

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

May 2004

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Maine State Legislature



*Office Of Policy And Legal Analysis
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*121st Maine Legislature
Second Regular Session and
Second Special 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/billsumm.htm).

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
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 that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

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

LD 1764

**An Act To Improve the Operations of the Department of
Corrections and the Safety of State Correctional Facilities**

PUBLIC 706

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE HATCH PH	OTP-AM	H-749 S-576 CATHCART

LD 1764 was drafted in 3 parts. Part A of LD 1764 proposed to do the following:

1. Require a bound-over juvenile who is to be detained to be detained with adults once that person becomes 18 years of age;
2. Require that a juvenile detention order be reviewed by the court within 10 days;
3. Add the requirement of a determination of probable cause to the initial appearance provision in the Maine Juvenile Code before a juvenile may be detained;
4. Change the fund to which fees received from probationers are deposited to the adult community corrections account;
5. Direct the prosecutor, if requested by the Court, to inform the court at the time of sentencing of the total deduction allowed from prior detention;
6. Require restitution collected for victims who cannot be located to be forwarded to the Treasurer of State to be handled as unclaimed property;
7. Make technical corrections, including adding "Mountain View" when referring to juvenile facilities and using "community reintegration" instead of "aftercare;"
8. Clarify that a person who is discharged from a facility is still liable for restitution ordered, and if that person is remanded to another facility, the restitution collected must be used to defray the facility's costs;
9. Clarify the limitations on juvenile detention and commitment; and
10. Change the psychiatric provisions for juvenile detainees to be identical to the ones for committed juveniles.

Part B of the bill proposed to do the following:

1. Clarify the MaineCare reimbursement process for county jails;
2. Limit the reimbursement rate for medical services provided outside the Department of Corrections' facilities to the MaineCare rate and ensure that medications used by the department are consistent with the MaineCare program;

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3. Change the process for determinations regarding hospitalization of prisoners by restricting the decision to the individual department facility's medical staff;
4. Conform the department's formulary to MaineCare's standard, instead of the standard at state mental health facilities; and
5. Make the section that enacts 34-A MRSA §3031-B retroactive to July 1, 2004.

Part C of the bill proposed to do the following:

1. Repeal and replace the obsolete references to the previous Interstate Compact for Out-of-State Parolee Supervision;
2. Designate the Commissioner of the Department of Corrections or the commissioner's designee as the compact administrator for Maine;
3. Make technical changes and enact language repealed in C-1 – C-4; and
4. Establish one state council for both the Interstate Compact for Adult Offender Supervision and the Interstate Compact for Juveniles.

Committee Amendment "A" (H-749) proposed to do the following:

1. Specify that a bound-over juvenile be detained with adults once the juvenile attains 18 years and 6 months of age;
2. Eliminate an extra court hearing and help put a juvenile in an appropriate placement more quickly;
3. Repeal language directing the attorney representing the State to provide a custodian with a statement showing the length of a person's detention. This provision was inadvertently left in law when the responsibility of providing a custodian with a statement of the length of a person's detention was transferred to the sheriffs during the First Regular Session of the 121st Legislature;
4. Amend detention language to specify that a person may not be detained at or committed to a corrections facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Behavioral and Developmental Services as agreed upon by the Commissioner of Behavioral and Developmental Services and the Commissioner of Corrections;
5. Remove from the bill all of Part B, which dealt with the reimbursement rate to providers for medical services provided to inmates outside correctional facilities. Provisions in Part B were incorporated into Public Law 2003, chapter 513, Part E;
6. Direct the Department of Corrections to report the impact of changes to the juvenile detention and commitment laws by March 1, 2005 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. Upon receiving the report, the committee may report out a bill;

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7. Move the crime of violating an interstate compact for adult offender supervision to the Maine Revised Statutes, Title 17-A, while leaving a reference to the crime in the Interstate Compact for Adult Offender Supervision; and
8. Add a fiscal note.

Senate Amendment "A" to Committee Amendment "A" (S-576) proposed to strip the appropriations and allocations section from the committee amendment and to add a fiscal note.

Enacted Law Summary

Public Law 2003, chapter 706 makes a number of changes to the Juvenile Code and corrections laws. Public Law 2003, chapter 706 does the following.

1. It specifies that a bound-over juvenile be detained with adults, instead of juveniles, once the juvenile attains 18 years and 6 months of age.
2. It eliminates an extra court hearing and helps put a juvenile in an appropriate placement more quickly.
3. It clarifies the limitations on juvenile detention and commitment and changes the psychiatric provisions for juvenile detainees to be identical to the ones for committed juveniles.
4. It repeals language directing the attorney representing the State to provide a custodian with a statement showing the length of a person's detention. This provision was inadvertently left in law when the responsibility of providing a custodian with a statement of the length of a person's detention was transferred to sheriffs.
5. It amends detention language to specify that a person may not be detained at or committed to a corrections facility if that person is more appropriately a subject for intensive temporary out-of-home treatment services or for in-home treatment services provided by or through the Department of Behavioral and Developmental Services as agreed upon by the Commissioner of Behavioral and Developmental Services and the Commissioner of Corrections.
6. It directs the Department of Corrections to report the impact of changes to the juvenile detention and commitment laws by March 1, 2005 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. Upon receiving the report, the committee may report out a bill.
7. It moves the crime of violating an interstate compact for adult offender supervision to the Maine Revised Statutes, Title 17-A, while leaving a reference to the crime in the Interstate Compact for Adult Offender Supervision.
8. It changes the fund to which fees received from probationers are deposited to the adult community corrections account. Public Law 2003, chapter 706 requires restitution collected for victims who cannot be located to be forwarded to the Treasurer of State to be handled as unclaimed property. It also clarifies that a person who is discharged from a facility is still liable for restitution ordered and if that person is remanded to another facility, the restitution collected must be used to defray the facility's costs.

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9. It establishes the state council required under the Interstate Compact for Adult Offender Supervision and the Interstate Compact for Juveniles, designates the compact administrators and repeals the obsolete Interstate Compact for Out-of-State Parolee Supervision.

LD 1788 **An Act To Waive Fees for Background Checks for Certain** **ONTP**
Emergency Medical Services Personnel

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

LD 1788 proposed to waive the fees charged by the State Bureau of Identification within the Department of Public Safety, Bureau of State Police for background checks for municipal employees and volunteers applying for licensure as emergency medical services personnel.

Committee Amendment "A" (H-689) was the minority report and proposed to add a fiscal note to the bill. This amendment was not adopted.

LD 1789 **An Act To Revise the Minimum Firefighter Safety Standards** **PUBLIC 570**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE	OTP-AM	H-691
EDMONDS		

LD 1789 proposed to update Maine’s firefighter personal equipment and clothing safety standards to meet National Fire Protection Association standards. Specifically, the bill proposed that if new equipment is purchased, it must meet the safety standard in effect at the time of the purchase, and if used protective clothing that is not new is acquired, the clothing must at least meet the standards in effect in 1987. The bill proposed that any protective clothing purchased prior to 1987 that does not meet National Fire Protection Association standards must be replaced. The bill also proposed to expand firefighter training requirements to include “education” requirements and to move language requiring hearing protection to the provision of law establishing standards for equipment and clothing.

Committee Amendment "A" (H-69) proposed to add an effective date of July 1, 2005 to give fire departments time to comply with the new standards and proposed to add a mandate preamble and fiscal note.

Enacted Law Summary

Public Law 2003, chapter 570 updates Maine’s firefighter personal equipment and clothing safety standards to meet National Fire Protection Association standards. Specifically, if new equipment is purchased, it must meet the safety standard in effect at the time of the purchase. If used protective clothing that is not new is acquired, the clothing must at least meet the standards in effect in 1987. Any protective clothing purchased prior to 1987 that does not meet National Fire Protection Association standards must be replaced. Public Law 2003, chapter 570 also expands firefighter training requirements to include “education” requirements and moves language requiring hearing