

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
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**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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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

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inconsistent with the parallel paragraph C of section 261, subsection 1.

The bill amends Title 17-A, section 1205, subsection 4, paragraph A by changing the current directive as to where a probable cause hearing should take place. Current law provides that the hearing must be held as near to the place where the new violation is alleged to have taken place as is reasonable. This change would create the general rule that the hearing be held in the court where the person was placed on probation, thus facilitating participation at the hearing by the prosecutorial office that prosecuted the underlying criminal case in the first instance rather than an office wholly unfamiliar with the case. A court would be free to order that the hearing be held elsewhere, on request of the State, the defendant or the court, if it is reasonable under the circumstances to hold the hearing in a court other than the court that sentenced the person, based on the availability of resources and familiarity with the defendant, the underlying case, the alleged violation and the person's conduct while under supervision.

The bill eliminates in Title 17-A, section 1304, subsection 3 the necessity of a court bringing a motion to enforce payment of a fine and providing notification to the offender if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the offender comply with Title 14, section 3141, subsection 3 or 4. In that event, if the offender fails to appear as directed by the court's fine order, the court may issue a bench warrant.

The bill amends the definition of "family or household members" in Title 19-A, section 4002, subsection 4 by adding Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C and 211-A to the current list of Maine Criminal Code sections for which the definition includes "individuals presently or formerly living together and individuals who are or were sexual partners."

Committee Amendment "A" (H-735)

This amendment makes technical changes to the bill to incorporate changes made by Public Law 2007, chapter 475, section 8. The amendment also strikes from the bill the provision that changed the current directive as to where a probable cause hearing should take place for a probation violation by creating the general rule that the hearing be held in the court where the person was placed on probation. Striking this provision from the bill means that the current law is retained, which provides that the hearing must be held as near to the place where the new violation is alleged to have taken place as is reasonable.

Enacted Law Summary

Public Law 2007, chapter 518 makes a number of technical changes to the statutes regarding criminal procedure, bail and criminal law to reflect enactment of recent laws, to conform language with certain rules and to correct conflicts and omissions.

A substantive change in Public Law 2007, chapter 518 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 provisions 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.

Public Law 2007, chapter 518 also eliminates in Title 17-A, section 1304, subsection 3 the necessity of a court bringing a motion to enforce payment of a fine and providing notification to the offender if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the offender comply with Title 14, section 3141, subsection 3 or 4. In that event, if the offender fails to appear as directed by the court's fine order, the court may issue a bench warrant.

Public Law 2007, chapter 518 also amends the definition of "family or household members" in Title 19-A, section 4002, subsection 4 by adding Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C and 211-A to the current list of Maine Criminal Code sections for which the definition includes "individuals presently or formerly living together

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and individuals who are or were sexual partners."

LD 2267 An Act To Increase the Number of Concealed Firearms Permit Reciprocity Agreements That Maine May Enter into with Other Eligible States

PUBLIC 555

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP MAJ ONTP MIN	

This bill is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. This bill repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. The bill authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

This bill is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. This bill repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. The bill authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

Enacted Law Summary

Public Law 2007, chapter 555 was submitted as LD 2267 by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. Public Law 2007, chapter 555 repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. Public Law 2007, chapter 555 authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

LD 2312 Resolve, To Extend the Pilot Project at the Juvenile Correctional Facilities

RESOLVE 225
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP MAJ ONTP MIN	S-660 ROTUNDO

This resolve is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Joint Order 2008, S.P. 890.

Resolve 2005, chapter 101 established a guardian ad litem and advocate pilot project for juveniles committed to the Long Creek Youth Development Center and the Mountain View Youth Development Center. The pilot project is scheduled to terminate on April 1, 2008. This resolve extends the termination date for the pilot project to April 1, 2010. It also requires the Commissioner of Corrections to submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a summary of the pilot project no later than January 15, 2010.