

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

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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.

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Title 25, section 1541, subsection 3, paragraph C and Title 34-B, section 3864, subsection 12;

5. Permits authorized criminal justice agencies to use the data transmitted for law enforcement purposes, including processing of concealed firearms permit applications, enforcement of bail conditions and protection from abuse orders, and for enforcement of state and federal laws concerning the prohibition against possession of firearms by prohibited persons;
6. Provides accurate and timely information to the Federal Bureau of Investigation, National Instant Criminal Background Check System, which will assist federally licensed firearms dealers in Maine and across the country to properly carry out their duties and obligations under federal firearms laws; and
7. Using the Department of Public Safety's current web services, provides interfacing with the Administrative Office of the Courts to exchange and share mental health adjudication data.

LD 1938 An Act To Allow Community Service in Lieu of Fines

PUBLIC 517

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY	OTP-AM	H-736

Current law allows a court to require a defendant who defaults on payment of a fine that was part of a sentence to serve one day in a county jail for each \$5 of the fine, up to a maximum of the unpaid fine or 6 months in jail, whichever is shorter. A court does not have any authority to reduce the amount of the fine even when a defendant petitions the court prior to default. This bill allows the court, in cases when the court finds the default was not excusable, to order:

1. Commitment of the offender to incarceration in a county jail for one day for every \$5 of unpaid fine or 6 months, whichever is shorter;
2. The offender to perform a specified number of hours of community service work; or
3. Submission of the unpaid fine to a collection agency. If the fine is submitted to a collection agency, the court may order an additional amount of no more than 33% of the original fine to be added to the fine. This additional amount may be retained by the collection agency.

If the court finds that the default was excusable, it may provide the defendant with additional time to pay the fine, reduce the amount of each installment or order the defendant to perform community service work. This bill also allows a court, when it reasonably finds that the fine is uncollectible due to the death or disability of the defendant, to reduce or discharge completely the unpaid balance of the fine.

Committee Amendment "A" (H-736)

This amendment strikes provisions in the bill that allow courts to change sentencing alternatives upon a default of a fine payment. Instead the amendment specifies that if the court finds that a default was unexcused, in addition to the option of committing the offender to the custody of the sheriff until all or a specified part of the fine is paid as provided by current law, the court may instead, if the unexcused default relates to a fine imposed for a Class D or Class E crime, order the offender to perform community service work until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every \$25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued in connection with a default, at a

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rate specified in the court's order that is not less than \$5 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this provision.

Enacted Law Summary

Public Law 2007, chapter 517 specifies that if the court finds that a default in payment of a fine was unexcused, in addition to the option of committing the offender to the custody of the sheriff until all or a specified part of the fine is paid as provided by current law, the court may instead, if the unexcused default relates to a fine imposed for a Class D or Class E crime, order the offender to perform community service work until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every \$25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued in connection with a default, at a rate specified in the court's order that is not less than \$5 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed.

LD 1953 An Act To Amend the Laws Relating to the Department of Corrections

PUBLIC 536

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLUMMER	OTP-AM	H-769

This bill makes several changes to laws relating to the Department of Corrections. The bill adds assaults on corrections officers and other staff of a correctional institution in which the person is being held in custody as categories of assault that may not be resolved by accord and satisfaction. "Accord and satisfaction" means a method of discharging a claim; parties agree to give and accept something in settlement of the claim and perform the agreement.

The bill specifies the maximum period of confinement if a juvenile is found in contempt of a court when a remedial or punitive sanction is imposed. It clarifies that if a person who has attained 18 years of age is to serve time in confinement in a juvenile facility as a punitive or remedial sanction for contempt under the Maine Juvenile Code, that time is limited to 30 days for each type of sanction, just as it is for a person who has not attained 18 years of age. This clarifies that there is a time limit if a court does not exercise its option under the Maine Revised Statutes, Title 15, section 3205, subsection 2 for a person who has attained 18 years of age but not 21 years of age for ordering time in confinement for contempt to be served at a county jail.

The bill permits the Commissioner of Corrections to waive the work or education requirement for a prisoner who is participating in a full-time treatment program while on supervised community confinement. The bill also repeals the current funeral and deathbed visit provisions and replaces them a simpler process and adds domestic partner to the list of persons to whom a prisoner may make deathbed visits or whose funerals a prisoner may attend. The bill also permits the Commissioner of Corrections to allow attendance at a funeral of or a deathbed visit to a person other than one specifically listed under the definition of family member.

The bill prohibits the incarceration in a juvenile facility of a person who is more appropriately a subject of intensive out-of-home treatment services provided by the Department of Health and Human Services, whether those services are temporary or not. The term "temporary" is removed from the out of home treatment provision, because longer placements for some juveniles may be necessary. The bill also repeals a number of provisions related to juvenile services that are either outdated or repetitive.

Committee Amendment "A" (H-769)