

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.
Rep. Stephen P. Hanley
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Rep. John W. Churchill
Rep. Christian D. Greeley
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.

Joint Standing Committee on Criminal Justice and Public Safety

3. Add references to supervised release for sex offenders pursuant to Title 17-A, chapter 50 and administrative release pursuant to Title 17-A, chapter 54-G; and
4. Add “release from commitment under Title 15, section 101-B” in provisions addressing releases that are unconditional.

Current law increasing the sentencing class one class higher for a Class B, C, D or E crime committed with the use of a dangerous weapon excludes from its application the crimes of aggravated assault and attempted aggravated assault. This exclusion was added because use of a dangerous weapon serves as a factual element of one form of the crime of aggravated assault. Public Law 2005, chapter 527 broadens the exclusion to include any crime that contains “use of a dangerous weapon” as a factual element.

Current law provides for the sentencing enhancement by one class if the defendant had 2 or more prior convictions of certain crimes, except for a conviction for stalking if the prior convictions have already served to enhance the sentencing class. Public Law 2005, chapter 527 broadens this exclusion to include any crime in which a prior conviction has already served to enhance the class of the crime.

Public Law 2005, chapter 527 clarifies that when 2 or more provisions in Title 17-A, section 1252 are pled and proved by the State to enhance the class of the crime these provisions may be applied successively as long as those to be made successive contain different class enhancement factors. For example, if the State pled and proved that the Class D crime of reckless conduct was committed with the use of a dangerous weapon and, at the time of its commission, the defendant had been convicted of 2 or more qualifying crimes, the class of the reckless conduct would be elevated successively from Class D to Class C and from Class C to Class B, because subsections 4 and 4-A constitute enhancement factors reflecting different public policy concerns.

Public Law 2005, chapter 527 removes the current exception for eligibility for deferred disposition, which is that the crime expressly provides that one or more punishment alternatives it authorizes may not be suspended. It also is important to remove this exception in order to allow the flexibility in sentencing options now available under Title 17-A, section 1348-B, subsection 1 and to recognize the fact that the Legislature also recently added a mandatory minimum fine to the Maine Criminal Code crime for assault and to all drug crimes in Title 17-A, chapter 45.

Public Law 2005, chapter 527 removes that portion of the paragraph authorizing judicial fact-finding at the sentencing hearing and requires instead that “accompanied by sexual assault” be pleaded and proved beyond a reasonable doubt to the fact-finder at the trial. The change is required under both the United States Constitution and the Constitution of Maine because “accompanied by sexual assault” is a fact incident to attempted murder or murder that makes the person a “repeat sexual assault offender” who consequently is subject to a term of imprisonment for any term of years rather than a lesser definite term as specified under Title 17-A, section 1252, subsection 2. See Blakely v. Washington, 542 U.S. 296 (2004); State v. Schofield, 2005 ME 82, 876 A.2d 43.

LD 2016

**An Act To Extend the Corrections Alternatives Advisory
Committee**

**PUBLIC 667
EMERGENCY**

Sponsor(s)
BLANCHETTE
DIAMOND

Committee Report
OTP-AM

Amendments Adopted
H-859

Joint Standing Committee on Criminal Justice and Public Safety

LD 2016 proposed to amend Public Law 2005, chapter 386, Part J, which established the Corrections Alternatives Advisory Committee. The bill proposed to extend the life of the advisory committee to December 15, 2006, expand its membership and authorize additional meetings and a final report to the Legislature. The bill also proposed to authorize the advisory committee to carry forward any remaining funds in order to support its continued work.

Committee Amendment “A” (H-859) proposed to incorporate a fiscal note.

Enacted law summary

Public Law 2005, chapter 667 amends Public Law 2005, chapter 386, Part J, which established the Corrections Alternatives Advisory Committee. Public Law 2005, chapter 667 extends the life of the advisory committee to December 15, 2006, expands its membership and authorizes additional meetings and a final report to the Legislature. The bill also authorizes the advisory committee to carry forward any remaining funds in order to support its continued work.

Public Law 2005, chapter 667 was enacted as an emergency measure effective May 30, 2006.

LD 2028

An Act To Establish a Computer Crimes Unit within the Maine State Police Crime Laboratory

**PUBLIC 676
EMERGENCY**

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-519
S-674 ROTUNDO

LD 2028 was proposed by the Joint Standing Committee on Criminal Justice and Public Safety. The bill proposed to repeal the Maine Computer Crimes Task Force and create a new Computer Crimes Unit to be housed within the Maine State Police Crime Laboratory, which is part of the State Police Program. The bill proposed that the Computer Crimes Unit will consist of 6 full-time positions, 4 of which already exist and 2 that are new. The bill also proposed that the Computer Crimes Unit will continue the work of the Maine Computer Crimes Task Force by working collaboratively with the Department of the Attorney General and local law enforcement agencies for the purposes of investigation and assisting all law enforcement agencies in crimes involving computers.

Committee Amendment “A” (S-519) proposed to incorporate a fiscal note.

Senate Amendment “A” (S-674) proposed to replace the bill and to require that 3/14 of the surcharge collected and deposited in the Government Operations Surcharge Fund be paid to the Maine Criminal Justice Academy and 1/14 of the surcharge collected and deposited in the Government Operations Surcharge Fund be paid to the State Police to supplement current funds for computer crimes investigations. The amendment proposed to repeal the statute that established the Maine Computer Crimes Task Force and appropriate funds for the creation of a new computer crimes unit to be housed within the Maine State Police Crime Laboratory, which is part of the State Police program. The computer crimes unit will consist of 6 full-time positions, 4 of which already exist and 2 that are new. The computer crimes unit will continue the work of the Maine Computer Crimes Task Force by working collaboratively with the Department of the Attorney General and local law enforcement agencies for the purposes of investigation and assisting all law enforcement agencies in crimes involving computers.