

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

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*

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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
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 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.

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:

- 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
PASSED..... Joint Order passed in both bodies
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 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

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;

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- D. A crime under the laws of any other state that is not punishable by more than one year of imprisonment but is elementally substantially similar to a crime in this State that is punishable by imprisonment for one year or more, thus ensuring that if another state had determined that a particular offense was not serious but the Maine Legislature had determined that an elementally substantially similar offense is murder or a Class A, B or C crime if committed in Maine, the person who committed the offense would be prohibited from possession; or
 - E. A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation that was committed using a firearm against a person or using any other dangerous weapon;
- 3. Repeal an improper reference to violations of former Title 12, chapter 319, subchapter III as exceptions to the possession prohibition; this chapter was repealed earlier;
 - 4. Define "not criminally responsible by reason of mental disease or defect," "State," "state" and "use of a dangerous weapon" for purposes of Title 15, section 393;
 - 5. Clarify that as a precondition to disqualification for possession of a firearm under Title 15, section 393, subsection 1, paragraph A-1, subparagraph (5) the use of a firearm against a person or the use of a dangerous weapon must be pled in the charging instrument and proven to the fact finder rather than simply being part of the underlying factual matrix of the crime as committed;
 - 6. Amend cross-references in the concealed firearms permit law to be consistent with the proposed changes in this amendment; and
 - 7. Add a fiscal note.

Enacted law summary

Public Law 2001, chapter 549 does the following.

- 1. It amends the headnote of the Maine Revised Statutes, Title 15, chapter 15 to more accurately reflect the intent of the law.
- 2. In order to address potential inequities that may result from the differences in other states' laws as compared to Maine's laws, it clarifies 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 does not include any state misdemeanor that is punishable by a term of imprisonment of 2 years or less;

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- D. A crime under the laws of any other state that is not punishable by more than one year of imprisonment but is elementally substantially similar to a crime in this State that is punishable by imprisonment for one year or more, thus ensuring that if another state has determined that a particular offense is not serious but the Maine Legislature has determined that an elementally substantially similar offense is murder or a Class A, B or C crime if committed in Maine, the person who committed the offense would be prohibited from possession; or
 - E. A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation that was committed using a firearm against a person or using any other dangerous weapon.
3. It repeals an improper reference to violations of former Title 12, chapter 319, subchapter III as exceptions to the possession prohibition; this subchapter was repealed earlier.
 4. It defines "not criminally responsible by reason of mental disease or defect," "State," "state" and "use of a dangerous weapon" for purposes of Title 15, section 393.
 5. It clarifies that as a precondition to disqualification for possession of a firearm under Title 15, section 393, subsection 1, paragraph A-1, subparagraph (5) the use of a firearm against a person or the use of a dangerous weapon must be pled in the charging instrument and proven to the fact finder rather than simply being part of the underlying factual matrix of the crime as committed.
 6. It amends cross-references in the concealed firearms permit law to be consistent with the proposed changes in this Public Law.

LD 1081 **An Act to Adopt a New Interstate Compact Regarding Adults Who DIED BETWEEN
are on Probation or Parole** **BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	OTP MAJ	
MCALEVEY	ONTP MIN	

LD 1081 was carried over from the First Regular Session and proposed to create the Interstate Compact for Adult Offender Supervision.

Committee Amendment "A" (H-162) proposed to add an appropriation section and a fiscal note to the bill. This amendment was not adopted.

House Amendment "A" (H-482) proposed to provide that the rules adopted by the Interstate Commission for Adult Offender Supervision are not considered to have the force and effect of statutory law and do not supersede any laws of the State that are in conflict with the rules. This amendment also proposed to require that the interstate commission's rules be treated as major substantive rules and that the state council created in this State submit the interstate commission's rules to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. The rules would not apply to this State until the Legislature acted to approve the rules. This amendment was not adopted.