

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature coming from the

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

July 2007

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# STATE OF MAINE

123<sup>RD</sup> LEGISLATURE

FIRST REGULAR SESSION

## 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 First Regular Session of the 123<sup>rd</sup> Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

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:

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 (or Accepted ONTP report).....	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.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## *Joint Standing Committee on Criminal Justice and Public Safety*

on Criminal Justice and Public Safety may submit legislation to the Second Regular Session of the 123rd Legislature.

This amendment was not adopted.

### **LD 362 An Act To Effect the Seizure and Disposal of Contraband Fireworks**

**PUBLIC 81  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP	

This bill is an emergency bill that establishes a process for the disposal of fireworks seized by or surrendered to law enforcement authorities. The only situations in which fireworks are not contraband are when they are exempted from sanction, for instance, in the case of maritime flares, or the person possessing, using or transporting them is already permitted to do so under the Maine Revised Statutes, Title 8, chapter 9-A.

#### **Enacted Law Summary**

Public Law 2007, chapter 81 establishes a process for the disposal of fireworks seized by or surrendered to law enforcement authorities. The only situations in which fireworks are not contraband are when they are exempted from sanction, for instance, in the case of maritime flares, or the person possessing, using or transporting them is already permitted to do so under the Maine Revised Statutes, Title 8, chapter 9-A.

Public Law 2007, chapter 81 was enacted as an emergency measure effective May 7, 2007.

### **LD 363 An Act To Improve Juvenile Justice**

**PUBLIC 196**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-186

This bill amends the Maine Juvenile Code as follows.

Section 1 provides clarification of when conditions of release imposed by a juvenile community corrections officer (jcco) terminate. A conditional release ordered by the court or jcco will stay in place, if the juvenile is not prosecuted, until an informal adjustment is begun and/or the DA determines that no petition will be filed on a given case.

Section 2 clarifies that the public may not be excluded from a proceeding involving a juvenile petition alleging a second or subsequent crime that would be a Class D or higher class crime if Class D offense were preceded by not only another Class D offense unrelated to the current offense but also if it was preceded by another offense that would constitute a Class A, B or C offense or murder if committed by an adult.

Section 4 provides explicit statutory authority for the juvenile court to invoke contempt powers to enforce dispositional orders and hold accountable juveniles who fail to comply with such orders.

Sections 3 and 5 authorize the court to suspend for up to 6 months the license, permit or right to operate a motor vehicle of a juvenile adjudicated of illegal possession or consumption of liquor by a minor.

#### **Committee Amendment "A" (H-186)**

## *Joint Standing Committee on Criminal Justice and Public Safety*

This amendment does the following.

1. It adds a new section that amends the Maine Revised Statutes, Title 15, section 3301, subsection 6 by adding the "attorney for the State" to those a juvenile community corrections officer must notify if the officer decides not to request the attorney for the State to file a petition. The change also amends that section to add a requirement that the attorney for the State make a final determination as to whether to file a juvenile petition within 30 days of being notified of the juvenile community corrections officer's decision not to request that a petition be filed.
2. It amends Title 15, section 3307, subsection 2 by opening to the public a juvenile proceeding in which a petition has been filed for a juvenile crime that would constitute a Class D crime if the juvenile involved were an adult only when the juvenile has previously been adjudicated of committing a juvenile crime that would constitute a Class D or higher class crime.
3. It replaces that section of the bill that enacts Title 15, section 3314, subsection 7 to clarify the juvenile court's inherent contempt power as a court of record to enforce either a disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. The amendment specifies that after notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66 the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. To enforce the disposition ordered following an adjudication for a juvenile crime upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.
4. It specifies that a person who has turned 18 years of age and is subject to the court's contempt powers that include a sanction of confinement under Title 15, section 3314, subsection 7 may be sentenced to serve that term of confinement in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults.
5. It strikes those sections of the bill that allow the court to suspend licenses or permits to operate for up to 6 months for juveniles adjudicated of illegal possession or consumption of liquor.
6. It adds a new section that adds a cross-reference to Title 15, section 3314, subsection 7.
7. It adds 2 new sections that add to the purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center the confinement of juveniles ordered confined pursuant to Title 15, section 3314, subsection 7 of the Juvenile Code.

### **Enacted Law Summary**

Public Law 2007, chapter 196 provides clarification of when conditions of release imposed by a juvenile community corrections officer (jcco) terminate. A conditional release ordered by the court or jcco will stay in place, if the juvenile is not prosecuted, until an informal adjustment is begun or the DA determines that no petition will be filed on a given case. It also adds a new section that amends the Maine Revised Statutes, Title 15, section 3301, subsection 6 by adding the "attorney for the State" to those a jcco must notify if the officer decides not to request the attorney for the State to file a petition. The change also amends that section to add a requirement that the attorney for the State make a final determination as to whether to file a juvenile petition within 30 days of being notified of the jcco's decision not to request that a petition be filed.

## *Joint Standing Committee on Criminal Justice and Public Safety*

Public Law 2007, chapter 196 amends Title 15, section 3307, subsection 2 by opening to the public a juvenile proceeding in which a petition has been filed for a juvenile crime that would constitute a Class D crime if the juvenile involved were an adult only when the juvenile has previously been adjudicated of committing a juvenile crime that would constitute a Class D or higher class crime.

Public Law 2007, chapter 196 replaces that section of the bill that enacts Title 15, section 3314, subsection 7 to clarify the juvenile court's inherent contempt power as a court of record to enforce either a disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Chapter 196 specifies that after notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66 the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. To enforce the disposition ordered following an adjudication for a juvenile crime upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

Public Law 2007, chapter 196 specifies that a person who has turned 18 years of age and is subject to the court's contempt powers that include a sanction of confinement under Title 15, section 3314, subsection 7 may be sentenced to serve that term of confinement in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults.

**LD 372      An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains  
to Persons Who Furnish Drugs to Victims**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J		S-251

In order to improve the ability to prosecute certain gross sexual assaults, this bill amends the crime of gross sexual assault by adding the element of furnishing drugs or intoxicants to a victim in order to substantially impair the victim's power to appraise or control the victim's sexual acts. Currently, a prosecutor must meet a higher standard by proving that the actor employed or administered the drugs or intoxicants to the victim. The bill also specifies that an actor cannot raise as a defense to gross sexual assault that the victim voluntarily consumed or allowed the administration of the drugs or intoxicants if the victim was 14 or 15 years of age.

**Committee Amendment "A" (S-251)**

This amendment clarifies that the definition of "furnish" is the same as that currently in the Maine Criminal Code.

LD 372 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.