

# MAINE STATE LEGISLATURE

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



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

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

April 2010

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
SECOND 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 Second 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 HOUSES*..... 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 Second Regular Session of the 124<sup>th</sup> Legislature is Monday, July 12, 2010. 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*

conduct the default hearing as the court located where the warrant is issued. The court where a warrant of arrest is executed may exercise its discretion as to whether to hold the hearing or instead return the offender to the issuing court for that purpose.

Public Law 2009, chapter 608 clarifies the statutes concerning default by adding a reference to Title 17-A, chapter 54-C following the reference to "community service work."

Public Law 2009, chapter 608 amends the provision regarding time and method of restitution to reflect the new Title 17-A, section 1326-F, which addresses restitution deducted from judgment in civil action, and Title 17-A, section 1329, which addresses what happens when a defendant defaults in payment of restitution. The changes comprehensively address any offender who has completed any term of commitment to the Department of Corrections or any period of probation and still has not paid the restitution ordered by the court in full.

Public Law 2009, chapter 608 amends the provision regarding income withholding orders to expressly allow probation officers to apply for income withholding orders when an offender owing restitution receives a sentence that includes a period of probation, making this provision consistent with the recent amendment to Title 17-A, section 1326-A, which leaves to the Department of Corrections the determination for probationers of the time and method of restitution payment.

Public Law 2009, chapter 608 enacts a new section that comprehensively addresses the situation in which an offender who has completed the term of commitment to the Department of Corrections or the period of probation still has not paid the restitution ordered by the court in full. It provides notice to former Department of Corrections' clients still owing restitution that the duty to pay remains; requires that monetary compensation continue to be paid to the Department of Corrections; and requires that, unless otherwise modified by the court, the time and method of payment determined by the Department of Corrections during the former term of commitment or period of probation continues to control.

Public Law 2009, chapter 608 amends the statutes concerning default to ensure that restitution payments are made to the same agency to which the restitution was required to be paid under Title 17-A, section 1326-A or 1326-F, except that if the offender is no longer in the custody or under the supervision of the Department of Corrections, the payments must be made to the office of the attorney for the State who prosecuted the case or the clerk of court.

### **LD 1817**      **An Act To Implement the Recommendations of the Working Group Concerning Domestic Violence and Firearms**

INDEF PP

Sponsor(s)

Committee Report

Amendments Adopted

This bill implements the recommendations of the working group concerning domestic violence and firearms established under Resolve 2009, chapter 86.

Specifically, the bill authorizes a law enforcement officer to seize firearms from a person upon arrest for certain crimes of domestic violence, including: murder; assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members; domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; violating a court-ordered consent agreement or protection from abuse order or aggravated assault on a family or

## *Joint Standing Committee on Criminal Justice and Public Safety*

household member. A person subject to firearm seizure pursuant to this authority is subject to a new bail condition established in the Maine Revised Statutes, Title 15, section 1023, subsection 4-A. The new provision requires, as a condition of bail, that all firearms in the possession of the person arrested be relinquished to a law enforcement officer and that the person refrain from possessing a firearm or other specified dangerous weapons until further order of a court. Upon request of the defendant, such a bail condition must be heard by the court as expeditiously as possible.

The bill also amends Title 25, section 2803-B to expand policies for domestic violence by specifying that all law enforcement agencies adopt a written policy for the seizure of firearms and safe storage of firearms seized by a law enforcement officer in a domestic violence arrest.

The bill was not referred to committee.

### **LD 1822    An Act To Further Amend the Sex Offender Registration and Notification Act of 1999**

**PUBLIC 570  
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

On December 22, 2009, the Maine Law Court issued its decision in *State v. Letalien*, 2009 ME 130. The Law Court held that "the retroactive application of the lifetime registration requirement and quarterly in-person verification procedures of SORNA of 1999 to offenders originally sentenced subject to SORA of 1991 and SORNA of 1995, without, at a minimum, affording those offenders any opportunity to ever be relieved of the duty as was permitted under those laws, is ... an unconstitutional ex post facto law...." The Law Court stayed the mandate of the decision until March 31, 2010 in order to provide the Legislature the opportunity to deal with the issue. This bill of the Joint Standing Committee on Criminal Justice and Public Safety responds to the constitutional concern raised in *Letalien* in two ways.

First, it amends the in-person verification provisions to conform with those of Alaska that were found constitutional by the United States Supreme Court in *Smith v. Doe*, 538 U.S. 84 (2003). Maine's ex post facto clause is interpreted consistently with the United States Constitution, so this bill provides for verification for persons retroactively required to register as lifetime registrants that is consistent with the Alaska law found constitutional in *Smith v. Doe*. In particular, the bill amends the verification of registry information for persons sentenced on or after January 1, 1982 and prior to September 18, 1999. For 10-year registrants sentenced during that time period, the Department of Public Safety, State Bureau of Identification shall verify the registration information in writing as provided by the bureau on each anniversary of the registrant's initial registration date and once every five years in person. For lifetime registrants sentenced in that time period, the bureau shall verify the registration information in writing as provided by the bureau every 90 days after that lifetime registrant's initial registration date and once every five years in person. The bill also provides that if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency or the bureau may instruct the offender in writing to appear in person at the registration agency with a current photograph or to allow a photograph to be taken or, if authorized in writing by the law enforcement agency or the bureau, to submit a new photograph without appearing in person.

Second, the bill expands the provisions to allow certain registrants to be relieved of their duty to register on application and proof of legislatively established factors. An additional waiver scheme that authorized registrants to petition the court for relief from the duty to register was not included in the bill at this juncture due to a substantial fiscal note from the judicial branch, but may be considered again in the next legislative session.

Specifically, the bill expands the existing exception that was enacted pursuant to Public Law 2009, chapter 365 to