

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

REP. STAN GERZOFSKY, CHAIR
REP. PATRICIA A. BLANCHETTE
REP. ANNE M. HASKELL
REP. STEPHEN P. HANLEY
REP. DAWN HILL
REP. BRYAN T. KAENRATH
REP. RICHARD M. SYKES
REP. CHRISTIAN D. GREELEY
REP. GARY E. PLUMMER
REP. JOSEPH L. TIBBETTS

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

be resumed when the new institutional confinement ordered or the straight term of imprisonment or the unsuspended portion of the split sentence imposed has been fully served.

Public 2007, chapter 475 conditions the present duty of prosecutors to inform law enforcement officers of the details of certain plea agreements reached before submitting that plea to the court on such notice being practicable. The bill adds crimes involving sexual exploitation of minors to those triggering notice to law enforcement officers and it corrects a reference in the victim notification provision.

Public 2007, chapter 475 allows a law enforcement officer to make a warrantless arrest of any person who the officer has probable cause to believe has committed or is committing a violation of a requirement of administrative release when requested to do so by the attorney for the State and amends Title 17-A, section 32 to indicate that it is the State's burden to prove each element of the crime charged beyond a reasonable doubt.

Public 2007, chapter 475 eliminates the current precondition for a conviction for a crime for which recklessness or criminal negligence suffices that the State, in addition to proving beyond a reasonable doubt that the person's belief is unreasonable, prove beyond a reasonable doubt that the person's holding of that belief "when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, is grossly deviant from what a reasonable and prudent person would believe in the same situation."

Public 2007, chapter 475 removes the current directive in Title 17-A, section 908, subsection 2 that the trial court rather than the jury determine the materiality question. Since whether a fact relating to the terms of the agreement or contract is material is an element of the crime of home repair fraud, a defendant has the constitutional right to have the jury rather than the trial court determine the question of materiality.

Public 2007, chapter 475 clarifies the requirement that a victim's address be kept confidential. It provides a general rule of confidentiality, which allows victim address information to be disclosed to state, criminal justice, juvenile justice and victim services agencies in limited circumstances and to other persons or agencies upon request of the victim. It allows criminal justice personnel and the court to disclose such information upon victim request as part of a court order restricting contact with the victim, or when the defendant already knows that victim's current address or location. It allows an attorney for the State to withhold such information upon a good faith belief that disclosure may compromise victim safety. It prohibits disclosure of a victim request for notice of the defendant's release except as required to carry out the request. Public 2007, chapter 475 protects the confidentiality of victim information but does not prevent access to the information required for the administration of the criminal justice system, juvenile justice system or provision of victim services.

Public 2007, chapter 475 allows a person convicted of the Class E crime of nonsupport of dependents to be placed on probation under the supervision of the Department of Health and Human Services for a period extending to the time when the youngest dependent attains 18 years of age.

Public 2007, chapter 475 also amends the Juvenile Code by adding the Class A crimes of aggravated attempted murder and elevated aggravated assault on a pregnant person to the juvenile crimes for which the juvenile has the burden of proof with respect to the finding of appropriateness required by the "bind over" statute.

LD 1241 **An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code**

PUBLIC 476

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-649

This bill is proposed by the Criminal Law Advisory Commission.

Joint Standing Committee on Criminal Justice and Public Safety

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 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. This amendment was not adopted.

Committee Amendment "B" (H-649)

This amendment removes and replaces a bill section to reflect a change to the law made in the First Regular Session of the 123rd Legislature.

Enacted Law Summary

Public Law 2007, chapter 476 amends the Criminal Code to ensure uniform treatment of prior convictions.

Public Law 2007, chapter 476 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.

Without modifying either the number of prior convictions currently required or the currently qualifying Maine convictions, Public Law 2007, chapter 476 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.

Public Law 2007, chapter 476 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

Joint Standing Committee on Criminal Justice and Public Safety

Class C crimes. Public Law 2007, chapter 476 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 1512 An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM MAJ ONTP MIN	S-433

Current law provides no statute of limitations for the prosecution of the juvenile crimes of gross sexual assault and unlawful sexual contact if the victim was under 16 years of age and the juvenile accused of the crime was at least 16 years of age, if the State can present DNA evidence regarding the offense. If the accused juvenile is under 16 years of age, the prosecution must be brought within 6 years after it is committed. This bill extends the statute of limitations to 12 years when the victim was under 16, the juvenile crime was unlawful sexual contact or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, even if the State cannot present DNA evidence.

LD 1512 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 "A" (S-203)

This amendment is the majority report of the committee. The amendment extends the statute of limitations to 10 instead of 12 years as proposed in the bill when the victim was under 16 years of age, the juvenile crime was unlawful sexual contact or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, regardless if DNA evidence is available.

The amendment also adds an application section to specify that this change in the statute of limitations applies only to juvenile crimes committed on or after the effective date of the bill and to juvenile crimes for which the prosecution has not yet been barred by the previous statute of limitations in force on the effective date of the bill.

House Amendment "A" (H-590)

This amendment changes the statute of limitations to 10 years, as done in Committee Amendment "A," but restricts the application to juvenile crimes of gross sexual assault and unlawful sexual contact, except for Title 17-A, section 255-A, paragraph A.

Committee Amendment "B" (S-433)

This amendment is the majority report of the committee. The amendment extends the statute of limitations to 10 years instead of 12 years as proposed in the bill for crimes in which the victim was under 16 years of age, the juvenile crime was unlawful sexual contact that involved penetration or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, regardless of whether DNA evidence is available.

The amendment also adds an application section to specify that this change in the statute of limitations applies only to juvenile crimes committed on or after the effective date of the Act and to juvenile crimes the prosecution of which has not yet been barred by the previous statute of limitations in force on the effective date of the Act.

Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.