn from the following groups: law enforcement, current and former

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patients, patient advocates, hospice facilities, education professionals, legal community, business, pharmacists, clergy, medicine and other groups involved in the community.

3. The framework for the operation of the community board would be included in the enabling legislation. Among other things, the framework would provide for term length of board members, qualifying members as described above, civil and criminal immunity protection for board members and employees acting within the scope of the center's mission and the authorization to use Maine's nonprofit business statute as a basis for organizational structure.
4. The center would be able to charge patients for the product to help cover the cost of the center. The center would also be prohibited from securing medical marijuana from outside the State.
5. A mandatory registry system for patients using the center would be created to ensure that only qualified individuals access the center's services. The system would be maintained by the center with oversight and input from the sheriff of the county within which the center is located. Other law enforcement personnel could confirm the participation of individuals in the center's services, if necessary, through that particular sheriff's office or the center. Among other things, the registry system would consist of a photo identification card, and the center would be authorized by the patient to check with the individual's physician that the individual falls within the provisions of the Maine Medical Marijuana Act of 1998. The center would also check with the appropriate state medical board or with the statewide medical association to determine that the physician is duly licensed to practice in the State.
6. The center would be required to keep records of patients' usage from the center in order to monitor compliance with statutory limits.
7. The center would be required to report to the Legislature within 18 months of commencement of operation concerning the center's operations, an evaluation in meeting patients' needs and the unmet needs of patients. The report could also contain suggestions for additional legislation to meet needs of patients. The Legislature could then take additional action, including the authorization of additional sites within the State.
8. A person qualified under the Maine Medical Marijuana Act of 1998 who possessed appropriate documentation under the current law of that person's qualification at the time of a stop or encounter with law enforcement would not be subject to seizure of a lawful amount of marijuana or the equipment necessary to maintain, grow or consume medical marijuana.

Committee Amendment "A" (S-451) was the report of the majority of the members of 2 committees, the Joint Standing Committee on Criminal Justice and the Joint Standing Committee on Health and Human Services.

This amendment proposed to replace the bill and change the title. It proposed to clarify the definition of a designated care giver for a patient eligible to use marijuana for medical purposes, increase the amount of harvested marijuana that may be possessed for medical purposes from 1.25 ounces to 2.5 ounces and add an affirmative defense provision to clarify that an eligible patient or designated care giver has an affirmative defense under the law passed as a citizen initiative in 1999. It proposed to remove from the bill the provisions that would have established a nonprofit distribution center governed by a community board and a mandatory registration system.

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Enacted law summary

Public Law 2001, chapter 580 clarifies the definition of a designated care giver for a patient eligible to use marijuana for medical purposes, increases the amount of harvested marijuana that may be possessed for medical purposes from 1.25 ounces to 2.5 ounces and adds an affirmative defense provision to clarify that an eligible patient or designated care giver has an affirmative defense under the law passed as a citizen initiative in 1999.

LD 681

An Act Regarding Possession of Firearms by Prohibited Persons

PUBLIC 549

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARR KILKELLY	OTP-AM	H-862

Current law prohibits persons convicted of a crime punishable by a term of imprisonment for one year or more from carrying a firearm. Under federal law, a crime punishable by more than a year in prison is considered a felony. In this State, crimes are not classified as a felony or misdemeanor; instead, crimes are classified by the severity of the punishment that may be imposed. For example, conviction of a Class D or Class E crime is punishable by a definite term of imprisonment less than one year. In some other states, however, a crime is considered a misdemeanor but carries a possible punishment of more than a year in prison. Under the current law, a person convicted of a crime in another state that is punishable by a year or more is prohibited from carrying a firearm in this State, even if the same crime in this State is a Class D or E crime.

LD 681, which was carried over from the First Regular Session, proposed to address that inconsistency by clarifying that the prohibition against carrying a firearm applies to a person convicted of a crime in another state that is punishable in this State as murder or a Class A, B or C crime.

Committee Amendment "A" (H-862) proposed to replace the bill, change the title of the bill and do the following:

1. Amend the headnote of the Maine Revised Statutes, Title 15, chapter 15 to more accurately reflect the intent of the law;
2. Clarify language regarding who is prohibited from possessing a firearm to include persons convicted of or found not criminally responsible by reason of mental disease or defect of committing the following:
 - A. A crime in this State that is punishable by imprisonment for one year or more;
 - B. A crime under the laws of the United States that is punishable by imprisonment for more than one year;
 - C. A crime under the laws of any other state that is punishable by imprisonment for more than one year, except that a crime punishable by imprisonment for more than one year would not include any state misdemeanor that is punishable by a term of imprisonment of 2 years or less;