

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
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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

LD 2044

**An Act To Enhance the Protection of Maine Families from
Terrorism and Natural Disasters**

**PUBLIC 634
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-1066 DUPLESSIE S-575 S-651 STRIMLING

LD 2044 was recommended by the Task Force to Study Maine's Homeland Security Needs. This bill proposed to do the following:

1. Place matters pertaining to the Maine Emergency Management Agency (MEMA) and its director under the jurisdiction of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and assign that committee the responsibility of reviewing that agency under the provisions of the State Government Evaluation Act. The bill proposed to create the Homeland Security Advisory Council to advise the Governor on the coordination of homeland security activities of state agencies and the most effective use of grant funds and to make the Director of MEMA chair of the council;
2. Direct the Statewide Radio Network Board, which consists of the Chief Information Officer and agencies using the statewide radio and network system, to develop protocols and procedures for frequency coordination throughout the State during emergencies and to obtain memoranda of understanding from certain stakeholders. The bill proposed to require the Statewide Radio Network Board to report to the Task Force to Study Maine's Homeland Security Needs on its progress by September 18, 2006. It proposed to clarify that the Chief Information Officer and other agencies using the statewide radio and network system may operate as a board to establish standards for statewide radio and network system operations;
3. Authorize the Governor to bring the balance of the Disaster Relief Fund up to \$3,000,000. It proposed to require that any interest that accrues in the fund in excess of \$3,000,000 be transferred by the State Controller to the Maine Budget Stabilization Fund. The bill also proposed to provide that the Disaster Relief Fund may be used for the purpose of matching federal funds in the event of a federally declared disaster and that the Director of MEMA report annually to the Governor and the Legislature on the fund's balance and expenditures beginning January 15, 2007;
4. Require the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services to coordinate with the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency on the planning and expenditure of federal funds received by the center for homeland security or bioterrorism prevention. The bill also proposed to require the advisor of the Homeland Security Advisory Council to report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the use of those funds;
5. Require that the Director of MEMA be qualified by education, training or experience in the emergency management profession, appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and confirmation by the Legislature. It also proposed to provide that the director shall represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State. It proposed to require the director to conduct periodic assessments of the use of state radio frequencies in

Joint Standing Committee on Criminal Justice and Public Safety

emergencies and directs the director to develop and produce emergency preparedness public service announcements to be broadcast regularly on local broadcasting networks;

6. Require the Director of MEMA to survey Maine communities to gather information on the types of emergency notification systems that are in place throughout the State, evacuation plans for nursing homes currently adopted throughout the State and shelter capabilities throughout the State, with a focus on determining how shelters are designed to accommodate populations with special needs, particularly persons with disabilities;
7. Direct the Director of the MEMA to coordinate with the Commissioner of Education to perform an assessment of the number of Maine public schools that have adopted an all-hazards approach to emergency preparedness and requires the director and the commissioner to coordinate their efforts for community outreach for all-hazards emergency planning. The bill proposed to require the director to report by September 18, 2006 to the Task Force to Study Maine's Homeland Security Needs with its findings and recommendations. This bill also proposed to require that all new schools be designed to include backup energy generators or be wired for portable energy generators, thus enabling their use as public shelters;
8. Require the Commissioner of Education to determine methods for incorporating emergency plans within the elementary and secondary public school curriculum. It proposed to require the commissioner to report by January 15, 2007 with findings and proposed recommended changes to the curriculum to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters;
9. Direct the Maine Center for Disease Control and Prevention, in conjunction with the Maine Hospital Association, to update its survey of emergency health system capacity in the State and to report to the Task Force to Study Maine's Homeland Security Needs on the results of this study and recommendations to address surge capacity by September 18, 2006; and
10. Require the Director of the Maine Center for Disease Control and Prevention to work with stakeholders to ensure that the regional resource centers are provided sufficient funding, and require the director to study the qualifications of local health officers and develop recommendations for enhancing their role in emergency preparedness plans. It proposed to require the director to report to the Task Force to Study Maine's Homeland Security Needs on the results of this study and proposed recommendations by September 18, 2006 and to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice matters by January 15, 2007.

Committee Amendment "A" (S-575) proposed to do the following:

1. Direct the Commissioner of Administrative and Financial Services to recommend that, effective July 1, 2007, 45% of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services, up to \$3,000,000, be transferred to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance. The fund must be the first resource used when an emergency is proclaimed under the Maine Revised Statutes, Title 37-B, section 742 or 744;
2. Direct the Department of Education to amend its written application for funding for school construction projects to include the question: "Do you plan to use your school as a public community shelter?" The amendment also proposed to specify that in the case of a school construction project in which the school is

Joint Standing Committee on Criminal Justice and Public Safety

expected to be used as a community shelter, the State Board of Education may approve only those projects designed to accommodate backup energy generators;

3. Modify the required qualifications of the Director of MEMA within the Department of Defense, Veterans and Emergency Management to require education, training or experience in managing emergencies or in the emergency management profession. The amendment proposed to specify that the Director of MEMA acts subject to the direction and control of the Commissioner of Defense, Veterans and Emergency Management. The amendment proposed to repeal an archaic reference in the duties of the Director of MEMA that specifies that the director may not require any political subdivision to participate in any program of nuclear civil protection planning. Finally, in the duties of the Director of MEMA, the amendment proposed to clarify that the director shall develop and conduct an annual program of comprehensive public education, using all appropriate means of communication to educate and inform members of the public and public officials about emergency preparedness, response, recovery and mitigation. The amendment proposed that the program must incorporate the use of appropriate accessible formats to educate and inform individuals with disabilities, individuals who are elderly and non-English-speaking residents of Maine;
4. Expand the directive to the Director of MEMA to evaluate emergency notification systems and evacuation plans and shelters to include evaluation of plans for other long-term care facilities besides nursing homes, including home-based and community-based programs, and evacuation plans for individuals living independently in communities who due to age or disability require assistance to evacuate;
5. Strike language requiring the Director of MEMA and the Commissioner of Education to develop and incorporate emergency plans into the public school curriculum, as the law authorizes this planning, and it is currently taking place;
6. Specify that the parties to be involved in updating information on Maine's emergency health system capacity include the Director of the Center for Disease Control and Prevention within the Department of Health and Human Services, in conjunction with health system stakeholders. The amendment also proposed to specify that the Director of the Center for Disease Control and Prevention, in coordination with the Director of MEMA and the Director of Maine Emergency Medical Services within the Department of Public Safety in consultation with health system stakeholders, including the Maine Primary Care Association, the Maine Hospital Association and other interested parties, shall develop recommendations to address Maine's acute medical and public health surge capacity;
7. Direct the Director of the Maine Center for Disease Control and Prevention to work with health care and emergency management stakeholders to distribute grant funds provided by the United States Department of Health and Human Services, Health Resources and Services Administration to ensure that the regional resource centers are provided with sufficient funding resources to improve health system preparedness, within the limits of the federal funds, in accordance with the documented local needs of the federally specified funding beneficiaries: emergency medical services, poison control centers, health clinics and hospitals in each region. The amendment proposed that the Maine Center for Disease Control and Prevention shall report to the task Force to Study Maine's Homeland Security Needs on the results of the federal Health Resources and Services Administration grant and contract with the regional resource centers and other health system providers and on proposed recommendations and to report the same information to the joint standing committee of the Legislature having jurisdiction over health and human services matters and to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The amendment further proposed that the Maine Center for Disease Control and Prevention shall also report annually, beginning January 15, 2007, to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having

Joint Standing Committee on Criminal Justice and Public Safety

jurisdiction over criminal justice and public safety matters on the progress of the grantees on meeting the stated contractual deliverables;

8. Repeal the application section regarding school construction projects;
9. Add several new sections to the bill, including directing the Director of the MEMA to consult with the Public Utilities Commission to determine the feasibility of adding a disability indicator to the current E-9-1-1 system in Maine to allow individuals with disabilities and special health needs to choose to provide a 2-digit code identifying special assistance needs in an emergency; directing the Maine Center for Disease Control and Prevention to submit a report to the Task Force to Study Maine's Homeland Security Needs by September 18, 2006 detailing the number of health care workers, by profession, registered in the federal Emergency System for Advance Registration of Voluntary Health Professionals; and authorizing 2 additional meetings of the Task Force to Study Maine's Homeland Security Needs;
10. Strike language that gives the Joint Standing Committee on Criminal Justice and Public Safety jurisdiction over matters pertaining to MEMA, as oversight of the agency can be inferred from the committee's review of the agency under the State Government Evaluation Act process and by confirmation of its director; and
11. Add an appropriations and allocations section.

House Amendment “D” to Committee Amendment “A” (H-1066) proposed to strike a section from Committee Amendment “A” that altered a transfer of funding and instead proposed to increase the funding for the Task Force to Study Maine's Homeland Security Needs in order to increase the number of authorized public hearings in fiscal year 2006-07 from one to 2.

Senate Amendment “B” to Committee Amendment “A” (S-651) proposed to incorporate the changes made in House Amendment “C” to Committee Amendment “A” and to limit the Governor to transferring 10% of the balance of rental income from facilities in Limestone in the case of an emergency to provide funds for disaster relief.

House Amendment “A” to Committee Amendment “A” (H-985), which was not adopted, proposed to strike the language that modifies the required qualifications of the Director of MEMA within the Department of Defense, Veterans and Emergency Management to require education, training or experience in managing emergencies or in the emergency management profession. The amendment also proposed to strike the language that requires that the Director of MEMA be appointed by the Governor, serve at the pleasure of the Governor, be responsible for notifying the Governor and Commissioner of Defense, Veterans and Emergency Management of all emergencies and represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State.

House Amendment “B” to Committee Amendment “A” (H-999), which was not adopted, proposed to strike the language that requires that the Director of MEMA be appointed by the Governor, serve at the pleasure of the Governor, be responsible for notifying the Governor and Commissioner of Defense, Veterans and Emergency Management of all emergencies and represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State.

House Amendment “C” to Committee Amendment “A” (H-1035), which was not adopted, proposed to give the Governor authority to take money from rental income of facilities in Limestone in the case of an emergency pursuant to the Maine Revised Statutes, Title 37-B, section 742 or 744 if money is needed for disaster relief.

Joint Standing Committee on Criminal Justice and Public Safety

This amendment also proposed to reduce the amount of rental income that the Department of Administrative and Financial Services, Bureau of General Services must transfer to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance from 45% to 22.5%.

The amendment also proposed to require that the Director of the Maine Emergency Management Agency be appointed by the Governor upon recommendation by the Commissioner of Defense, Veterans and Emergency Management, subject to confirmation of the joint standing committee of the Legislature having jurisdiction over the Department of Public Safety and the Legislature.

Finally, this amendment proposed to provide that, beginning July 1, 2007, a portion of the rental income from Maine Military Authority facilities in Limestone must be used for the repair and maintenance of National Guard armories in the State.

Senate Amendment “A” to Committee Amendment “A” (S-625), which was not adopted, proposed to strike a section from Committee Amendment “A” that altered a transfer of funding and instead increases the funding for the Task Force to Study Maine's Homeland Security Needs in order to increase the number of authorized public hearings in fiscal year 2006-07 from one to 2.

Enacted law summary

Public Law 2005, chapter 634 enacts a number of the interim recommendations of the Task Force to Study Maine's Homeland Security Needs, as amended by the Joint Standing Committee on Criminal Justice and Public Safety and the Legislature. Public Law 2005, chapter 634 does the following.

1. It assigns to the committee of the Legislature having jurisdiction over criminal justice and public safety matters the responsibility of reviewing the Maine Emergency Management Agency (MEMA) under the provisions of the State Government Evaluation Act.
2. It directs the Statewide Radio Network Board, which consists of the Chief Information Officer and agencies using the statewide radio and network system, to develop protocols and procedures for frequency coordination throughout the State during emergencies and to obtain memoranda of understanding from certain stakeholders. The Statewide Radio Network Board shall report to the Task Force to Study Maine's Homeland Security Needs on its progress by September 18, 2006. It also clarifies that the Chief Information Officer and other agencies using the statewide radio and network system may operate as a board to establish standards for statewide radio and network system operations.
3. Beginning July 1, 2007, it specifies, in regard to the rental income from the rental of facilities at Limestone, that, notwithstanding any other law, the Department of Administrative and Financial Services, Bureau of General Services must transfer 22.5% of the income to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance. The total amount that may be transferred is capped at \$3,000,000. In addition, notwithstanding any other law and except when the Governor in the case of a declared emergency needs money for disaster relief, the Governor may transfer no more than 10% of the balance of rental income from facilities in Limestone. It also specifies that beginning July 1, 2007, part of the rental income collected be transferred to the Department of Defense, Veterans and Emergency Management for maintenance and repair of National Guard armories in the State.

Joint Standing Committee on Criminal Justice and Public Safety

4. It creates the Homeland Security Advisory Council to advise the Governor on the coordination of homeland security activities of state agencies and the most effective use of grant funds and makes the Director of MEMA chair of the council.
5. It directs the Department of Education to amend its written application for funding for school construction projects to include the question: “Do you plan to use your school as a public community shelter?” It also requires that in the case of a school construction project in which the school is expected to be used as a community shelter, the State Board of Education may approve only those projects designed to accommodate backup energy generators.
6. It requires the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services to coordinate with the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency on the planning and expenditure of federal funds received by the center for homeland security or bioterrorism prevention. It also requires the advisor of the Homeland Security Advisory Council to report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the use of those funds.
7. It requires that the Director of the Maine Emergency Management Agency be qualified by education, training or experience in managing emergencies and be appointed by the Governor upon recommendation by the Commissioner of Defense, Veterans and Emergency Management, subject to confirmation of the joint standing committee of the Legislature having jurisdiction over the Department of Public Safety and the Legislature. It also provides that the director shall represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the State. It requires the director to develop and conduct an annual program of comprehensive public education, using all appropriate means of communication to educate and inform members of the public and public officials about emergency preparedness, response, recovery and mitigation. The program must incorporate the use of appropriate accessible formats to educate and inform individuals with disabilities, individuals who are elderly and non-English-speaking residents of Maine.
8. It requires the Director of MEMA to survey Maine communities to gather information on the types of emergency notification systems that are in place throughout the State, evacuation plans for nursing homes and other long-term care facilities, including home-based and community-based programs, and evacuation plans for individuals living independently in communities who due to age or disability require assistance to evacuate.
9. It directs the Director of the MEMA to coordinate with the Commissioner of Education to perform an assessment of the number of Maine public schools that have adopted an all-hazards approach to emergency preparedness and requires the director and the commissioner to coordinate their efforts for community outreach for all-hazards emergency planning.
10. It directs the Director of the Center for Disease Control and Prevention within the Department of Health and Human Services, in conjunction with health system stakeholders, to update its survey of emergency health system capacity in the State. It also specifies that the Director of the Center for Disease Control and Prevention, in coordination with the Director of MEMA and the Director of Maine Emergency Medical Services within the Department of Public Safety in consultation with health system stakeholders, including the Maine Primary Care Association, the Maine Hospital Association and other interested parties, shall develop recommendations to address Maine's acute medical and public health surge capacity.

Joint Standing Committee on Criminal Justice and Public Safety

- 11. It directs the Director of the Center for Disease Control and Prevention, in conjunction with stakeholders and other interested parties, to study the qualifications and duties of local health officers in Maine and develop recommendations for enhancing the role of local health officers in emergency preparedness plans.
- 12. It directs the Director of the Maine Center for Disease Control and Prevention to work with health care and emergency management stakeholders to distribute grant funds provided by the United States Department of Health and Human Services, Health Resources and Services Administration to ensure that the regional resource centers are provided with sufficient funding resources to improve health system preparedness, within the limits of the federal funds, in accordance with the documented local needs of the federally specified funding beneficiaries: emergency medical services, poison control centers, health clinics and hospitals in each region. The Maine Center for Disease Control and Prevention shall report to the task Force to Study Maine’s Homeland Security Needs on the results of the federal Health Resources and Services Administration grant and contract with the regional resource centers and other health system providers and on proposed recommendations. The Maine Center for Disease Control and Prevention shall report the same to the joint standing committee of the Legislature having jurisdiction over health and human services matters and to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The Maine Center for Disease Control and Prevention shall also report annually, beginning January 15, 2007, to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the progress of the grantees on meeting the stated contractual deliverables.
- 13. It directs the Director of the MEMA to consult with the Public Utilities Commission to determine the feasibility of adding a disability indicator to the current E-9-1-1 system in Maine to allow individuals with disabilities and special health needs to choose to provide a 2-digit code identifying special assistance needs in an emergency.
- 14. It directs the Maine Center for Disease Control and Prevention to submit a report to the Task Force to Study Maine's Homeland Security Needs by September 18, 2006 detailing the number of health care workers, by profession, registered in the federal Emergency System for Advance Registration of Voluntary Health Professionals.

Public Law 2005, chapter 634 was enacted as an emergency measure effective May 9, 2006.

LD 2046

An Act To Implement the Recommendations of the Attorney General's Working Group Regarding Sentencing Factors for Crimes against Persons Who Are Homeless

PUBLIC 551

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP MAJ	
	ONTP MIN	

LD 2046 proposed to implement the recommendations of the Attorney General's working group regarding the advisability of implementing aggravating sentencing factors for crimes against persons who are homeless, which was established pursuant to Public Law 2005, chapter 393. The bill proposed to amend the purpose section of the general sentencing provisions of the Maine Criminal Code by adding homelessness to the list of factors, such as the age, religion and sexual orientation of a victim, that a court considers in determining the gravity of an offense in sentencing.