

# 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*

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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*

Under current law a person who operates a vehicle in a grossly negligent manner and causes the death of another person commits the Class A crime of manslaughter. If the person drives the vehicle with exactly the same kind of gross negligence but does not cause a death, the only crime available for prosecution is driving to endanger, a Class E crime, even if a person suffers significant and permanent injury. LD 232 proposed to increase the sentencing level to Class C and to impose a license suspension period of not less than 180 days and not more than 2 years if the State both pleads and proves that the criminally negligent driving caused serious bodily injury.

**Committee Amendment "A" (H-578)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Under current law a person who operates a vehicle in a grossly negligent manner and causes the death of another person commits the Class A crime of manslaughter. If the person drives the vehicle with exactly the same kind of gross negligence but does not cause a death, the only crime available for prosecution is driving to endanger, a Class E crime, even if a person suffers significant and permanent injury. Public Law 2005, chapter 441 increases the sentencing level to Class C and imposes a motor vehicle license suspension period of not less than 180 days and not more than 2 years if the State both pleads and proves that the criminally negligent driving caused serious bodily injury.

**LD 242**

**An Act To Amend the Maine Juvenile Code**

**PUBLIC 87**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM MAJ ONTP MIN	H-114 H-125 FAIRCLOTH

LD 242 proposed to amend the Juvenile Code in the following 3 ways:

1. Create a new juvenile offense of violation of conditional release;
2. Amend the period of the statute of limitations for the crimes of gross sexual assault and unlawful sexual contact committed by juveniles. Current law limits prosecution to a period of 6 years for juvenile crimes that would be Class A, B or C crimes and 3 years for juvenile crimes that would be Class C or D crimes if committed by an adult. However, prosecution of offenses involving gross sexual assault or unlawful sexual contact if the actor is an adult and the victim is under 16 years of age may be commenced at any time. This bill proposed to allow prosecution of serious sexual offenses if committed by a juvenile at any time; and
3. Amend the standard of proof so that juvenile crimes involving illegal drugs or drug paraphernalia and those involving intoxicating liquor that, if committed by an adult, would constitute civil offenses, are established by a preponderance of evidence rather than proof beyond a reasonable doubt.

**Committee Amendment "A" (H-114)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to do the following:

1. Add the former crime of unlawful sexual contact under the Maine Revised Statutes, Title 17-A, section 255 to the list of sex offenses for which the statute of limitations is being repealed. Title 17-A, section 255 was repealed and Title 17-A, section 255-A enacted in its place pursuant to Public Law 2001, chapter 383;

## *Joint Standing Committee on Criminal Justice and Public Safety*

2. Add to the list of juvenile crimes for which prosecution must be commenced within one year after being committed the willful refusal to obey a court order resulting from a conviction of a crime for a violation of a provision of Title 12 or Title 29-A that is not specifically included in the list of juvenile crimes in Title 15, section 3103, subsection 1, paragraph E or F;
3. Return the juvenile crime in Title 15, section 3103, subsection 1, paragraph D to the list of crimes requiring proof beyond a reasonable doubt. This crime was inadvertently added to the list of crimes requiring proof by a preponderance of the evidence; and
4. Add an application section to specify that the repeal of the statute of limitations applies to juvenile crimes of unlawful sexual contact and gross sexual assault committed on or after the effective date of the Act and to juvenile crimes of unlawful sexual contact and gross sexual assault not already barred by the previous statute of limitations.

**House Amendment "A" to Committee Amendment "A" (H-125)** proposed to remove language that eliminated the statute of limitations for the juvenile crimes of unlawful sexual contact and gross sexual assault in cases in which the victim had not attained 16 years of age at the time of the crime and the juvenile had attained 16 years of age. The amendment proposed to provide instead that the statute of limitations does not apply to such crimes if the attorney for the State first presents evidence based on DNA to the court in a closed hearing that implicates the defendant in the crime by a preponderance of the evidence.

### *Enacted law summary*

Public Law 2005, chapter 87 provides that the statute of limitations does not apply for the juvenile crimes of unlawful sexual contact and gross sexual assault in cases where the victim had not attained 18 years of age at the time of the crime and the juvenile offender had attained 16 years of age, if the attorney for the State first presents evidence based on DNA to the court in a closed hearing that implicates the defendant in the crime by a preponderance of the evidence.

Public Law 2005, chapter 87 adds to the list of juvenile crimes for which prosecution must be commenced within one year after being committed the willful refusal to obey a court order resulting from a conviction of a crime for a violation of a provision of Title 12 or Title 29-A that is not specifically included in the list of juvenile crimes in Title 15, section 3103, subsection 1, paragraph E or F.

Public Law 2005, chapter 87 also amends the standard of proof so that juvenile crimes involving illegal drugs or drug paraphernalia and those involving intoxicating liquor that, if committed by an adult, would constitute civil offenses, are established by a preponderance of evidence rather than proof beyond a reasonable doubt.

**LD 251**

**An Act To Amend the Laws Governing Custodian Release Conditions**

**ONTP**

Sponsor(s)  
SHERMAN

Committee Report  
ONTP

Amendments Adopted

LD 251 proposed to clarify the laws governing custodian release conditions to specify that the condition of preconviction bail requiring supervision of the defendant does not mean that the defendant must be in the presence of the supervisor 24 hours a day, seven days a week.