

# 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.*

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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*

15. It amends Title 17-A, §1349-D to simplify the summons process and the arrest warrant process for persons on administrative release. To obtain the presence of a person who was placed on administrative release at the hearing on the motion to revoke administrative release filed by the State, both the summons process and the arrest warrant process are available to the State.
16. It amends Title 19-A, §4002, sub-§4 to expressly make the definition of "family and household members" contained therein applicable to: Title 17-A, §1201, eligibility for probation; §1202, period of probation; and §1253, calculation of period of imprisonment.
17. It enacts Title 34-A, §5402, sub-§3, ¶F, which empowers the Commissioner of Corrections to provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult probationers with a high risk of offending.
18. It amends Title 34-A, §5404, sub-§3, ¶A relative to supervision of persons by probation and parole or intensive supervision program officers by providing that the purpose of supervision of each person placed under the officer's supervision is to ensure that departmental resources are directed to the management of persons with a high risk of reoffending.

Public Law 2005, chapter 265 was enacted as an emergency measure effective May 31, 2005.

**LD 1508**

**An Act To Regulate Fire Alarm Contractors**

**CARRIED OVER**

<u>Sponsor(s)</u> NASS R		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1508 proposed to require that fire alarm system contractors in the State be licensed by the Commissioner of Public Safety.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

**LD 1516**

**An Act To Eliminate the 3-step Sentencing Procedure Relating to the Imposition of Sentencing Alternatives That Include Imprisonment**

**ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1516 proposed to remove from the Maine Revised Statutes, Title 17-A the statutory requirement that courts engage in a specific 3-step process for determining sentences of imprisonment with respect to murder and Class A, B and C crimes. The 3-step process was enacted by the Legislature in 1995 and is based, almost verbatim, upon the so-called Hewey analysis first set forth by the Maine Law Court in the 1993 case of *State v. Hewey*, 622 A.2d 1151 (Me. 1993).

Specifically, the bill proposed to repeal and replace Title 17-A, section 1252-C, which required trial courts to follow the 3-step Hewey analysis when imposing sentences of imprisonment for murder and Class A, B and C offenses. The new section proposed to provide that when imposing such sentences, trial courts must adhere to the procedure set forth in the Maine Rules of Criminal Procedure, Rule 32(a)(3), which requires that reasons for a

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sentence be set forth on the record, and to the case law developed by the Law Court in the exercise of its appellate review of sentence function.

The bill also proposed to repeal Title 17-A, section 253, subsection 6, which set forth specific lengths of incarceration to be assigned in the 2nd step of the Hewey sentencing process for gross sexual assault offenders who had prior convictions for gross sexual assault and required that such incarceration not be suspended in the 3rd step of the process. In practice, sentences for gross sexual assault offenders who have prior convictions for gross sexual assault are so long that the minimum lengths of incarceration under Title 17-A, section 253, subsection 6 rarely came into play. Moreover, recently enacted Title 17-A, section 1252, subsections 4-B and 4-C call for enhanced penalties for gross sexual assault offenders who have prior Class B or Class C convictions for gross sexual assault or for unlawful sexual contact.

In addition, the bill proposed to remove a requirement in Title 17-A, section 1251 that in murders involving children under the age of 6, the age of the victim be given special weight in the first step of the Hewey sentencing process and replaces that requirement with an instruction to trial courts to give special weight to the victim's age in exercising their sentencing discretion. This new language would be similar to language that already appears elsewhere in the Maine Criminal Code with regard to other aggravating factors.

Finally, the bill proposed to amend, in similar fashion, Title 17-A, section 1252, subsection 5-B, giving special consideration in the 3-step process to the age of the victim with respect to sentences for attempted murder, manslaughter, elevated aggravated assault and aggravated assault committed against a child under 6 years of age.