

# 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*

For purposes of this section, "course of conduct" also includes, but is not limited to, gaining unauthorized access to personal, medical, financial or other identifying information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute. The bill amends the definition of "course of conduct" to mean 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property. "Course of conduct" also includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information.

Current law defines "immediate family" as a spouse, parent, child, sibling, stepchild, stepparent or any person who regularly resides in the household or who within the prior 6 months regularly resided in the household, and the bill strikes this term and definition and replaces it with "close relation", which means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent or , grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household, coworker or any person with a significant personal relationship to the person being stalked.

The bill strikes the current definition of repeatedly (2 or more times) and adds 2 new definitions: "emotional distress", which means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of emotional distress or a mental health diagnosis; and "serious inconvenience", which means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct. "Serious inconvenience" includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

In addition to making changes to the elements of the crime of stalking, the bill amends Title 17-A section 1252 (imprisonment for crimes other than murder) to require judges to give special weight in sentencing to the fact that a Class C or higher crime was committed by a person while that person was stalking a victim.

The bill also adds an unallocated section describing the legislative intent of capturing all stalking activity, regardless of the method used by the stalker, of better protecting victims and authorizing effective criminal intervention before stalking behavior results in serious physical and emotional harm and increasing penalties for escalating stalking behavior.

### **Committee Amendment "A" (S-199)**

This amendment changes "any other jurisdiction" to "another jurisdiction" to be consistent with the Maine Criminal Code. The amendment removes the term "coworker" from the definition of "close relation," while adding persons with professional relationships. The amendment also strikes the last sentence of the Maine Revised Statutes, Title 17-A, section 1252, subsection 5-D, which would have prohibited courts from suspending that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence in the 3rd step in the sentencing process. The amendment also strikes 2 words in the legislative intent section.

LD 1873 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 1895**

### **An Act To Implement the Recommendations of the Corrections Alternatives Advisory Committee**

**PUBLIC 377**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM MAJ  
ONTP MIN

H-527

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

This bill includes the recommendations of the Corrections Alternatives Advisory Committee, which was established pursuant to Public Law 2005, chapter 386, Part J and extended pursuant to Public Law 2005, chapter 667. The bill proposes to do the following.

1. The bill adds to the factors that a judicial officer must consider before allowing the pretrial release of a defendant on personal recognizance or an unsecured appearance bond the determination that the defendant's release will not compromise the safety of the community.
2. This bill requires each county, or each county working jointly with another county or counties or with the Department of Corrections, to establish a criminal justice planning committee. The committees will include members from county government; representatives from law enforcement agencies, jails, the judiciary and the public; and prosecutors, defense attorneys and victim advocates. The committees' work will include coordinating efforts to educate, update and increase the use of evidence-based correctional practices.
3. The bill creates the State Sentencing and Corrections Practices Coordinating Council, whose members will include representatives from state and county corrections, county commissioners, municipalities, sheriffs, prosecutors, defense attorneys, victim services and the judiciary. The council's duties include coordinating criminal justice information and collaborating with persons who work in the criminal justice field to establish strategic goals and outcomes to guide the investment in and expenditures on corrections programs and facilities; monitoring sentencing practices; and reviewing ongoing data collection on recidivism and programming, in consultation with research organizations and universities, to make informed decisions regarding sentencing practices, corrections funding and programming. The council shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to the Governor, and that report must include recommendations and any necessary implementing legislation. The Department of Corrections shall serve as the fiscal agent of the council and may contract for and employ staff members, subject to approval of the council, to assist in the research, administration and delivery of services required in connection with the duties of the council. The department may accept funds from the Federal Government, from any political subdivision of the State or from any individual, foundation or corporation and may expend those funds for purposes of supporting the council's work. The department shall also provide technical assistance to counties and to the criminal justice planning committees to aid them in the planning and development of community corrections.
4. Beginning July 1, 2008, the bill proposes separating the County Jail Prisoner Support and Community Corrections Fund into 2 funds, the Community Corrections Fund for the purpose of establishing and maintaining community corrections and the County Jail Prisoner Support Fund for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained or sentenced to county jails. Beginning July 1, 2008 and annually thereafter, the department shall distribute to the counties amounts to be dedicated to the Community Corrections Fund and to the County Jail Prisoner Support Fund. The department shall distribute amounts to each county based on each county's percentage of statewide jail inmate days, which must be calculated for the last fiscal year for which data is available. If a county's percentage results in a lower subsidy than it received pursuant to the former Maine Revised Statutes, Title 34-A, section 1210-A, that county may not receive a reduction. If the county's percentage results in a subsidy higher than it received pursuant to former Title 34-A, section 1210-A, that county would receive an increase in funding in proportion to available funding to move the entire county jail system toward greater equity.
5. The bill also creates a new nonlapsing fund, the Community Corrections Incentive Fund, and the State Sentencing and Corrections Practices Coordinating Council shall approve applications and award and administer to counties competitive grants from this fund. Grants must be used for initiatives to expand community corrections, regional programs and other efforts to improve the efficiency and effectiveness of the correctional system. Awards would be made in areas such as pretrial diversion, pretrial release, transition, specialty jails, regional cooperation and deferred disposition programs. Grants must also be awarded based on considerations of improved efficiency, offender and court docket reduction, consolidation of resources, reduced recidivism and improved methods for the delivery of services.

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

## **Committee Amendment "A" (H-527)**

This amendment clarifies that counties are not mandated to form criminal justice planning committees; however, when grants are available under the Community Corrections Incentive Fund, only those counties who have formed or have become part of a planning committee will be eligible to apply for such grants. The amendment also clarifies that, regardless of how a criminal justice planning committee is established or formed, a county may also collaborate with another county or counties with which it has not formed a planning committee in order to work together to seek grants or establish community corrections programs or initiatives. The amendment adds the Commissioner of Public Safety to the membership of the State Sentencing and Corrections Practices Coordinating Council and requires that the representative of a statewide municipal association on the council be nominated by the association and then appointed by the Governor. Finally, the amendment replaces the appropriations and allocations section in the bill for the Community Corrections Incentive Fund.

## **Enacted Law Summary**

Public Law 2007, chapter 377 includes the recommendations of the Corrections Alternatives Advisory Committee, which was established pursuant to Public Law 2005, chapter 386, Part J and extended pursuant to Public Law 2005, chapter 667. Public Law 2007, chapter 377 does the following:

It encourages each county, or each county working jointly with another county or counties or with the Department of Corrections, to establish a criminal justice planning committee. Counties are not mandated to form criminal justice planning committees; however, when grants are available under the Community Corrections Incentive Fund, only those counties who have formed or have become part of a planning committee will be eligible to apply for such grants. Regardless of how a criminal justice planning committee is established or formed, a county may also collaborate with another county or counties with which it has not formed a planning committee in order to work together to seek grants or establish community corrections programs or initiatives. The committees will include members from county government; representatives from law enforcement agencies, jails, the judiciary and the public; and prosecutors, defense attorneys and victim advocates. The committees' work will include coordinating efforts to educate, update and increase the use of evidence-based correctional practices.

Public Law 2007, chapter 377 creates the State Sentencing and Corrections Practices Coordinating Council, whose members will include representatives from state and county corrections and public safety, county commissioners, municipalities, sheriffs, prosecutors, defense attorneys, victim services and the judiciary. The council's duties include coordinating criminal justice information and collaborating with persons who work in the criminal justice field to establish strategic goals and outcomes to guide the investment in and expenditures on corrections programs and facilities; monitoring sentencing practices; and reviewing ongoing data collection on recidivism and programming, in consultation with research organizations and universities, to make informed decisions regarding sentencing practices, corrections funding and programming. The council shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to the Governor, and that report must include recommendations and any necessary implementing legislation. The Department of Corrections shall serve as the fiscal agent of the council and may contract for and employ staff members, subject to approval of the council, to assist in the research, administration and delivery of services required in connection with the duties of the council. The department may accept funds from the Federal Government, from any political subdivision of the State or from any individual, foundation or corporation and may expend those funds for purposes of supporting the council's work. The department shall also provide technical assistance to counties and to the criminal justice planning committees to aid them in the planning and development of community corrections.

Beginning July 1, 2008, Public Law 2007, chapter 377 proposes separating the County Jail Prisoner Support and Community Corrections Fund into 2 funds, the Community Corrections Fund for the purpose of establishing and maintaining community corrections and the County Jail Prisoner Support Fund for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained or sentenced to county jails. Beginning July 1, 2008 and annually thereafter, the department shall distribute to the counties amounts to be

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

dedicated to the Community Corrections Fund and to the County Jail Prisoner Support Fund. The department shall distribute amounts to each county based on each county's percentage of statewide jail inmate days, which must be calculated for the last fiscal year for which data is available. If a county's percentage results in a lower subsidy than it received pursuant to the former Maine Revised Statutes, Title 34-A, section 1210-A, that county may not receive a reduction. If the county's percentage results in a subsidy higher than it received pursuant to former Title 34-A, section 1210-A, that county would receive an increase in funding in proportion to available funding to move the entire county jail system toward greater equity.

Public Law 2007, chapter 377 also creates a new nonlapsing fund, the Community Corrections Incentive Fund, and the State Sentencing and Corrections Practices Coordinating Council shall approve applications and award and administer to counties competitive grants from this fund. Grants must be used for initiatives to expand community corrections, regional programs and other efforts to improve the efficiency and effectiveness of the correctional system. Awards would be made in areas such as pretrial diversion, pretrial release, transition, specialty jails, regional cooperation and deferred disposition programs. Grants must also be awarded based on considerations of improved efficiency, offender and court docket reduction, consolidation of resources, reduced recidivism and improved methods for the delivery of services. No money was appropriated to the fund at this time.

Public Law 2007, chapter 377 also includes in the factors that a judicial officer must consider before allowing pretrial release of a defendant on personal recognizance or an unsecured appearance bond the determination that the defendant's release will not compromise the safety of the community. See Public Law 2007, chapter 374, which incorporates this idea completely within the Maine Bail Code.

### **LD 1897     An Act To Allow Blended Sentencing for Certain Juveniles**

**CARRIED OVER**

Sponsor(s)

DIAMOND

Committee Report

Amendments Adopted

S-277

In terms of incarceration as a sentencing alternative for juveniles, the Juvenile Code currently authorizes a juvenile to be adjudicated and committed to Long creek Youth Development Center or Mountain View Youth Development Center until the juvenile is 18-21 years of age. The Juvenile Code also authorizes a juvenile to be committed to an adult correctional facility if the juvenile is bound over and tried and convicted as an adult. Currently, a juvenile may not be sentenced to alternatives of incarceration involving both the juvenile system and the adult system for the same offense. With respect to the finding of appropriateness of whether a juvenile should be bound over and tried as an adult, the State has the burden of proof in all cases, except those involving a juvenile who is charged with one or more juvenile crimes that, if the juvenile were an adult, would constitute murder, attempted murder, felony murder, Class A manslaughter other than the reckless or criminally negligent operation of a motor vehicle, elevated aggravated assault, arson that recklessly endangers any person, causing a catastrophe, Class A robbery or Class A gross sexual assault in which the victim submits as a result of compulsion.

This bill requires blended sentencing for a juvenile bound over and convicted as an adult and sentenced to imprisonment if the juvenile has not attained 16 years of age at the time of sentencing and if the offense for which the juvenile was convicted is listed in the Maine Revised Statutes, Title 15, section 3101, subsection 4, paragraph C-2 as one for which the juvenile had the burden of proving a bind over was not appropriate. Blended sentencing affects only the place where imprisonment is served and means that the term of imprisonment, or, in the case of a split sentence, the unsuspended portion, imposed by the court must first be served in a Department of Corrections juvenile facility until the juvenile reaches 18 years of age or is sooner discharged from the facility and any imprisonment time remaining must then be served in a Department of Corrections adult facility.

LD 1897 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.