

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

This amendment adds to the duties of the Prison Industries Advisory Council the duty to review the cost-benefit ratio of the prison industries programs.

Enacted Law Summary

Public Law 2007, chapter 503 creates the Prison Industries Advisory Council to help the Department of Corrections develop new marketing strategies and more diversified product lines, identify methods to enhance programs and improve efficiency of operations throughout the prison industries system, and review the cost-benefit ratio of the prison industries programs. It is the recommendation of the Committee To Study the Prison Industries Program pursuant to Joint Order 2007, H.P. 1334.

Public Law 2007, chapter 503 was enacted as an emergency measure effective March 19, 2008.

LD 2168 **Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections**

RESOLVE 167
EMERGENCY

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This resolve provides for legislative review of portions of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections. The rule revises the procedures and standards governing the certification and monitoring of Batterer Intervention Programs.

Enacted Law Summary

Resolve 2007, chapter 167 provides for legislative review of portions of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections. The rule revises the procedures and standards governing the certification and monitoring of Batterer Intervention Programs.

Resolve 2007, chapter 167 was enacted as an emergency measure effective March 26, 2008.

LD 2187 **An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations**

PUBLIC 633

Sponsor(s)

Committee Report

Amendments Adopted

TARDY

OTP-AM

H-949

The current law enforcement solicitation law prohibits law enforcement agencies, law enforcement associations and law enforcement officers from soliciting from the general public when the property or any part of that property in any way tangibly benefits or is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. The most recent substantive change in the solicitation law was made to allow persons who are not law enforcement officers and who have no financial interest at stake to solicit property from the general public for the tangible benefit of law enforcement officers, agencies and associations. Law enforcement officers, agencies and associations, as well as paid solicitors and solicitors who reimburse their expenses from the proceeds of soliciting are prohibited from soliciting for the benefit of law enforcement officers. The change to allow solicitation by private persons was scheduled to sunset in 2004, and the sunset was repealed after the Attorney general reported to the Legislature that there were no reports that this change in the solicitation law impeded the State's ability and compelling interest to prevent inherently coercive solicitations.

This bill repeals the current law enforcement solicitation law that prohibits a law enforcement agency, law

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enforcement association, law enforcement officer or a solicitation agent from soliciting property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.

Specifically, the bill proposes to allow a law enforcement association to solicit donations of property from the general public only when the property or any part of the property in any way tangibly benefits or is intended to tangibly benefit or is represented to be for the tangible benefit of a law enforcement officer. In order to solicit as authorized here, all of the following must occur.

1. The law enforcement association may solicit donations only for an officer suffering from a catastrophic illness.
2. The association seeking to solicit donations under this section must obtain the approval of the governing body of the municipality in which the solicitation will occur. (If the solicitation is intended to encompass a county, the approval of the county commissioners of that county is also required. If the solicitation is intended to take place in the unorganized territory, approval of the Land Use Regulation Commission is required. Approval must also be obtained from the manager of the municipality in which the solicitation will occur, if there is such a manager.)
3. The association seeking to solicit donations under this section must also obtain the written and notarized approval of the Attorney General. The Attorney General may grant permission for the solicitation only if the Attorney General is satisfied that the association has obtained the approval from the local governing body, the solicitation is for an officer with a catastrophic illness and the funds solicited and collected are properly held in escrow.
4. Any funds collected pursuant to this section must be held in an escrow account that is separate from accounts of the association and maintained solely for the benefit of the ill officer or the officer's heirs if that officer dies.

The bill also requires the Attorney General to adopt routine technical rules regarding the administration of this section. Any violation of this solicitation process continues to be a violation of the Maine Unfair Trade Practices Act.

Committee Amendment "A" (H-949)

This amendment replaces the bill and creates a narrowly tailored exception to the law enforcement solicitation law by allowing only specific fundraising events and solicitations in which law enforcement is removed from direct contact with the potential donors. Specifically, the amendment does the following.

1. It defines "catastrophic illness," "designated public benefit corporation" and "immediate family member" for purposes of the amendment.
2. It provides that a law enforcement agency or law enforcement association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness in 2 specific ways. First, a law enforcement agency or association may post advertisements in a public setting for a fundraising event, the tickets for which are available for purchase only from a designated public benefit corporation. Second, a law enforcement agency or association may make a public plea for donations through advertisements provided that all donations are sent directly to a designated public benefit corporation. Solicitations may not be sent directly to potential donors. Every solicitation must contain a notice identifying the designated public benefit corporation, its address and the law enforcement officer or the officer's immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.
3. It requires a law enforcement agency or law enforcement association and a designated public benefit corporation to sign a written agreement prior to engaging in any solicitation activity. The Office of the Attorney General shall provide a standardized written agreement that must be used.

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4. It specifies that a designated public benefit corporation that engages in solicitation pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the names of any donors to any person, except to the Attorney General.
5. It permits a law enforcement agency or law enforcement association to reimburse a designated public benefit corporation only for its printing costs and prohibits any other payment to the designated public benefit corporation for its services.
6. It requires that the parties to the written agreement comply with all requirements for reporting to, and registration with, the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act. It also requires the parties to comply with all other requirements related to the event or solicitation.
7. It requires that all funds collected by the designated public benefit corporation under this section be held in an escrow account that is separate from any other accounts. Checks, drafts and money orders from donors may be made payable only to the bank or trust company. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary of the solicitations.
8. It specifies that the funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or written solicitation.
9. It requires that, upon request, a designated public benefit corporation provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, only to the Attorney General, who is vested with authority to enforce due application of funds given, or appropriated, to public charities and to prevent breaches of trust in their administration.

Enacted Law Summary

Public Law 2007, chapter 633 creates a narrowly tailored exception to the law enforcement solicitation law by allowing only specific fundraising events and solicitations in which law enforcement is removed from direct contact with the potential donors. Public Law 2007, chapter 633 provides that a law enforcement agency or law enforcement association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness in 2 specific ways. First, a law enforcement agency or association may post advertisements in a public setting for a fundraising event, the tickets for which are available for purchase only from a designated public benefit corporation. Second, a law enforcement agency or association may make a public plea for donations through advertisements provided that all donations are sent directly to a designated public benefit corporation. Solicitations may not be sent directly to potential donors. Every solicitation must contain a notice identifying the designated public benefit corporation, its address and the law enforcement officer or the officer's immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.

Public Law 2007, chapter 633 requires a law enforcement agency or law enforcement association and a designated public benefit corporation to sign a written agreement prior to engaging in any solicitation activity. The Office of the Attorney General shall provide a standardized written agreement that must be used. Public Law 2007, chapter 633 specifies that a designated public benefit corporation that engages in solicitation pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the names of any donors to any person, except to the Attorney General.

Public Law 2007, chapter 633 permits a law enforcement agency or law enforcement association to reimburse a designated public benefit corporation only for its printing costs and prohibits any other payment to the designated

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public benefit corporation for its services. It requires that the parties to the written agreement comply with all requirements for reporting to, and registration with, the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act. It also requires the parties to comply with all other requirements related to the event or solicitation.

Public Law 2007, chapter 633 requires that all funds collected by the designated public benefit corporation be held in an escrow account that is separate from any other accounts. Checks, drafts and money orders from donors may be made payable only to the bank or trust company. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary of the solicitations. It also specifies that the funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or written solicitation.

Finally, Public Law 2007, chapter 633 requires that, upon request, a designated public benefit corporation provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, only to the Attorney General, who is vested with authority to enforce due application of funds given, or appropriated, to public charities and to prevent breaches of trust in their administration.

LD 2240 An Act Containing the Recommendations of the Criminal Law Advisory Commission

PUBLIC 518

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-735

This bill is proposed by the Criminal Law Advisory Commission and does the following.

The bill amends the Maine Revised Statutes, Title 4, section 51 to conform the language with Rule 12(a) of the Maine Rules of Appellate Procedure.

The bill deletes the first sentence of Title 15, section 1026, subsection 3 as amended by Public Law 2007, chapter 377, corrects a conflict created when Public Law 2007, chapter 374 amended the same section of law and adds a new introductory sentence that more accurately identifies the purpose of subsection 3.

The bill adds to subparagraph 12 of Title 15, section 1026, subsection 3, paragraph A language that was unintentionally omitted when that paragraph was amended by Public Law 2007, chapter 374, section 6.

The bill modifies Title 17-A, section 15, subsection 1, paragraph A by adding a new subparagraph 5-B to reflect the new domestic violence crimes recently added to chapter 9 of the Maine Criminal Code and by adding subparagraphs 15, 16 and 17, allowing 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 by the attorney for the State, of a condition of supervised release for sex offenders when requested by a probation officer and of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State.

The bill strikes the current references in Title 17-A, section 16, subsection 2 to section 255 and section 501, subsection 2, as each has been repealed. It also adds in Title 17-A, section 16, subsection 2 a reference to current section 255-A, the section that replaced former section 255.

The bill deletes the word "any" in Title 17-A, section 261, subsection 2, paragraph C, which is unnecessary and