

MAINE STATE LEGISLATURE

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*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*

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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).

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

the serious bodily injury or death. The court shall apply the standard of causation defined in the Maine Revised Statutes, Title 17-A, section 33 in such cases.

LD 1087 **An Act to Create the Crime of Fleeing from a Motor Vehicle Stopped by Police** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY WATERHOUSE	ONTP	

LD 1087 proposed to create the Class E crime of fleeing a motor vehicle in order to prohibit a driver of a motor vehicle signaled to stop by a law enforcement officer from attempting to elude arrest by leaving the motor vehicle.

LD 1098 **An Act to Increase the Crime Classification of the Crime of Misuse of Identification** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY WATERHOUSE	ONTP	

LD 1098 proposed to increase the classification of the crime of misuse of identification from a Class D crime to a Class C crime.

LD 1099 **An Act Regarding the Care and Treatment of Persons with Mental Illness Who Are Incarcerated** **PUBLIC 458
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WHEELER E	OTP-AM	S-239 S-382 GOLDTHWAIT

LD 1099 sets out the criteria and procedures for involuntary medication of mentally ill persons and persons suffering from the effects of the use of drugs or other substances residing in Department of Corrections facilities. It conforms with the requirements set out by the United States Supreme Court in Washington v. Harper, 494 U.S. 210 (1990).

Committee Amendment "A" (S-239) replaced the bill and proposed to make statutory changes and create a commission. Part A of the amendment proposed to do the following.

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1. It directs the Commissioner of Corrections or the commissioner's designee to consider all relevant information, including available mental health information, prior to making a placement decision for a person committed or transferred to the custody of the Department of Corrections.
2. It requires all adult correctional facilities and juvenile facilities operated by the Department of Corrections to be accredited by a nationally recognized correctional accrediting body by January 1, 2005 and annually thereafter.
3. It clarifies that persons committed to the custody of the Department of Corrections have a right to adequate mental health treatment.

Part B of the amendment proposed to create the Commission to Study the Needs of Persons with Mental Illness Who Are Incarcerated. The commission would consist of the 13 members of the Joint Standing Committee on Criminal Justice who are directed to invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

1. Evaluate the availability and appropriateness of current mental health services for persons incarcerated in Department of Corrections facilities and in county jails, including but not limited to: access to forensic beds for prisoners in need of that level of mental health intervention; the provision of mental health services within the institutions provided by or in partnership with the Department of Mental Health, Mental Retardation and Substance Abuse Services and involuntary medication of prisoners with mental illness;
2. Identify what additional mental health services are needed for incarcerated persons and how those services may best be implemented, provided and funded;
3. Identify what mental health training is required for law enforcement and corrections officers who work in corrections facilities and jails and how that training may best be implemented, provided and funded; and
4. Identify steps necessary for county jails to seek and achieve accreditation.

The commission would be required to submit its report, together with any necessary implementing legislation, to the Legislature no later than December 14, 2001. The amendment also proposed to add an appropriation and fiscal note.

Senate Amendment "A" to Committee Amendment "A" (S-382) proposed to remove Part B, relating to establishing a commission to study the needs of persons with mental illness who are incarcerated.

Enacted law summary

Public Law 2001, chapter 458 does the following.

1. It directs the Commissioner of Corrections or the commissioner's designee to consider all relevant information, including available mental health information, prior to making a placement decision for a person committed or transferred to the custody of the Department of Corrections.
2. It requires all adult correctional facilities and juvenile facilities operated by the Department of Corrections to be accredited by a nationally recognized correctional accrediting body by January 1, 2005 and annually thereafter.

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3. It clarifies that persons committed to the custody of the Department of Corrections have a right to adequate mental health treatment.

Public Law 2001, chapter 458 was enacted as an emergency measure effective June 28, 2001. (See HP 1383, a Joint Study Order that incorporated Part B of Committee Amendment "A" to LD 1099 and established the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated.)

LD 1119 **An Act to Limit Access to Firearms by Those Subject to Protection from Abuse Orders** **DIED ON CONCURRENCE**

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

LD 1119 proposed to give judges discretion to remove firearms from a person's possession when the person was the subject of a temporary protection from abuse order. The bill also would have prohibited the issuance of a concealed firearms permit to a person who was the subject of a protective order and specified that the person could not apply to receive a concealed firearms permit until at least 2 years after the person was no longer the subject of the protective order. If a concealed firearms permit holder became the subject of a protective order, that person's permit would be revoked. That person could not reapply for a permit for at least 2 years after the person was no longer the subject of the protective order.

Committee Amendment "A" (H-469) replaced the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to give the court authority to prohibit a person who was the subject of a temporary protection from abuse order from possessing a firearm or other dangerous weapon for the duration of the order, if the court determined that the defendant had a history of violence. The amendment also proposed to add a fiscal note. This amendment was not adopted.

Senate Amendment "A" to Committee Amendment "A" (S-243) proposed to give the court authority to prohibit a person who was the subject of a temporary protection from abuse order from possessing a firearm or other dangerous weapon for the duration of the order if the defendant had a record of violent behavior or had threatened to use a dangerous weapon against the plaintiff or a member of the plaintiff's household. This amendment was not adopted.

LD 1123 **An Act Concerning Runaways** **ONTP**

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