

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 1323

An Act To Create the Crime of Producing Graffiti

ONTP

<u>Sponsor(s)</u> BOWLES COURTNEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1323 proposed to do the following:

1. Establish the Class D crime of producing graffiti. A person would be guilty of producing graffiti if that person intentionally, knowingly or recklessly causes an inscription, word, figure or design to be marked, etched, scratched, drawn, painted or affixed in any way to the property of another. In addition to any other penalty authorized by law, the bill proposed that a person convicted of producing graffiti is required to either pay restitution to remove the graffiti or repair or replace the property defaced by the graffiti or to clean up the graffiti;
2. For a juvenile adjudicated of committing graffiti, require the court to suspend the juvenile's driver's license for 6 months and require the parent, guardian or legal custodian of the juvenile to pay the restitution if the juvenile fails to do so;
3. Establish the Class E crime of possession of an aerosol paint can with intent to produce graffiti, which would apply to persons who are in possession of 3 or more aerosol paint cans while on public property or the private property of another person without that person's permission; and
4. Establish the Class E crime of illegal sale of aerosol paint cans to a minor. A person would be guilty of this crime if the person sold or furnished an aerosol paint can to a person who has not yet attained 18 years of age, except this crime does not apply to a parent, guardian, teacher or law enforcement officer.

LD 1356

An Act To Amend the Maine Criminal Code Regarding Deferred Disposition and Administrative Release

PUBLIC 288

<u>Sponsor(s)</u> SYKES		<u>Committee Report</u> OTP		<u>Amendments Adopted</u> H-536 BLANCHETTE
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LD 1356 proposed to require a defendant to pay an administrative supervision fee of not less than \$10 and not more than \$50 per month, as determined by the court, to the appropriate county in cases in which the court grants administrative release or deferred disposition.

House Amendment "A" (H-536) proposed to make permissive, rather than mandatory, the imposition by the court of an administrative supervision fee of not more than \$50 per month.

Joint Standing Committee on Criminal Justice and Public Safety

Enacted law summary

Public Law 2005, chapter 288 authorizes the court to impose on a defendant an order to pay an administrative supervision fee of not less than \$10 and not more than \$50 per month, as determined by the court, to the appropriate county in cases in which the court grants administrative release or deferred disposition.

LD 1360

An Act To Improve the Management and Safety of State Correctional Facilities

PUBLIC 329

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE	OTP-AM MAJ	H-597
CLUKEY	OTP-AM MIN	

LD 1360 proposed several changes to improve staff and prisoner safety at correctional facilities. Specifically the bill proposed to do the following:

1. Move from Title 28-A to Title 17-A the Class E crime of trafficking of alcoholic beverages in adult correctional facilities and to authorize consecutive sentences for this crime and the crimes of assault and trafficking of tobacco in an adult correctional facility. Currently, the crimes of assault on an officer, escape and trafficking in prison contraband only are authorized to be consecutive;
2. Create the new Class E crime of failure of institutional staff to report to an appropriate criminal justice agency that a person detained in that institution is the victim of gross sexual assault or unlawful sexual contact;
3. Amend the DNA collection statute to expand who is authorized to collect DNA samples to include any Department of Corrections or county jail staff. In addition to duly licensed physicians, physician assistants, registered nurses, licensed practical nurses and persons certified by the Department of Health and Human Services or persons whose occupational license or training allows the drawing of blood, current law allows corrections officers, a probation officers and juvenile community corrections officers to collect a biological sample that is not a blood sample;
4. Repeal language that states that documents in possession of Department of Corrections that are used to screen and assess clients that are now described as “not public records” pursuant to the freedom of access law and propose new language that states that these records “must be kept confidential, except as provided by law;
5. Authorize adult correctional facilities to impose fines as punishment for disciplinary offenses;
6. Repeal the requirement that the Commissioner of Department of Corrections first determine that the average statewide caseload of probation officers is 90 to 1 before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration part of their sentence. The bill proposed to allow transfer to the community confinement program when a prisoner has 2 years remaining on the incarceration portion of the sentence, instead of one year, regardless of the current probation caseload;
7. Repeal a provision referring to special nursing rules regarding the administration of medication in Department of Corrections facilities, since there are no such rules;
8. Require the Commissioner of Department of Corrections, instead of each facility's chief administrative officer, to adopt rules for prisoners' accounts;