

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

July 2003

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint 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>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<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>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 that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
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Joint Standing Committee on Criminal Justice and Public Safety

Enacted Law Summary

Public Law 2003, chapter 243 makes the following changes to the laws regarding the Victims' Compensation Fund.

1. It expands the definition of family or household member to include other individuals "who bear an equally significant relationship to the victim."
2. It adds leaving the scene of a motor vehicle accident to the list of covered crimes if the crime results in personal injury or death.
3. It adds to eligible expenses repair or replacement of locks or other security devices.
4. It extends the application filing deadline from one year to 3 years.
5. It requires disclosure of relevant health care information to the Victims' Compensation Board pursuant to a victim's signed application to the board.
6. It provides for reimbursement to the Victims' Compensation Fund from restitution payments made by the offender after the victim's actual losses are covered.

LD 1514

An Act To Amend the Sex Offender Registration and Notification Laws

PUBLIC 371

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J CARPENTER	OTP-AM MAJ ONTP MIN	H-420

LD 1514 proposed to make several changes to the sex offender registration and notification laws. Specifically, the bill proposed to do the following:

1. Expand the definition of "sex offense" to include 2 crimes regarding sexual exploitation of minors. The bill proposed to add the crimes of dissemination of sexually explicit materials and possession of sexually explicit materials to the definition of "sex offense;"
2. Repeal a provision of law that requires the Department of Public Safety, State Bureau of Identification to maintain a directory of sexually violent predators. This provision is redundant, since the Maine Revised Statutes, Title 34-A, section 11221, subsection 1 requires the bureau to maintain a registry of all persons required to register under the chapter;
3. Clarify the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarify what access to that information the public and sex offenders or sexually violent predators have;
4. Clarify that a sex offender or sexually violent predator shall notify the Department of Public Safety, State Bureau of Identification in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile;

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5. Specify that a person required under another jurisdiction to register pursuant to that jurisdiction's registration statute shall register in this State when establishing domicile here or when employed or attending school here, since every state does not use the terms "sex offender" and "sexually violent predator"; and
6. Add county jails and state mental health institutes to the list of entities required to provide notification to the Department of Public Safety, State Bureau of Identification of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.

Committee Amendment "A" (H-420) was the majority report. The amendment proposed to address an evidentiary issue by creating a provision that is similar to that authorizing the Secretary of State to use computer transcripts as evidence. This amendment proposed to specify that a signed and sworn certificate by the custodian of the records of the Department of Public Safety, Bureau of State Police, State Bureau of Identification would be admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate. This change would eliminate the need to bring the custodian of the records to the court. The amendment also proposed to clarify that a court determines at the time of sentencing whether a person is a sex offender or sexually violent predator. The amendment also proposed to add a mandate preamble and fiscal note to the bill.

Enacted Law Summary

Public Law 2003, chapter 371 makes several changes to the sex offender registration and notification laws. Public Law 2003, chapter 371 does the following.

1. It expands the definition of "sex offense" to include 2 crimes regarding sexual exploitation of minors. The crimes of dissemination of sexually explicit materials and possession of sexually explicit materials are added to the definition of "sex offense."
2. It repeals a provision of law that requires the Department of Public Safety, State Bureau of Identification to maintain a directory of sexually violent predators. This provision is redundant, since Title 34-A, section 11221, subsection 1 requires the bureau to maintain a registry of all persons required to register under the chapter.
3. It clarifies the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarifies what access to that information the public and sex offenders or sexually violent predators have.
4. It clarifies that a sex offender or sexually violent predator shall notify the Department of Public Safety, State Bureau of Identification in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile.
5. Since every state does not use the terms "sex offender" and "sexually violent predator," this law specifies that a person required under another jurisdiction to register pursuant to that jurisdiction's registration statute shall register in this State when establishing domicile here or when employed or attending school here.
6. It adds county jails and state mental health institutes to the list of entities required to provide notification to the Department of Public Safety, State Bureau of Identification of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.

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- 7. It addresses an evidentiary issue by creating a provision that is similar to that authorizing the Secretary of State to use computer transcripts as evidence. Public Law 2003, chapter 371 specifies that a signed and sworn certificate by the custodian of the records of the Department of Public Safety, Bureau of State Police, State Bureau of Identification is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate. This change eliminates the need to bring the custodian of the records to the court.
- 8. It also clarifies that a court determines at the time of sentencing whether a person is a sex offender or sexually violent predator.

LD 1524 **An Act To Conform to Federal Standards Maine's Law Regarding Strip Searches of Persons in Custody** **PUBLIC 196**

<u>Sponsor(s)</u> BUNKER STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-232
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LD 1524 proposed to seek to conform the law on strip searches to developments in case law since the initial enactment of this statute. Before a law enforcement officer authorizes a strip or body cavity search of any person arrested for a Class D or E crime or a traffic violation not punishable by more than 30 days in jail, that officer must have, at a minimum, a reasonable suspicion that the person is concealing a weapon, contraband or evidence of a crime. The fact that the person was about to come into contact with the inmate population of a detention facility was no longer justification for dispensing with the reasonable suspicion requirement for persons arrested for minor crimes, traffic violations and ordinance violations.

Committee Amendment "A" (H-232) proposed to replace the bill. The law in this area is insufficiently precise to be codified in statute, so the amendment proposed to repeal the law. The rules provided for in Title 5, section 200-G, subsection 1 are a sufficient means to provide guidance to law enforcement officers in this area and are much easier to amend if case law developments warrant such a change.

Enacted Law Summary

Public Law 2003, chapter 196 repeals Title 5 section 200-G, subsection 2, paragraph A, which governed the use of strip searches. Because the law is insufficiently precise to be codified in statute, the rules provided for in the Title 5, section 200-G, subsection 1 are a sufficient means to provide guidance to law enforcement officers in this area and are much easier to amend if case law developments warrant such a change.