

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 CRIMINAL JUSTICE
AND PUBLIC SAFETY**

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 Criminal Justice and Public Safety

Public Law 2009, chapter 364 was enacted as an emergency measure effective June 11, 2009.

**LD 1243 An Act To Amend Operating After Suspension Laws by Creating an
Infraction Alternative for Certain Kinds of Operating After Suspension**

PUBLIC 297

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-412

This bill creates a two-tiered structure to the offense of operating while license suspended or revoked, making the offense a traffic infraction if the offense was a first offense and the sole basis for the suspension is for a dishonored check or the failure to pay a fine, appear in court, comply with a child support order or pay a license reinstatement fee. Effect of this change would be to take these specific offenses out of the criminal justice system and redirect them through the Judicial Branch's Violations Bureau where infractions are processed.

Under this bill, operating while license suspended or revoked when the underlying offense requiring the suspension or revocation involved the operation of a motor vehicle remains a Class E crime.

Committee Amendment "A" (H-412)

This amendment narrows the scope of the bill by eliminating the option to allow certain operating after suspension offenses to be considered traffic infractions in the case of a license that has been revoked and provides that certain operating after suspension infractions exist only in the case of license suspensions. The amendment also clarifies that the bill looks at prior adjudications as well as convictions for operating after suspension. The amendment removes from the bill the offenses of failure to appear in court and failure to comply with a child support order from the types of operating after suspension offenses that may be considered traffic infractions instead of crimes. Finally, the amendment specifies that the 3 operating after suspension offenses that are identified as traffic infractions are not included under the list of offenses for which a person is considered a habitual offender.

Enacted Law Summary

Public Law 2009, chapter 297 creates a two-tiered structure to the offense of operating while license suspended or revoked, making the offense a traffic infraction if the offense was a first offense and the sole basis for the suspension is for a dishonored check, for failure to pay a fine or for failure to pay a license reinstatement fee. These 3 operating after suspension offenses that are identified as traffic infractions are not included under the list of offenses for which a person is considered a habitual offender. Effect of this change would be to take these specific offenses out of the criminal justice system and redirect them through the Judicial Branch's Violations Bureau where infractions are processed.

LD 1258 An Act To Create a Duty To Report Serious Injuries

**ACCEPTED ONTP
REPORT**

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

This bill creates a legal duty for a person who is 18 years of age or older and who observes that another person has received a serious injury to immediately report that injury and request first aid by the quickest means of communication available from any police department, emergency dispatch center, licensed medical facility or

Joint Standing Committee on Criminal Justice and Public Safety

licensed medical provider. This duty applies regardless of whether the injury was self-inflicted intentionally, recklessly, negligently or accidentally. The duty does not include the actual provision of first aid or other medical treatment, and the duty is satisfied if another person has already made or agreed to make the initial report and request for first aid.

A person who is injured by the failure of another person to report a serious injury may bring a civil action against the person alleged to have breached the duty to report the injury. A person who brings a civil action must prove by a preponderance of the evidence (more likely or more probable than not) that the extent to which the alleged breach of the duty to report was a substantial factor in causing an aggravation of the person's injury.

The bill creates the affirmative defense that the person did not report the serious injury because that person was providing first aid to the injured person. Also, any amount of damages awarded may not be reduced as a result of any intentional act or negligence committed by the injured person, as long as the recoverable damages are limited to the aggravation of the injury proximately caused by the failure to report the injury.

The civil cause of action created must be applied to any claim that is not otherwise barred by the existing statutes of limitations and also must be applied to any lawsuits pending as of the effective date of this section in any court of competent jurisdiction.

The bill also creates the new Class E crime of failure to make a report. A person commits the new crime if the person intentionally, knowingly or recklessly fails to make a report required by the bill.

The bill does not apply to a governmental entity or government employee acting in the course and scope of that entity's or employee's duties.

Committee Amendment "A" (H-488)

This amendment incorporates a fiscal note and is the minority report. This amendment was not adopted.

LD 1275 An Act To Implement the Recommendations of the Criminal Law Advisory Commission

PUBLIC 336

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-376

This bill makes technical and substantive changes as proposed by the Criminal Law Advisory Commission, pursuant to the Maine Revised Statutes, Title 17-A, chapter 55. The bill does the following.

1. It repeals Title 5, section 3360, subsection 3, paragraph I because it is redundant; the forms of kidnapping and criminal restraint that constitute a "human trafficking offense" as defined in Title 5, section 4701, subsection 1, paragraph C are already included within section 3360, subsection 3, paragraph C.
2. It amends Title 17-A, section 106, subsections 1 and 1-A to make clear that the parent or surrogate parent's right to use physical force to prevent or punish misconduct applies to children and only so long as the child is a minor who has not been ordered emancipated by a court. Subsections 1 and 1-A have no application once the child reaches adulthood. The bill also makes technical changes to subsections 2, 3 and 4 of Title 17-A, section 106 to enhance clarity and adds the mental state of "knowing" to subsection 4.
3. It eliminates a current inconsistency between the meaning of "another jurisdiction" and "prior conviction" in the crime of stalking. The latter includes a qualifying conviction from any Indian tribe and not simply a conviction of