

# 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*

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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*

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;

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2. Clarify the general definitions of a corrections officer and law enforcement officer and add new definitions for part-time law enforcement officer and part-time corrections officer;
3. Require the reporting year for law enforcement and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for criminal justice agencies;
4. Define "transport officers," exempt them from the current basic training requirements and the mandatory policies for law enforcement agencies and require the Board of Trustees of the Maine Criminal Justice Academy to set training standards for them;
5. Add the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned officer of the State Police;
6. Expand the board of trustees' ability to set standards for and certify not only police chiefs, but all criminal justice executives;
7. Correct an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of a law enforcement policy and correct a conflict;
8. Make it a civil violation for a state or local government entity to violate or fail to comply with any of the requirements of the Maine Revised Statutes, Title 25, chapter 341. Current law only penalizes violation of policy provisions;
9. Clarify the time period to be used to determine when a full-time law enforcement officer is required to attend basic training at the academy and extend the waiver period for extenuating circumstances;
10. Require the employing agency to notify the academy within 30 days of hiring or firing a law enforcement or corrections officer;
11. Define reimbursable training as full-time law enforcement officer basic training, require the board of trustees to set standardized reimbursable training costs annually and clarify reimbursement language; and
12. Make minor technical changes and repeal outdated language.

**Committee Amendment "A" (H-576)** proposed to affect the laws regarding policies, training and reporting at the Maine Criminal Justice Academy as follows:

1. Strike from section 2 of the bill the words "care or treatment" to clarify that this section deals only with custody of persons confined in a penal institution and not to teachers, social workers, counselors or medical providers;
2. Clarify the definition of "law enforcement officer;"
3. Specify that transport officers are exempt from basic law enforcement training standards, mandated policies and mandatory annual reporting but are subject to any statutory training requirements specific to that position;
4. Extend from June 1, 2005 to June 1, 2006 the date by which law enforcement agencies must adopt policies regarding community sex offender notification and extend from January 1, 2006 to January 1, 2007 the date by which all law enforcement officers must be trained regarding the community sex offender notification

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policy. It proposed to amend the basic law enforcement training course provision by requiring full-time law enforcement officers to successfully complete the basic training course in the first 12 months of initial employment. If that officer fails to satisfy the admission standards of the basic training course, the officer must meet all entrance standards and be approved by the Board of Trustees of the Maine Criminal Justice Academy before that officer is employed by any agency. The amendment also proposed to increase the extension of the 12-month period from 90 days to 180 days for cases involving extenuating circumstances and to require officers to do their training at the Maine Criminal Justice Academy; and

5. Clarify that the Maine Administrative Procedure Act must be used for all decertification procedures when an officer engages in prohibited conduct.

### *Enacted law summary*

Public Law 2005, chapter 331 affects issues related to criminal justice training in the following ways.

1. It clarifies the general definitions of a corrections officer and law enforcement officer and adds new definitions for part-time law enforcement officer and part-time corrections officer. It requires the reporting year for law enforcement and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for criminal justice agencies.
2. It defines "transport officers," exempts them from the current basic training requirements and the mandatory policies for law enforcement agencies and mandatory annual reporting and specifies that they are subject to any statutory training requirements specific to that position.
3. It makes it a civil violation for a state or local government entity to violate or fail to comply with any of the requirements of the Maine Revised Statutes, Title 25, chapter 341.
4. It adds the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned officer of the State Police.
5. It expands the board of trustees' ability to set standards for and certify not only police chiefs, but all criminal justice executives.
6. It corrects an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of a law enforcement policy and corrects a conflict.
7. It amends the basic law enforcement training course provision by requiring full-time law enforcement officers to successfully complete the basic training course in the first 12 months of initial employment. If that officer fails to satisfy the admission standards of the basic training course, the officer must meet all entrance standards and be approved by the Board of Trustees of the Maine Criminal Justice Academy before that officer is employed by any agency. Public Law 2005, chapter 331 also increases the extension of the 12-month period from 90 days to 180 days for cases involving extenuating circumstances and requires officers to do their training at the Maine Criminal Justice Academy.
8. It requires the employing agency to notify the academy within 30 days of hiring or firing a law enforcement or corrections officer.
9. It requires the board of trustees to set standardized reimbursable training costs annually.

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10. It extends from June 1, 2005 to June 1, 2006 the date by which law enforcement agencies must adopt policies regarding community sex offender notification and extends from January 1, 2006 to January 1, 2007 the date by which all law enforcement officers must be trained regarding the community sex offender notification policy.
11. It clarifies that the Maine Administrative Procedure Act must be used for all decertification procedures when an officer engages in prohibited conduct.
12. It makes minor technical changes and eliminates outdated language.

**LD 1376**

**Resolve, Directing the Department of Corrections To Establish a  
Pilot Project at the Department's Juvenile Correctional Facilities**

**RESOLVE 101**

Sponsor(s)  
STRIMLING  
BLANCHETTE

Committee Report  
OTP-AM

Amendments Adopted  
S-288

LD 1376 proposed to provide that a disposition under the Maine Juvenile Code must be reviewed not less than once in every 6 months until the juvenile is discharged. Current law requires a review not less than once in every 12 months. The bill also proposed to provide that whenever a juvenile is committed to the custody of the Department of Corrections, the court shall assign a guardian ad litem to represent the juvenile, and the court shall set a date for review of that commitment. The bill proposed that at the initial review the court shall review a report submitted by the guardian ad litem and copied to the district attorney and attorney general, who may file a written response. The bill further proposed that the guardian ad litem must attend the initial review and the attorney general may attend. The bill proposed that if a complete review is determined to be necessary, one is held and witnesses may be called. The bill also proposed that if the court determines that necessary services are not being provided by Department of Corrections, the court may direct Department of Corrections to provide those services within a specified time and may schedule a further review. At that review, the court could amend the disposition.

The bill also proposed that guardians ad litem must be provided full access to juvenile records throughout the process and must be invited to classification conferences and any review meetings.

The bill proposed that at least 28 days before any review, the facility in which a juvenile is being held must provide the court and guardian ad litem with information including copies of assessments, case plans, psychological and psychiatric evaluations, treatment plans and any other assessments and minutes from meetings regarding the juvenile.

**Committee Amendment "A" (S-288)** proposed to replace the bill with a resolve that directs the Commissioner of Corrections to create a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a Department of Corrections juvenile facility. The amendment proposed that the commissioner determine criteria for participation of the juveniles in the pilot project, which could include up to 15 juveniles at each facility. The amendment proposed that the pilot project must include guardians ad litem at the Long Creek Youth Development Center recommended by a selection committee, appointed by the juvenile court and trained by the department. The amendment also proposed that the pilot project must include an advocate to work with selected juveniles at the Mountain View Youth Development Center. The amendment proposed to require that the advocate and guardians ad litem meet and work regularly with the juveniles, the