

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.

Joint Standing Committee on Criminal Justice and Public Safety

of employment. This bill would make work-restricted licenses available to persons who have been convicted of driving to endanger or operating after suspension.

LD 2051 An Act To Prohibit the Sale of Firearms Other than Handguns to Persons 16 or 17 Years of Age without Parental Consent

PUBLIC 512

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	H-695

This bill creates the Class D crime of prohibiting a person from selling a long gun to a person 16 or 17 years of age. It is an affirmative defense that the sale was approved by a parent, foster parent or guardian or that the seller reasonably believed the person was 18 years of age. Current Maine law prohibits federally licensed firearms dealers from transferring long guns to persons under 18. (Federal law does not restrict unlicensed sellers from transferring long guns and sets no minimum age for buyers of long guns.) This bill addresses private sales by unlicensed persons.

The bill also directs the Department of Public Safety, in cooperation with the Department of Health and Human Services, to conduct a study to determine the ownership status of firearms used in firearms-related suicides in the State. The Commissioner of Public Safety shall report the study's findings to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009. Upon receiving the report, the joint standing committee may submit legislation to the First Regular Session of the 124th Legislature.

Committee Amendment "A" (H-695)

This amendment prohibits the sale of a firearm to a person 16 years of age or older and under 18 years of age. For purposes of this prohibition, "firearm" means a firearm other than a handgun as defined in the Maine Revised Statutes, Title 17-A, section 554-B, subsection 1, paragraph A. The amendment provides an exception for a sale by a parent, foster parent or guardian or a sale approved by a parent, foster parent or guardian. The amendment makes the first offense of unlawfully selling a firearm other than a handgun to person 16 years of age or older and under 18 years of age a civil violation for which a fine of no more than \$500 may be imposed. A second or subsequent violation is a Class D crime.

Enacted Law Summary

Public Law 2007, chapter 512 prohibits the sale of a firearm to a person 16 years of age or older and under 18 years of age. For purposes of this prohibition, "firearm" means a firearm other than a handgun as defined in the Maine Revised Statutes, Title 17-A, section 554-B, subsection 1, paragraph A. Public Law 2007, chapter 512 provides an exception for a sale by a parent, foster parent or guardian or a sale approved by a parent, foster parent or guardian. Public Law 2007, chapter 512 makes the first offense of unlawfully selling a firearm other than a handgun to person 16 years of age or older and under 18 years of age a civil violation for which a fine of no more than \$500 may be imposed. A second or subsequent violation is a Class D crime.

LD 2079 An Act To Strengthen the Crime of Visual Sexual Aggression against a Child

PUBLIC 688

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL	OTP-AM	H-690

This bill amends the crime of visual sexual aggression against a child to clarify that the crime applies when the exposure occurs in either a public or private place.

Committee Amendment "A" (H-690)

Joint Standing Committee on Criminal Justice and Public Safety

This amendment replaces the bill. The amendment removes the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place to be a crime. Instead, the amendment specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place.

The amendment also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

Enacted Law Summary

Public Law 2007, chapter 688 removes from the crime visual sexual aggression against a child the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place. Instead, Public Law 2007, chapter 688 specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place. Public Law 2007, chapter 688 also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

LD 2080 An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

**PUBLIC 653
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM MAJ OTP-AM MIN	H-989 S-658 ROTUNDO

This bill is a concept draft pursuant to Joint Rule 208.

This bill seeks to establish the Maine Jail and Community Corrections Authority. The membership of the authority consists of state, county and municipal officials and representatives of those involved in the criminal justice system. A majority of the members of the authority are representatives of county government.

The authority is established for the following purposes:

1. To coordinate and oversee a cost-efficient system within the State for the operation and maintenance of county and regional jails and community corrections facilities, programs and services;
2. To facilitate the implementation and delivery of corrections programs and services for pretrial defendants and convicted offenders, consistent with best correctional and evidence-based practices and the protection of public safety;
3. To develop and implement plans for the renovation, improvement and redevelopment of existing jail facilities and for the design and construction of new jail facilities through a certificate of need process to better serve the incarcerated and detained populations and the citizens of the State. The authority may issue bonds and enter into agreements with the counties and the Department of Corrections for these purposes; and
4. To provide a consolidated body representing county and regional jails and community corrections facilities to coordinate with the Department of Corrections on corrections matters, including but not limited to the coordination of jail bed space.