

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 1847 **An Act To Implement the Recommendations of the Commission To** **PUBLIC 656**
Improve Community Safety and Sex Offender Accountability
Regarding Public Notification by Law Enforcement

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-852

LD 1847 was a recommendation of the Commission to Improve Community Safety and Sex Offender Accountability, established pursuant to Resolve 2003, chapter 75. It proposed to require law enforcement agencies to adopt a written policy regarding public notification of persons in the community required to register under the Sex Offender Registration and Notification Act of 1999. This bill proposed to require the Board of Trustees of the Maine Criminal Justice Academy to use the model notification policy developed by the Maine Chiefs of Police Association, in cooperation with sexual assault response teams and sexual assault crisis centers.

Committee Amendment "A" (H-852) proposed to strike language that required the Board of Trustees of the Maine Criminal Justice Academy to use a model sex offender notification policy developed by the Maine Chiefs of Police Association. Under the bill the Board of Trustees of the Maine Criminal Justice Academy was directed to set minimum standards for a notification policy as authorized by statute, which is consistent with the board's common practice. The amendment proposed that, in setting minimum policy standards, in accordance with the Maine Revised Statutes, Title 25 the board is strongly encouraged to seek input from the Maine Chiefs of Police Association, sexual assault response teams and sexual assault crisis centers.

Enacted Law Summary

Public Law 2003, chapter 656 is one of the recommendations of the Commission to Improve Community Safety and Sex Offender Accountability, established pursuant to Resolve 2003, chapter 75. Public Law 2003, chapter 656 directs the Board of Trustees of the Maine Criminal Justice Academy to set minimum policy standards for law enforcement agencies to use in developing community notification policies regarding sex offenders.

LD 1855 **An Act To Implement the Recommendations of the Commission To** **ONTP**
Improve Community Safety and Sex Offender Accountability

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

LD 1855 proposed to implement the recommendations of the Commission to Improve Community Safety and Sex Offender Accountability, which was created pursuant to Resolve 2003, chapter 75. The commission was established to provide a legislative forum to review criminal sentencing laws for sex crimes and to review sex offender registration and notification laws and policies. The purpose of this commission's review was to take a thoughtful and comprehensive look at Maine's sex offender laws and to identify areas in which immediate legislative and policy change is necessary to increase community safety. The bill proposed to do the following:

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1. Raise the classification of sex crimes committed against children who have not attained 12 years of age. Without imposing new minimum mandatory sentences, the bill proposed to provide courts, when victims are under 12 years of age, with an increased potential range of penalties by raising by one class the following crimes:
 - A. Unlawful sexual contact when the actor is at least 3 years older than the victim, from a Class C crime to a Class B crime, and when the actor is at least 3 years older than the victim and there is penetration, from a Class B crime to a Class A crime;
 - B. Visual sexual aggression against a child, from a Class D crime to a Class C crime;
 - C. Sexual misconduct with a child, from a Class D crime to a Class C crime;
 - D. Solicitation of a child by computer to commit a prohibited act, from a Class D crime to a Class C crime;
 - E. Violation of privacy, from a Class D crime to a Class C crime;
 - F. Sexual exploitation of minors, from a Class B crime to a Class A crime;
 - G. Dissemination of sexually explicit materials, from a Class C crime to a Class B crime for the first offense and from a Class B crime to a Class A crime for a subsequent offense; and
 - H. Possession of sexually explicit materials, from a Class D crime to a Class C crime and from a Class C crime to a Class B crime for a subsequent offense;
1. Allow courts to have the option to impose a sentence of imprisonment in excess of 20 years, based upon the fact that the victim is under 12 years of age, for the Class A crimes of gross sexual assault and repeat sexual exploitation of minors;
2. Increase the period of probation for persons convicted of sex crimes committed against children who have not attained 12 years of age. Without imposing minimum mandatory sentences, the bill proposed to provide courts, when victims are under 12 years of age, with an increased potential range of penalties by increasing periods of probation for persons convicted under the Maine Revised Statutes, Title 17, chapter 93-B or Title 17-A, chapter 11 as follows:
 - A. For a person convicted of a Class A crime, a period of probation not to exceed 18 years;
 - B. For a person convicted of a Class B crime, a period of probation not to exceed 12 years; and
 - C. For a person convicted of a Class C crime, a period of probation not to exceed 6 years;
4. Allow the court to have the option to impose a sentence of probation of up to 18 years based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B crime or Class C crime of unlawful sexual contact;
5. Rename "dangerous sexual offender," defined in Title 17-A, section 1252, subsection 4-B, as "repeat sexual assault offender;"

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6. Allow courts to have the option to impose a sentence of imprisonment in excess of 20 years, based upon the fact that the defendant was convicted of gross sexual assault after having been previously convicted and sentenced for a Class B crime or Class C crime of unlawful sexual contact;
7. Change the names of registration categories in the Sex Offender Registration and Notification Act of 1999, also known as the "SORNA," from "sexually violent predators" and "sex offenders" to "lifetime registrants" and "10-year registrants," respectively;
8. Move Class D or Class E offenses that currently require lifetime registration as "sexually violent predators" under the SORNA of 1999 to 10-year registration for "sex offenders;"
9. Make technical drafting changes to the SORNA of 1999, including:
 - A. Adding to the list of registerable offenses the former crime of rape, restoring the former crimes of unlawful sexual contact and solicitation of a child by computer to commit a prohibited act and moving from the definition of "sex offense" to "sexually violent offense" the crimes of unlawful sexual contact that involve penetration;
 - B. Making registration requirements consistent by removing from the crime of "kidnapping" the defense that the actor is a parent, which is consistent with the crime of criminal restraint for purposes of sex offender registration; and
 - C. Defining the terms "another state," "registrant," "jurisdiction," and "tribe" to be more consistent with federal law;
10. Authorize the State to suspend the requirement that a sex offender or sexually violent predator register during any period in which the registrant leaves the State, establishes a domicile in another state and remains physically absent from the State;
11. Increase from \$25 to \$35 the sex offender and sexually violent predator fee for initial registration and annual renewal registration and specify that the law enforcement agency that processes registrants' pictures and fingerprints receives \$10 of the fee;
12. Make all changes to the Sex Offender Registration and Notification Act of 1999 retroactive to June 30, 1992;
13. Direct the Department of Behavioral and Developmental Services, the Department of Human Services, the Department of Corrections and the Department of Public Safety, in cooperation with the Child Abuse Action Network, to:
 - A. Identify the subpopulation of potential offenders or young persons at risk of offending because they have been sexually or physically abused or face a significant mental health disability, with recognition of the fact that over 95% of sex offenders are male;
 - B. Identify the types of prevention and treatment currently known to work with these young persons;
 - C. Coordinate prevention and education efforts with the goal of seeking coordinated services to transition at-risk youth to healthy adulthood; and

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- D. Report findings to the joint standing committees of the Legislature having jurisdiction over health and human services and criminal justice and public safety matters; and

14. Direct the Criminal Law Advisory Commission to:

- A. Review the Sex Offender Registration and Notification Act of 1999 to identify all crimes of gross sexual assault and unlawful sexual contact that currently do not require any registration;
- B. Assess whether the current Maine crimes listed as sex offenses and sexually violent offenses are appropriate under the federal guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 United States Code, Section 14071, as amended; and
- C. Report its findings and any proposed changes to the Joint Standing Committee on Criminal Justice and Public Safety.

LD 1855 was not enacted, but an amended version of the bill was incorporated into Committee Amendment "A" (H-860) to LD 1903, which was enacted as Public Law 2003, chapter 711.

LD 1856 **An Act To Implement the Recommendations of the Commission To** **PUBLIC 707**
Improve the Sentencing, Supervision, Management and
Incarceration of Prisoners

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-833 H-976 BLANCHETTE S-571 GAGNON

LD 1856 proposed to implement a number of the recommendations of the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners, which was created pursuant to Public Law 2003, chapter 451. The bill proposed to add 2 additional legislators to the membership of the commission and to extend the initial reporting date of the commission to February 2, 2004. The bill also proposed to extend the life of the commission to January 1, 2005, authorizing additional meetings and a final report, including legislation, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. Finally, LD 1856 proposed to authorize the commission to carry forward any remaining funds appropriated in fiscal year 2004-05.

Committee Amendment "A" (H-833) proposed to increase from 17 to 23 the membership of the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners. The new members proposed to be added include a representative of the Maine Chiefs of Police Association; domestic violence and sexual assault victims service providers; the Commissioner of Inland Fisheries and Wildlife; and one senator representing the 2nd-largest political party in the Senate and one representative representing the 2nd-largest political party in the House of Representatives. The amendment proposed that Legislators may continue to serve on the commission, even if not reelected to serve in the Legislature in November 2004. The amendment also proposed to add a fiscal note.