

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

July 2006

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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Rep. John W. Churchill
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Rep. Kimberly J. Davis
Rep. Gary E. Plummer*

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Maine State Legislature



Office of Policy and Legal Analysis Office of Fiscal and Program Review

122nd Maine Legislature Second Regular Session

Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 arranged alphabetically by committee name 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. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located 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/billsumm.htm).

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:

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
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

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transported to a handling or processing facility within 45 days of delivery. Public Law 2005, chapter 546 establishes a fine of not more than \$1,000 for the first violation, a fine of not more than \$2,000 for a 2nd violation within a 5-year period and a Class E crime if a person commits a violation 3 or more times within a 5-year period. Public Law 2005, chapter 546 also creates a restitution provision, which directs the court in accordance with the requirements of the Maine Revised Statutes, Title 17-A, chapter 54, when appropriate, to order restitution on the basis of an adequate factual foundation. The amount of restitution may be determined by using the measured volume of the harvested forest products as listed on the measurement tally sheet or stumpage sheet in accordance with Title 10, section 2364-A, subsection 2 and by the terms of the sales contract according to the measurement procedures set forth in Title 10, section 2363-A that are applicable to a sale of wood. Finally, Public Law 2005, chapter 546 directs the Commissioner of Conservation to report by March 1, 2008 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters observations regarding the effectiveness of the new penalties in deterring timber theft.

LD 1771

An Act To Amend the Maine Criminal Code and Various Provisions Related to Juveniles

PUBLIC 507

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM MAJ ONTP MIN	S-472

LD 1771 was a Department of Corrections bill that proposed to do the following:

1. Eliminate confusion in the law by substituting in Title 15 and Titles 12 and 29-A concerning juveniles convicted of adult offenses the term “confinement” for the term “detention” when referring to a certain disposition. “Detention” refers to pre-adjudication or pre-conviction placement. “Confinement” refers to short term placement flowing a conviction or adjudication. “Commitment” refers to indeterminate correctional placement after adjudication for a juvenile offense. The bill also proposed to clarify the definition of “juvenile client” to capture all of these classifications of status;
2. Require that any credits for related time served in detention prior to sentencing be deducted from any order of confinement; however, good time provisions do not apply to detention for juveniles;
3. Specify that persons who are arrested on a juvenile warrant but are more than 21 years of age at the time of the arrest are to be detained in adult facilities until they appear before the court. Current law requires persons arrested on a juvenile warrant to be detained in juvenile facilities, but current law also specifies that juvenile facilities may not house persons over 18 years of age. The bill proposed to clarify that a person over 21 must be detained with adults, and if a juvenile who is between 18 and 21 years of age is bound over, detention with adults will continue to occur, if ordered by the court;
4. Clarify in Title 15 that the bail process is not available for a person under 18 years of age charged with an adult Title 12 or 29-A offense; however, juveniles are still subject to the rules of detention in the Juvenile Code;
5. Apply the pre-petition confidentiality provisions to juvenile crimes relating to the operation of a motor vehicle while under the influence of alcohol or drugs. This change proposed to clarify that the confidentiality provision regarding a juvenile against whom a petition has not been filed applies also to those juveniles

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against whom a petition may be filed without a recommendation from a juvenile community corrections officer;

6. Add to the Juvenile Code a cross-reference to a Criminal Code restitution provision that was recently enacted regarding joint and several responsibility, so that joint and several responsibility also applies to restitution in juvenile cases;
7. Add a cross-reference in the fine provision of the Maine Juvenile Code to a recently enacted juvenile crime law and clarify that mandatory minimum fine provisions are not applicable to juveniles;
8. Clarify in Title 17-A that when the running of the period of probation is tolled due to pending probation violation proceedings, the conditions of probation continue to apply during the tolled period; and
9. Codify in Title 17-A the Law Court's ruling that when there are consecutive sentences, detention time can only be counted once; this would also apply to probation revocations.

Committee Amendment “A” (S-472) was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to add the term “confined” in a provision that was inadvertently omitted from the bill. The amendment also proposed to add language to the Maine Bail Code that is consistent with the change proposed by the bill to the Maine Juvenile Code, making it clear that the bail process is not available for a juvenile charged with an adult crime under the Maine Revised Statutes, Title 12 or 29-A.

Enacted law summary

Public Law 2005, chapter 507 was proposed by the Department of Corrections and makes changes to the Maine Juvenile Code, Criminal Code and Bail Code. The changes are as follows.

To eliminate confusion, Public Law 2005, chapter 507 substitutes in Title 15 and Titles 12 and 29-A concerning juveniles convicted of adult offenses the term “confinement” for the term “detention” when referring to a certain disposition. “Detention” refers to pre-adjudication or pre-conviction placement. “Confinement” refers to short term placement following a conviction or adjudication. “Commitment” refers to indeterminate correctional placement after adjudication for a juvenile offense.

Public Law 2005, chapter 507 requires that any credits for related time served in detention prior to sentencing be deducted from any order of confinement. Good time provisions do not apply to detention for juveniles.

Public Law 2005, chapter 507 specifies that persons who are arrested on a juvenile warrant but are more than 21 years of age at the time of the arrest are to be detained in adult facilities until they appear before the court. Public Law 2005, chapter 507 clarifies that a person over 21 must be detained with adults, and if a juvenile who is between 18 and 21 years of age is bound over, detention with adults will continue to occur, if ordered by the court.

Public Law 2005, chapter 507 clarifies that the bail process is not available for a person less than 18 years of age charged with an adult Title 12 or Title 29-A offense; however, juveniles are still subject to the rules of detention in the Juvenile Code.

Public Law 2005, chapter 507 applies the pre-petition confidentiality provisions to juvenile crimes relating to the operation of a motor vehicle while under the influence of alcohol or drugs. The confidentiality provision

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regarding a juvenile against whom a petition has not been filed applies also to those juveniles against whom a petition may be filed without a recommendation from a juvenile community corrections officer.

Public Law 2005, chapter 507 adds to the Juvenile Code a cross-reference to a Criminal Code restitution provision that was recently enacted regarding joint and several responsibility, as joint and several responsibility also applies to restitution in juvenile cases.

Public Law 2005, chapter 507 adds a cross-reference in the fine provision of the Maine Juvenile Code to a recently enacted juvenile crime law and clarifies that mandatory minimum fine provisions are not applicable to juveniles.

Public Law 2005, chapter 507 clarifies in Title 17-A that when the running of the period of probation is tolled due to pending probation violation proceedings, the conditions of probation continue to apply during the tolled period.

Public Law 2005, chapter 507 codifies in Title 17-A the Law Court's ruling that when there are consecutive sentences, detention time can only be counted once; this interpretation also applies to probation revocations.

LD 1781

An Act To Require Mandatory Training for Law Enforcement Officers and Prosecutors Regarding Interaction with People with Developmental Disabilities, Including Autism Spectrum Disorders

ONTP

Sponsor(s)
BARTLETT

Committee Report
ONTP

Amendments Adopted

LD 1781 proposed to require the Board of Trustees of the Maine Criminal Justice Academy to include in the basic law enforcement mandatory training and the next available schedule of recertification training for law enforcement officers a block of instruction aimed at identifying and safely interacting with persons with developmental disabilities, reducing barriers to reporting crimes against people with developmental disabilities and addressing the challenges posed by cases that involve persons with developmental disabilities. The bill also proposed to require prosecutors to annually complete one hour of continuing legal education covering the same topics.

Although LD 1781 did not pass, the Maine Criminal Justice Academy plans to incorporate the training for law enforcement officers proposed in the bill into its curriculum. The joint standing committee having jurisdiction over criminal justice and public safety matters also anticipates a report back from a work group convened by the Maine Developmental Disabilities Council. The work group will include advocates and providers for persons with developmental disabilities. The group will share with the 123rd Legislature its recommendations regarding developing and implementing policy for training of law enforcement officers, other criminal justice and public safety officials and health care providers to help ensure equal access to and protection within the criminal justice and public safety systems for persons with developmental disabilities.