

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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Maine State Legislature
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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

LD 1758

An Act to Amend the Laws Pertaining to the Department of Corrections

PUBLIC 386

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|--------------------------|---------------------------|
| MCALEVEY | OTP-AM MAJ OTP-AM MIN | S-280 |

LD 1758 proposed to do the following:

1. Establish the authority for the Department of Corrections to transport prisoners across state lines for medical care;
2. Authorize the department to pay for cremation as an option and to clarify reimbursement for funeral expenses;
3. Allow deathbed visits by prisoners to step-relatives;
4. Exempt corrections officers at juvenile facilities from the Criminal Justice Academy's training and certification requirements;
5. Create the Correctional Medical Services Fund;
6. Amend the confidentiality statutes to make screening and assessment tools confidential;
7. Add tobacco trafficking to the prison contraband law;
8. Repeal the temporary certification requirement for batterers' intervention programs;
9. Remove Assistant to the Commissioner of Corrections from positions that serve at the pleasure of the commissioner;
10. Add Correctional Trade Instructor to the definition of corrections officer;
11. Allow polygraph testing of sex offenders in court-ordered treatment;
12. Clarify use of force relating to corrections personnel; and
13. Clarify termination of probation provisions for those who complete batterers' intervention programs.

Committee Amendment "A" (S-280) was the majority report of the Joint Standing Committee on Criminal Justice. Committee Amendment "A" proposed to do the following:

1. Remove that portion of the bill that would have repealed and replaced the law governing the use of force, including deadly force, by corrections personnel;

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2. Remove that portion of the bill that would have exempted corrections officers in juvenile facilities from Maine Criminal Justice Academy training and required the Department of Corrections to provide separate training for these officers;
3. Remove that portion of the bill that would have allowed the Department of Corrections to use money in a prisoner's account to pay for the cost of burial in those cases where the prisoner was buried at public expense;
4. Replace that portion of the bill that proposed to make tobacco trafficking in prison a Class C crime; under the amendment, tobacco trafficking in an adult correctional facility would be a class E crime;
5. Make a technical correction to correct a reference;
6. Replace that portion of the bill that would have added Correctional Trade Instructor to the definition of "corrections officer" under the laws relating to the Maine Criminal Justice Academy training requirements; under this amendment, the instructors would have been required to meet the same training requirements, but were not defined as "corrections officers" for purposes of the Maine Criminal Justice Academy law. Nothing in this amendment was intended to affect the salary classification of the instructors;
7. Make technical corrections to ensure that the Correctional Program Improvement Fund was repealed and replaced by the new Correctional Medical Services Fund;
8. Replace that portion of the bill that would have made certain screening and assessment tools used by the Department of Corrections confidential; the amendment proposed to provide that such documents are not public records but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health;
9. Amend the bill to allow prisoners, with the approval of the Department of Corrections, to visit the deathbed and attend the funeral of natural, adoptive or foster relatives; and
10. Add a fiscal note to the bill.

Committee Amendment "B" (S-281) was the minority report of the Joint Standing Committee on Criminal Justice. Committee Amendment "B" proposed to do the following:

1. Remove that portion of the bill that would have repealed and replaced the law governing the use of force, including deadly force, by corrections personnel;
2. Remove that portion of the bill that would have exempted corrections officers in juvenile facilities from Maine Criminal Justice Academy training and required the Department of Corrections to provide separate training for these officers;
3. Remove that portion of the bill that would have allowed the Department of Corrections to use money in a prisoner's account to pay for the cost of burial in those cases where the prisoner was buried at public expense;
4. Replace that portion of the bill that proposed to make tobacco trafficking in prison a Class C crime; under the amendment, tobacco trafficking in an adult correctional facility would be a class E crime;

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5. Make a technical correction to correct a reference;
6. Replace that portion of the bill that would have added Correctional Trade Instructor to the definition of "corrections officer" under the laws relating to the Maine Criminal Justice Academy training requirements; under this amendment, the instructors would have been required to meet the same training requirements, but were not defined as "corrections officers" for purpose of the Maine Criminal Justice Academy law. Nothing in this amendment was intended to affect the salary classifications of the instructors;
7. Remove that portion of the bill that would have struck the assistant to the commissioner position from the list of positions that serve at the pleasure of the Commissioner of Corrections;
8. Make technical corrections to ensure that the Correctional Program Improvement Fund was repealed and replaced by the new Correctional Medical Services Fund;
9. Replace that portion of the bill that would have made certain screening and assessment tools used by the Department of Corrections confidential; the amendment proposed to provide that such documents are not public records but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health;
10. Amend the bill to allow prisoners, with the approval of the Department of Corrections, to visit the deathbed and attend the funeral of natural, adoptive or foster relatives; and
11. Add a fiscal note to the bill.

Committee Amendment "B" was not adopted.

Enacted law summary

Public Law 2001, chapter 386 does the following.

1. It establishes the authority for the Department of Corrections to transport prisoners across state lines for medical care.
2. It authorizes the department to pay for cremation in cases where it assumes responsibility for burial of prisoners at public expense.
3. It allows deathbed visits by prisoners to natural, adopted, foster or step relatives.
4. It amends the confidentiality statutes to make screening and assessment tools confidential.
5. It adds the Class E crime of tobacco trafficking to the prison contraband law.
6. It repeals the temporary certification requirement for batterers' intervention programs.
7. It removes Assistant to the Commissioner of Corrections from positions that serve at the pleasure of the commissioner.

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8. It requires Correctional Trade Instructors to meet the same training requirements as corrections officers.
9. It allows polygraph testing of sex offenders in court-ordered treatment.
10. It makes technical corrections to ensure that the Correctional Program Improvement Fund is repealed and replaced by the new Correctional Medical Services Fund.
11. It provides that certain screening and assessment tools used by the Department of Corrections are confidential and are not public records, but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health.

LD 1764 **An Act to Amend the Crime of Endangering the Welfare of a Child** **PUBLIC 429**

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| <u>Sponsor(s)</u> MCALEVEY POVICH | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-203 |
|---|-----------------------------------|------------------------------------|

LD 1764 proposed to create the crime of aggravated endangering the welfare of a child, which is committed when a parent, foster parent, guardian or person responsible for the care and custody of the child knows that the child has been subject to serious bodily injury by another and fails to protect the child from further injury. Current law punishes this conduct by a maximum of less than one year in jail.

Committee Amendment "A" (S-203) replaced the bill and proposed to amend the current endangering the welfare of a child law to include the Class C crime of failing to take measures to protect a child from further bodily injury when such injury has been committed by another person and the person responsible for the long-term general care of the child knows of the prior injury. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 429 amends the current endangering the welfare of a child law to include the Class C crime of failing to take measures to protect a child from further bodily injury when such injury has been committed by another person and the person responsible for the long-term general care of the child knows of the prior injury.

LD 1800 **An Act to Enhance the Enforcement and Prosecution of Computer Crimes Through Support of the Maine Computer Crimes Task Force** **DIED ON ADJOURNMENT**

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