

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

August 2005

Members:

Sen. Bill Diamond, Chair

Sen. John M. Nutting

Sen. Dean F. Clukey

Rep. Patricia A. Blanchette, Chair

Rep. Stan Gerzofsky

Rep. Carol A. Grose

Rep. Rosaire "Ross" Paradis, Jr.

Rep. Stephen P. Hanley

Rep. Richard M. Sykes

Rep. John W. Churchill

Rep. Christian D. Greeley

Rep. Kimberly J. Davis

Rep. Gary E. Plummer

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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 June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Criminal Justice and Public Safety

LD 10 **Resolve, To Fund a Study Regarding Health Care for Maine's Firefighters** **CARRIED OVER**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 10 proposed to appropriate \$75,000 to the Maine Fire Protection Services Commission to contract for services to conduct a study regarding the provision of health care benefits to firefighters in this State.

LD 10 was carried over by H.P. 1203 to the next regular or special session of the 122nd Legislature. The Maine Fire Protection Services Commission, with the help of the Department of Administrative and Financial Services, Bureau of Health Insurance, will work on the bill during the interim.

LD 17 **An Act To Ensure Fair Reimbursement for the Medical Care Provided to State Inmates** **CARRIED OVER**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
RECTOR SNOWE-MELLO		OTP-AM MAJ ONTP MIN		

LD 17 proposed to repeal the language that established MaineCare rates as the reimbursement rate for medical services provided to state inmates outside of correctional or detention facilities. By repealing this section, the bill proposed to require the State or its contracted medical provider to negotiate fair reimbursement rates for medical care provided to state inmates.

Committee Amendment "A" (H-118) proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to limit the damages that may be awarded against a medical service provider on a tort claim arising out of the provision of medical services to a person being held in a state, county or municipal correctional or detention facility and applies to services provided inside the facility and outside the facility. This amendment would have been analogous to the provisions limiting damages awards against governmental employees and entities found in the Maine Tort Claims Act, including a provision that makes its limits applicable to wrongful death actions. The amendment also proposed to provide that the Maine Health Security Act's provisions, including those governing the mandatory prelitigation screening process, continue to apply.

The amendment also proposed to require that a payment for a medical service provided to a person residing in a Department of Corrections facility that is provided outside the facility and for which the department or its contracted medical provider is liable must be made within 30 days of receipt of proof of the service rendered. This amendment was not adopted.

House Amendment "A" to Committee Amendment "A" (H-127) proposed to provide that the Department of Corrections or the department's contracted medical service provider shall pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no less than 150% of the reimbursement rate applicable to that provider and that service as established for the Medicare program. The amendment also proposed to add an appropriations and allocations section. This amendment was not adopted.

Joint Standing Committee on Criminal Justice and Public Safety

House Amendment "B" to Committee Amendment "A" (H-247) proposed to provide that the Department of Corrections or the department's contracted medical service provider shall pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no less than 125% of the reimbursement rate applicable to that provider and that service as established for the Medicare program. The amendment proposed to add an appropriations and allocations section. This amendment was not adopted.

LD 17 was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

LD 29 **An Act To Provide Justice to Those Found Not Guilty Due to Mental Disease or Defect and Decrease Costs to the State** **ONTP**

<u>Sponsor(s)</u> FAIRCLOTH		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 29 proposed to specify that proper use of prescribed medications may be a condition of release for a person found not criminally responsible by reason of mental disease or mental defect. LD 29 proposed to lessen the burden of proof for a petitioner seeking the release or discharge of a person hospitalized after having been found not criminally responsible by reason of mental disease or mental defect for committing a Class B, C, D or E crime. For discharge or release, the bill proposed that a petitioner must demonstrate by a preponderance of the evidence that the modified release treatment program, release on conditions or discharge may be granted without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The petitioner's burden of proof in a case for release or discharge where a person was found not criminally responsible by reason of mental disease or defect for murder or a Class A crime would remain proof by clear and convincing evidence. (Taylor v. Commissioner of Mental Health and Mental Retardation, 481 A.2d 139 (1984)) LD 29 also proposed to make technical changes to the statutes, including making terminology consistent.

LD 53 **An Act To Clarify the Law Regarding Unlawful Interference with Law Enforcement Dogs** **PUBLIC 69**

<u>Sponsor(s)</u> FISCHER DIAMOND		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-119
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LD 53 proposed to amend the law regarding interference with law enforcement dogs by applying the crime to any person who harms a dog that the person knows or reasonably should have known is used for law enforcement purposes.

Committee Amendment "A" (H-119) proposed to replace the bill and to make 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B, subsection 1, paragraphs A and B. First, it proposed to add to each an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, it proposed to eliminate from each the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.