

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during
the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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STATE OF MAINE

124TH 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 124th 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:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
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; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
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

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

LD 1200

An Act To Streamline the Process for Court-ordered Mental Health Examinations in Criminal Cases

PUBLIC 268

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-337

This bill is proposed by the Criminal Law Advisory Commission. The bill reorganizes the Maine Revised Statutes, Title 15 provisions that govern court-ordered mental health examinations of criminal defendants by linking the court's authority to order an examination to the specific issues to be addressed by the examination.

Committee Amendment "A" (H-337)

This amendment restructures part of the bill concerning evaluation with reference to insanity or abnormal condition of mind. The bill provides that the court shall forward any report filed by the State Forensic Service to both the defendant or the defendant's attorney and the State, unless the defendant has objected to the order for the examination, in which case the report is not provided to the State. This amendment provides that the report is not provided to the State if the State has agreed that the report need not be forwarded to the attorney for the State except when the defendant enters a plea of not criminally responsible by reason of insanity or the defendant provides notice of the intention to introduce testimony as to the defendant's abnormal condition of mind.

The amendment rewords the language with regard to the disposition of reports when the court orders an examination over the objection of the defendant. The report may not be shared with the attorney for the State unless the defendant enters a plea of not criminally responsible by reason of insanity or the defendant provides notice of the intention to introduce testimony as to the defendant's abnormal condition of mind.

Enacted Law Summary

Public Law 2009, chapter 268 is a recommendation of the Criminal Law Advisory Commission. It reorganizes the Maine Revised Statutes, Title 15 provisions that govern court-ordered mental health examinations of criminal defendants by linking the court's authority to order an examination to the specific issues to be addressed by the examination. It creates different provisions governing examinations to review competency to proceed, criminal responsibility and abnormal condition of the mind and mental condition relevant to other issues. By doing so, chapter 268 will conserve resources by eliminating existing language that often resulted in the State Forensic Service's being ordered to address all of these issues when a narrower review would have satisfied the needs of the court and the parties. Chapter 268 also eliminates existing language that requires examination by both a psychologist and a psychiatrist in insanity cases, often resulting in the expensive and unnecessary duplication of effort. Instead, the court is given discretion to determine, in conjunction with the State Forensic Service, the number and type of examinations required under the circumstances of a particular case. Chapter 268 provides a more flexible mechanism for the court to order a defendant committed for observation in an appropriate institution for the care and treatment of people with mental illness or mental retardation for the purpose of conducting the examination. Under existing law, such commitment may only occur after the State Forensic Service has conducted an initial examination and recommended commitment in its report to the court. The existing procedure often results in unnecessary expense and delay. Instead, chapter 268 authorizes the court to order commitment when advised by the State Forensic Service that such commitment would materially enhance its ability to conduct the examination. The State Forensic Service may make this determination based upon consultation with the parties and the court and upon such other information it determines appropriate. Finally, chapter 268 ensures that when a person who has been evaluated by the State Forensic Service on behalf of a court is committed into the custody of the Commissioner of Health and Human Services, the court shall order the State Forensic Service to share any information it has gathered with respect to that person with the institution in which the person is placed.