

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE  
AND PUBLIC SAFETY**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> 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 124<sup>th</sup> 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 124<sup>th</sup> 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 Criminal Justice and Public Safety

LD 1224

## An Act Regarding the Operation of County Jails and the State Board of Corrections

PUBLIC 391

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P JACKSON	OTP-AM	H-439

This bill makes 2 changes to the laws governing the State Board of Corrections as follows.

1. It requires the Commissioner of Corrections to submit the Department of Corrections' adult correctional and adult probation services budget proposals to the State Board of Corrections and requires the board to review those budget proposals and submit recommendations regarding them to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.
2. It clarifies that a public or private correctional construction project may not proceed without a certificate of need issued by the board.

### Committee Amendment "A" (H-439)

This amendment replaces the bill and implements recommendations of the State Board of Corrections as reported to the Joint Standing Committee on Criminal Justice and Public Safety pursuant to the Maine Revised Statutes, Title 34-A, section 1803, subsection 11. The amendment expands victim notification of a prisoner's release to include notice to victims of the release of those convicted of Class D crimes under chapter 9, 11 or 12 of the Maine Criminal Code.

It clarifies that counties adopting a July 1st to June 30th fiscal year may, as one option to transition to a 12-month fiscal year, adopt a fiscal year of no more than 18 months and collect one or 2 tax assessments during that period; specifies that counties may use unencumbered surplus funds from corrections operations to fund a corrections services capital reserve account; clarifies that county corrections unencumbered surplus funds remain as the correctional services fund balance separate from the county's noncorrectional fund balance; authorizes counties that adopt a July 1st to June 30th fiscal year to adopt a 6-month transitional budget. Counties may borrow to fund this transitional budget. A municipality may chose to pay its share of the transitional budget in one, 2, 3, 4 or 5 annual increments. This language allows counties to borrow annually a nontaxable tax anticipation note to fund the cost of the 6-month transitional budget.

The amendment repeals the Home Release Monitoring Program and enacts a new community confinement monitoring program. The community confinement monitoring program is established to permit inmates in a county jail to serve a portion of their sentence of imprisonment in an approved community confinement program.

It repeals the definition of "holding facility" and replaces it with a new and more comprehensive definition.

It clarifies the responsibility of the Commissioner of Correction to provide the departmental budgets for adult prison and probation services to the Board of Corrections in a timely fashion.

It amends the duties of the State Board of Corrections to include the review of the Department of Corrections' biennial and supplemental budget proposals affecting adult correctional and probation services and to submit its recommendations regarding these budgets to the joint standing committees of the Legislature having jurisdiction over criminal justice and public safety matters and appropriations and financial affairs.

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It clarifies that a certificate of need must be approved by the board before a public or private construction project can be undertaken.

It amends a provision in the State Board of Corrections Investment Fund to specify that any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance.

It amends the statutes that currently allow the Department of Corrections to transfer a terminally ill prisoner to supervised community confinement and the sheriff to transfer a terminally ill prisoner to home release monitoring by adding similar authority to transfer a prisoner with a severely incapacitating medical condition.

It makes explicit the discretion of the commissioner to revoke supervised community confinement.

It also eliminates the requirement for the warden of the Maine State Prison and the superintendent of the Maine Correctional Center to cause a copy of the warrant of commitment to be filed in the court from which it was issued. This filing is unnecessary.

### **Senate Amendment "A" To Committee Amendment "A" (S-282)**

Current law requires that the county tax assessment for correctional services-related expenditures in Somerset County be set at the fiscal year 2009-10 level. This amendment lowers that assessment to \$4,400,000. The amendment also adds an appropriations and allocations section. This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2009, chapter 391 implements recommendations of the State Board of Corrections as reported to the Joint Standing Committee on Criminal Justice and Public Safety pursuant to the Maine Revised Statutes, Title 34-A, section 1803, subsection 11. Public Law 2009, chapter 391 does the following.

It expands victim notification of a prisoner's release to include notice to victims of the release of those convicted of Class D crimes under chapter 9, 11 or 12 of the Maine Criminal Code.

It clarifies that counties adopting a July 1st to June 30th fiscal year may, as one option to transition to a 12-month fiscal year, adopt a fiscal year of no more than 18 months and collect one or 2 tax assessments during that period; specifies that counties may use unencumbered surplus funds from corrections operations to fund a corrections services capital reserve account; clarifies that county corrections unencumbered surplus funds remain as the correctional services fund balance separate from the county's noncorrectional fund balance; authorizes counties that adopt a July 1st to June 30th fiscal year to adopt a 6-month transitional budget. Counties may borrow to fund this transitional budget. A municipality may choose to pay its share of the transitional budget in one, 2, 3, 4 or 5 annual increments. This language allows counties to borrow annually a nontaxable tax anticipation note to fund the cost of the 6-month transitional budget.

It repeals the Home Release Monitoring Program and enacts a new community confinement monitoring program. The community confinement monitoring program is established to permit inmates in a county jail to serve a portion of their sentence of imprisonment in an approved community confinement program.

It repeals the definition of "holding facility" and replaces it with a new and more comprehensive definition.

It clarifies the responsibility of the Commissioner of Correction to provide the departmental budgets for adult prison and probation services to the Board of Corrections in a timely fashion.

It amends the duties of the State Board of Corrections to include the review of the Department of Corrections' biennial and supplemental budget proposals affecting adult correctional and probation services and to submit its recommendations regarding these budgets to the joint standing committees of the Legislature having jurisdiction

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over criminal justice and public safety matters and appropriations and financial affairs.

It clarifies that a certificate of need must be approved by the board before a public or private construction project can be undertaken.

It amends a provision in the State Board of Corrections Investment Fund to specify that any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance.

It amends the statutes that currently allow the Department of Corrections to transfer a terminally ill prisoner to supervised community confinement and the sheriff to transfer a terminally ill prisoner to home release monitoring by adding similar authority to transfer a prisoner with a severely incapacitating medical condition.

It makes explicit the discretion of the commissioner to revoke supervised community confinement.

It also eliminates the requirement for the warden of the Maine State Prison and the superintendent of the Maine Correctional Center to cause a copy of the warrant of commitment to be filed in the court from which it was issued. This filing is unnecessary.

### **LD 1242    An Act To Streamline the Regulatory Process for Commercial Building Construction Projects**

**PUBLIC 364  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-368

This bill provides for the delegation of fire code permitting authority from the Department of Public Safety, Office of the State Fire Marshal to municipalities. It amends the law concerning certain public building projects for which the Department of Public Safety provides plan reviews and allows the option for municipal review for those projects. It creates a new section of law that outlines the circumstances that need to be satisfied before the Commissioner of Public Safety may delegate permitting authority to a municipality. It adjusts the payment of the current 5¢ plan review fee that is paid to the Department of Public Safety so if a municipality issues the permit, the municipality receives the 4¢ fee per square foot and the Department of Public Safety receives the 1¢ fee per square foot of the proposed project.

#### **Committee Amendment "A" (H-368)**

This amendment allows a municipality to review projects that are public buildings that constitute a mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories rather than public buildings less than 3,000 square feet, as in the bill. This change matches the definition of "public building" in the Maine Revised Statutes, Title 25, section 2448.

#### **Enacted Law Summary**

Public Law 2009, chapter 364 provides for the delegation of fire code permitting authority from the Department of Public Safety, Office of the State Fire Marshal to municipalities. It amends the law to allow a municipality, under certain conditions, the option to review projects that are public buildings that constitute a mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories. It adjusts the payment of the current 5¢ plan review fee that is paid to the Department of Public Safety so if a municipality issues the permit, the municipality receives the 4¢ fee per square foot and the Department of Public Safety receives the 1¢ fee per square foot of the proposed project.