

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

May 2008

STAFF:

MARION HYLAN BARR, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

MEMBERS:

SEN. BILL DIAMOND, CHAIR
SEN. EARLE L. MCCORMICK
SEN. ROGER L. SHERMAN

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Criminal Justice and Public Safety

7. It provides authority to the juvenile court to order a diagnostic evaluation of a juvenile who enters an answer of not criminally responsible by reason of insanity alone or coupled with a denial of the charges.
8. It provides that copies of treatment plans, reports and petitions must be distributed to all parties, including the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile has any.

LD 71 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-639)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-248). Committee Amendment "B" was not removed from the Special Appropriations Table and died on adjournment.

LD 149 An Act To Take into Account the Crime Committed That Facilitated a Sexual Assault

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM	H-647

This bill amends the sentencing laws regarding terms of imprisonment by specifying that if the State pleads and proves that a Class B or C crime was committed with the intent to facilitate a sexual assault, and the person is convicted of both the offense that facilitated the sexual assault and the sexual assault, the sentencing class for the crime that facilitated the sexual assault is one class higher than it would otherwise be. The bill also specifies that if the State pleads and proves that a Class A, B or C crime was committed with the intent to facilitate a sexual assault, and the person is convicted of both the offense that facilitated the sexual assault and the sexual assault, the court shall sentence the person to serve the terms of imprisonment consecutively.

Committee Amendment "A" (H-508)

This amendment replaces the bill and clarifies the intent by moving the new sentencing provisions proposed in the bill to the more appropriate sections of the Maine Revised Statutes, Title 17-A, sections 1252 and 1256. The amendment makes the ability to impose consecutive sentences discretionary instead of mandatory. The amendment also makes technical language changes to conform to the Maine Criminal Code.

LD 149 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-647)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-508). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 220 An Act To Clarify and Expand Maine Criminal Laws Related to Sexual Assault

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY SHERMAN	OTP-AM	H-648

Joint Standing Committee on Criminal Justice and Public Safety

The bill clarifies and expands criminal laws relating to gross sexual assault, sexual abuse of minors and unlawful sexual contact in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution and the offender either is, or will be, a teacher, employee or other school employee where the victim is enrolled or is a law enforcement officer in the jurisdiction where the student resides or is enrolled.

Committee Amendment "A" (H-93)

This amendment replaces the bill. The amendment clarifies that for purposes of sexual assault in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution, the law recognizes that a teacher or other school employee's instructional, supervisory or disciplinary authority over the student does not disappear during school vacations and summer recess. The teacher or other school employee may not raise as a defense to prosecution that the conduct occurred during a school vacation or summer recess if the teacher or other school employee maintained that status immediately prior to the vacation or recess. The amendment also specifies that the same standards be applied to law enforcement officers who are employees of or are assigned to perform duties at a private or public elementary, secondary or special education school, facility or institution.

LD 220 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-648)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-93). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 239 An Act To Provide a Felony Penalty for Assault on a Firefighter

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE	OTP-AM A ONTP B OTP-AM C	

A person who intentionally, knowingly or recklessly causes bodily injury to a law enforcement officer while that officer is in performance of official duties (Title 17-A §752-A) or to a medical care provider while the provider is providing emergency medical care (Title 17-A §752-C), the person is guilty of a Class C crime of assault. This bill creates a Class C assault for intentionally, knowingly or recklessly causing bodily injury to a firefighter if the assault occurs while the firefighter is performing official duties.

Committee Amendment "A" (H-21)

This amendment is the majority report of the Criminal Justice and Public Safety Committee. The amendment specifies that the Class C assault on a firefighter applies only in situations where the firefighter is performing official duties at the scene of a fire or other emergency.

LD 239 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-657)

This amendment strikes and replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment repeals the law that established the crime of committing assault on emergency medical care providers as a Class C crime. The repeal of this law means that assaults against emergency