

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

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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

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;

Joint Standing Committee on Criminal Justice and Public Safety

9. Create a supervision fee payment provision for probationers and parolees transferred to Maine from other states that is analogous to the supervision fee payment provision for probationers placed under the supervision of the department by Maine courts; and
10. Amend current law to change archaic and inappropriate references.

Committee Amendment "A" (H-597) was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to do the following:

1. Require institutional staff to report to an appropriate law enforcement agency sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by another client or patient. The bill proposed to criminalize failure to report only assaults committed by other staff;
2. Specify that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately;
3. Specify that only staff members of a county jail or Department of Corrections facility who are designated by the sheriff or jail administrator of that county jail or by the Commissioner of Corrections and are trained to collect biological samples may do so for purposes of DNA collection;
4. Strike that part of the bill that proposed to replace language that states that certain documents in possession of the department that are used to screen and assess clients are "not public records" pursuant to the freedom of access laws with language stating that those are records that "must be kept confidential," with statutory exceptions. This change is not necessary, as the department can now deny access to records that are not public records;
5. Specify that the department may impose "monetary sanctions" instead of "fines" as a form of punishment in correctional facilities;
6. Strike that part of the bill that proposed to repeal the requirement that the commissioner first determine that the average statewide caseload of probation officers is 90 to one before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration portion of their sentence.

Committee Amendment "B" (H-598) was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to make the same changes as the majority report except that it did not propose to strike those sections of the bill that would have repealed the requirement that the Commissioner of Corrections determine that the average statewide caseload of probation officers is 90 to one before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration portion of their sentence. The amendment proposed to retain this language, which allows 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. This amendment was not adopted.

Enacted law summary

Joint Standing Committee on Criminal Justice and Public Safety

Public Law 2005, chapter 329 proposes several changes to improve staff and prisoner safety at correctional facilities.

1. It moves from Title 28-A to Title 17-A the Class E crime of trafficking of alcoholic beverages in adult correctional facilities.
2. It specifies that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. Currently, that authority exists only for inmates who commit crimes against corrections staff or institutional property.
3. It creates 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 a sexual assault. Institutional staff must report to an appropriate law enforcement agency any sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by another client or patient.
4. It amends the DNA collection statute to expand who is authorized to collect DNA samples by specifying that staff members of a county jail or Department of Corrections facility who are designated by the sheriff or jail administrator of that county jail or by the Commissioner of Corrections and are trained to collect biological samples may do so for purposes of DNA collection.
5. It authorizes adult correctional facilities to impose monetary sanctions as punishment for disciplinary offenses.
6. It repeals a provision referring to special nursing rules regarding the administration of medication in Department of Corrections facilities. Apparently, there are no such rules.
7. It requires the Commissioner of the Department of Corrections, instead of each facility's chief administrative officer, to adopt rules for prisoners' accounts.
8. It creates a supervision fee payment provision for probationers and parolees transferred to Maine from other states that is analogous to the supervision fee payment provision for probationers placed under the supervision of the department by Maine courts.
9. It also amends current law to change archaic and inappropriate references.

LD 1362

An Act Regarding the Maine Criminal Justice Academy

PUBLIC 331

Sponsor(s)
BLANCHETTE

Committee Report
OTP-AM

Amendments Adopted
H-576

LD 1362 proposed to amend the laws related to criminal justice training in the following ways:

1. Specify that the Maine Criminal Justice Academy is a criminal justice training facility, not just a law enforcement training facility;