

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

Public Law 2001, chapter 372 directs the commanding officer to ensure that fingerprints and information obtained for conducting a criminal history record check for noncriminal justice purposes through the interstate identification index system are not retained and are used solely for the purpose of providing a response to the record check. It requires the commanding officer to report any retention or dissemination of the fingerprints and information to the joint standing committee of the Legislature having jurisdiction over criminal justice matters and directs that committee to consider renunciation of the compact.

Public Law 2001, chapter 372 clarifies that the submission of fingerprints and descriptive information for criminal history record checks for noncriminal justice purposes does not constitute a criminal history record or the administration of criminal justice.

LD 1698

An Act to Amend the Laws Governing DNA Testing

PUBLIC 469

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SKOGLUND DAGGETT	OTP-AM	H-647

LD 1698 proposed to permit persons who are convicted of crimes but are not required to submit to having a DNA sample drawn or persons charged with criminal offenses but not yet tried to request that a DNA sample be drawn. The bill proposed to allow persons who are incarcerated to request that a DNA sample be drawn at any time during incarceration. The bill would have permitted those persons requesting DNA samples to be given access to their records relating to the samples. The bill also proposed to require prosecutors to use all DNA evidence available in a case, regardless of what the evidence indicates. Finally, the bill proposed to specify that if a person has been sentenced and after sentencing has a DNA test that indicates that the person did not commit the offense, the prosecutor must reopen the case.

Committee Amendment "A" (H-647) replaced the bill. The amendment proposed to create a new chapter that sets up the process for postjudgment of conviction DNA analysis. A person convicted of a crime under the laws of this State that carries the potential punishment of imprisonment of at least 20 years and for which the person is currently in actual execution of a sentence of imprisonment or is subject to a sentence of imprisonment that is to be served in the future because another sentence must be served first may file a written postjudgment of conviction motion in the underlying criminal proceeding, moving the court to order DNA analysis of evidence in the control or possession of the State that is related to the underlying investigation or prosecution that led to the person's conviction and a new trial based on the results of that analysis. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 469 creates a new chapter that sets up the process for postjudgment of conviction DNA analysis. A person convicted of a crime under the laws of this State that carries the potential punishment of imprisonment of at least 20 years and for which the person is currently in actual execution of a sentence of imprisonment or is subject to a sentence of imprisonment that is to be served in the future because another sentence must be served first may file a written postjudgment of conviction motion in the underlying criminal proceeding,

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moving the court to order DNA analysis of evidence in the control or possession of the State that is related to the underlying investigation or prosecution that led to the person's conviction and a new trial based on the results of that analysis.

LD 1701 **An Act to Clarify Parental Rights and Responsibilities When Children are Placed in the Custody of the Department of Human Services as a Result of Court Proceedings Governed by the Maine Juvenile Code** **ONTP**

<u>Sponsor(s)</u> BROOKS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1701 proposed to allow the court to order parents to participate in services when a child has come into Department of Human Services custody as a result of court proceedings governed by the Juvenile Code. The bill also proposed to bring the department into compliance with federal law, so that it could draw down federal funds for children who have come into DHS custody through the Juvenile Court. Current law exists to allow the state to access federal funds for children who come into the care of DHS through Title 22 actions.

LD 1725 **An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs** **PUBLIC 428**

<u>Sponsor(s)</u> SHOREY POVICH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-146
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LD 1725 proposed to create a new crime of "illegal importation of scheduled drugs" with penalties that are the same as those for unlawfully furnishing scheduled drugs under the Maine Revised Statutes, Title 17-A, section 1106. Marijuana was not included under the new crime. The bill would not have applied to any person with a lawful prescription for the drug.

Committee Amendment "A" (S-146) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 428 creates a new crime of "illegal importation of scheduled drugs" with penalties that are the same as for unlawfully furnishing scheduled drugs under the Maine Revised Statutes, Title 17-A, section 1106. Marijuana is not included under the new crime. The law does not apply to any person with a lawful prescription for the drug.