

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



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

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

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STATE OF MAINE

123RD 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 123rd 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

This amendment strikes from the bill the language that directs that in the event a person who is found not criminally responsible by reason of insanity or is the recipient of a negotiated insanity plea as to a Maine crime is subject to an undischarged straight term of imprisonment or an unsuspended portion of a split sentence for a different Maine crime, the person must serve the undischarged term of imprisonment or the unsuspended portion of the split sentence before commencing the commitment to the Commissioner of Health and Human Services ordered by the court pursuant to the Maine Revised Statutes, Title 15, section 103. Once having fully served the term of imprisonment or unsuspended portion of a split sentence, the person would have had to commence the commitment ordered notwithstanding being on conditional release.

The amendment also strikes from the bill the language that directs that, while a person is imprisoned in execution of the punishment described in Title 15, section 103-A, the county jail or state facility in which the person is incarcerated must provide the necessary mental health treatment required under law, including, when appropriate, seeking involuntary psychiatric hospitalization.

The amendment repeals the last paragraph of Title 15, section 2115 because its substance, with modification, is best addressed in Title 4, section 51 since it relates to the concurrence required by the Law Court.

LD 1240 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.

LD 1241

An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code

CARRIED OVER

Sponsor(s)

Committee Report

Amendments Adopted

H-314

This bill is proposed by the Criminal Law Advisory Commission.

1. Section 1 adds a definition for "another jurisdiction" in subsection 3-B of section 2 of the Maine Criminal Code, so that this term has consistent meaning throughout the code. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Passamaquoddy Tribe and the Penobscot Nation when a tribe has acted pursuant to the Maine Revised Statutes, Title 30, section 6209-A, subsection 1, paragraph A or B and Title 30, section 6209-B, subsection 1, paragraph A or B, respectively. "Another jurisdiction" does not include any foreign country. The bill also amends various crimes and sentencing provisions by replacing inconsistent terminology with the new term "another jurisdiction."
2. Without modifying either the number of prior convictions currently required or the currently qualifying Maine convictions, the bill amends various crimes and sentencing provisions so that prior convictions uniformly include both the specifically identified Maine convictions as well as convictions for engaging in substantially similar conduct in another jurisdiction.
3. The bill replaces in numerous Title 17-A, chapter 45 drug provisions "convicted of an offense under this chapter punishable by a term of imprisonment of more than one year" with "one or more prior convictions for a Class A, B or C offense under this chapter" to clarify that the qualifying Maine chapter 45 convictions include Class C crimes. The bill also replaces in numerous chapter 45 provisions "convicted of an offense under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined by this chapter, and punishable by a term of imprisonment of more than one year" with "convicted of engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter or another jurisdiction."

LD 1241 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and

Joint Standing Committee on Criminal Justice and Public Safety

recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "A" (H-314)

This amendment removes and replaces a bill section to reflect a change to the law already made this session.

LD 1241 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.

LD 1290 An Act To Enhance Enforcement of Public Health Measures

PUBLIC 359

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLER	OTP-AM	H-521

This bill establishes the Class D crime of intentionally, knowingly or recklessly violating a public health measure or prescribed care order during a period of declared extreme public health emergency. In addition, this bill permits a warrantless arrest of a person who an officer has probable cause to believe is committing or has committed a violation of a public health measure or prescribed care order. The bill amends the discharge provision for those committed to a facility for treatment in public health measure situations by adding references to the review process for treatment orders by the department (Title 22, section 813) and by the court in extreme public health emergencies (Title 22, section 820). LD 1290 creates a new provision in Title 30-A, section 1560 (removal for disease) regarding transportation and medical care for a prisoner subject to a public health measure order, which specifies that that a sheriff may transport the prisoner outside the State for medical care if ordered by the court. The Department of Health and Human Services would pay for the costs of transportation and compensation to the officers.

Committee Amendment "A" (H-521)

This amendment deletes sections 1 and 2 of the bill. The amendment authorizes the issuance of an arrest warrant by the Superior Court in the event of a violation of a public health measure or prescribed care order. Transportation of persons detained or committed to county jails or correctional facilities to out-of-state treatment facilities pursuant to court order is authorized. The amendment also requires the Department of Health and Human Services, in consultation with the Department of Public Safety, the Maine Emergency Management Agency, the Office of the Attorney General, the Criminal Law Advisory Commission and the Maine Sheriffs' Association, to evaluate present procedures for placing persons in violation of public health orders into custody, to review the feasibility of establishing an in-state or out-of-state secure residential treatment facility for persons determined to pose imminent significant public health risks, to evaluate methods to improve the execution of arrest warrants for persons determined to be in violation of court public health measures and court and departmental orders for prescribed care and to report its findings and recommendations to the Joint Standing Committee on Criminal Justice no later than January 31, 2008. Upon receipt of the recommendations, the Joint Standing Committee on Criminal Justice and Public Safety may submit implementing legislation if necessary.

Enacted Law Summary

Public Law 2007, chapter 359 authorizes the issuance of an arrest warrant by the Superior Court in the event of a violation of a public health measure or prescribed care order. Transportation of persons detained or committed to county jails or correctional facilities to out-of-state treatment facilities pursuant to court order is authorized. The amendment also requires the Department of Health and Human Services, in consultation with the Department of Public Safety, the Maine Emergency Management Agency, the Office of the Attorney General, the Criminal Law Advisory Commission and the Maine Sheriffs' Association, to evaluate present procedures for placing persons in violation of public health orders into custody, to review the feasibility of establishing an in-state or out-of-state secure residential treatment facility for persons determined to pose imminent significant public health risks, to evaluate methods to improve the execution of arrest warrants for persons determined to be in violation of court public health measures and court and departmental orders for prescribed care and to report its findings and