

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

Staff:

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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 |
| ONT P | 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 1504

An Act To Amend the Statutes Relating to Juveniles

PUBLIC 328

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| DIAMOND SYKES | OTP-AM | S-289 |

LD 1504 proposed to make the following changes to the laws regarding juveniles:

1. Amend the laws relating to juveniles who commit adult crimes under Titles 12 and 29-A that are not defined as juvenile crimes in Title 15. The bill proposed that no version of imprisonment is allowed for these violations unless, after the juvenile turns 18, the person violates probation, fails to pay a fine or fails to comply with any other court order that results from the conviction. For these violations, the person could have received a sentence of imprisonment, a split sentence or a suspended sentence. The bill also proposed to eliminate juvenile detention for these crimes since imprisonment is not allowed as a sentence for a juvenile;
2. Add a new condition prohibiting a court from ordering attendant care for a juvenile without the consent of the county sheriff or the Department of Corrections, who fund this type of care;
3. Specify the procedures a law enforcement officer must follow when there is probable cause to believe that a juvenile has committed a juvenile crime that is the equivalent of a “civil violation.” The bill proposed that the juvenile must give the law enforcement officer evidence of name, age, address and date of birth just as adults are required to do, and the law enforcement officer cannot arrest the juvenile for the violation but can arrest the juvenile if the juvenile fails to provide the requested information;
4. Specify the procedures that must be followed when a juvenile is arrested on a warrant, including notification to the juvenile community corrections officer and the following of provisions for secure detention or release consistent with the purposes of detention in the Juvenile Code;
5. Add a provision to eliminate duplicative probable cause determinations. If the juvenile court or another justice of the peace has established probable cause, no additional probable cause determination needs to be made related to detention for that offense. The current requirement is that probable cause be determined within 48 hours of detention, including weekends and holidays;
6. Relax the current requirement that a juvenile cannot be held in excess of 24 hours, excluding weekends and holidays, in approved jail or other secure detention facilities used for adults. The bill proposed to extend the time period from 24 hours to 48 hours, which is consistent with revised federal regulations;
7. Specify that the determination of credit already served by a juvenile is determined by Department of Corrections;
8. Add a provision similar to the adult provision for suspension of an operator's license for using a motor vehicle for drug trafficking, by specifying that a driver’s license may not be suspended for more than one year following an adjudication for drug trafficking in which a motor vehicle was used;
9. Repeal a reference to a juvenile proceeding in current law for sexual abuse of a minor, which makes no sense since the crime can only be committed by persons at least 18 years of age;
10. Repeal a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group;

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11. Make the provisions regarding juveniles held in observation status the same at Mountain View Youth Development Center as at Long Creek Youth Development Center, which includes constant staff observation if necessary to prevent imminent harm;
12. Ensure appropriate mental health services be provided to juveniles who are detained and committed by expanding the possible range of mental health placements to less restrictive alternatives beyond psychiatric hospitalization. The bill proposed to allow placement of a juvenile, with the juvenile's consent, in a licensed residential care facility providing a mental health treatment program as an alternative to psychiatric hospitalization; and
13. Specify that the Commissioner of Department of Corrections may issue arrest warrants for juveniles who violate provisions of community reintegration or aftercare status.

Committee Amendment "A" (S-289) proposed to replace provisions in the bill that specified that, for certain offenses under the Maine Revised Statutes, Titles 12 and 29-A, no version of imprisonment would be allowed for juveniles unless, after the juvenile becomes an adult, the person fails to comply with a court order that results from the conviction. Instead, the amendment proposed to allow juveniles who commit crimes under Title 12 and Title 29-A that are not defined as juvenile crimes to be sentenced to a period of detention not to exceed 30 days if the court determines that such detention is appropriate based on certain criteria, including the nature of the crime and the person's history. The amendment also proposed to make technical changes to ensure that the statutory purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center are consistent.

Enacted law summary

Public Law 2005, chapter 328 makes the following changes to laws regarding juveniles.

1. It allows that juveniles who commit crimes under Title 12 and Title 29-A that are not defined as juvenile crimes be sentenced to a period of detention not to exceed 30 days if the court determines that such detention is appropriate based on certain criteria, including the nature of the crime and the person's history.
2. It prohibits a court from ordering attendant care for a juvenile without the consent of the county sheriff or the Department of Corrections, who fund this type of care.
3. It specifies the procedures that a law enforcement officer must follow when there is probable cause to believe that a juvenile has committed a juvenile crime that is the equivalent of a "civil violation." The section specifies that the juvenile must give the law enforcement officer evidence of name, age, address and date of birth, as adults are required to do, and the law enforcement officer cannot arrest the juvenile for the violation but can arrest the juvenile if the juvenile fails to provide the requested information.
4. It specifies the procedures that must be followed when a juvenile is arrested on a warrant, including notification to the juvenile community corrections officer, and the provisions for secure detention or release consistent with the purposes of detention in the Juvenile Code.
5. It adds a provision to eliminate duplicative probable cause determinations. If the juvenile court or another justice of the peace has established probable cause, no additional probable cause determination needs to be made related to detention for that offense.

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6. It relaxes the current requirement that a juvenile cannot be held in excess of 24 hours, excluding weekends and holidays, in approved jail or other secure detention facilities used for adults. Public Law 2005, chapter 328 extends the time period from 24 hours to 48 hours, which is consistent with revised federal regulations.
7. It prohibits the detention of any juvenile arrested for non-juvenile offenses.
8. It specifies that the determination of credit already served by a juvenile is determined by the Department of Corrections.
9. It adds a provision similar to the adult provision for suspension of an operator's license for using a motor vehicle for drug trafficking, by specifying that a driver's license may not be suspended for more than one year following an adjudication for drug trafficking in which a motor vehicle was used.
10. It repeals a reference to a juvenile proceeding in current law under sexual abuse of a minor, which makes no sense since the crime can only be committed by persons at least 18 years of age.
11. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.
12. It ensures appropriate mental health services be provided to juveniles who are detained and committed by expanding the possible range of mental health placements to less restrictive alternatives beyond psychiatric hospitalization. Public Law 2005, chapter 328 allows placement of a juvenile, with the juvenile's consent, in a licensed residential care facility providing a mental health treatment program as an alternative to psychiatric hospitalization.
13. It makes the provisions regarding juveniles held in observation status the same at Mountain View Youth Development Center as at Long Creek Youth Development Center, which includes constant staff observation if necessary to prevent imminent harm.
14. It specifies that the Commissioner of the Department of Corrections may issue arrest warrants for juveniles who violate provisions of community reintegration or aftercare status.
15. It makes technical changes to ensure that the statutory purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center are consistent.
16. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.

LD 1505

An Act To Amend the Sentencing Laws

**PUBLIC 265
EMERGENCY**

Sponsor(s)
DIAMOND
BLANCHETTE

Committee Report
OTP

Amendments Adopted

LD 1505 proposed to do the following: