

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

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

July 2011

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STATE OF MAINE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

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; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Criminal Justice and Public Safety

**LD 595 An Act To Allow for Timely Credit for Driver's License Suspensions
Imposed by a Court**

PUBLIC 81

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	OTP	

This bill corrects the problem that arises when the driver's license of a defendant that was suspended by the Secretary of State for operating under the influence is restored and then suspended by the court for the same offense. Because the Secretary of State will credit the defendant for the suspension already served and because there is a lag time that may be a week or more between the time the court orders the suspension and the Secretary of State applies the credit, this bill allows an exception to the requirement that the court physically take a license that will be immediately reinstated and allows the court to stay the license suspension for up to 7 days.

Enacted Law Summary

Public Law 2011, chapter 81 corrects the problem that arises when the driver's license of a defendant that was suspended by the Secretary of State for operating under the influence is restored and then suspended by the court for the same offense. Because the Secretary of State will credit the defendant for the suspension already served and because there is a lag time that may be a week or more between the time the court orders the suspension and the Secretary of State applies the credit, Public law 2011, chapter 81 allows an exception to the requirement that the court physically take a license that will be immediately reinstated and allows the court to stay the license suspension for up to 7 days.

**LD 624 An Act To Require a Person Who Commits a Sex Offense against a
Dependent or Incapacitated Adult To Register under the Sex Offender
Registration and Notification Act of 1999**

PUBLIC 423

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFISKY	OTP-AM	S-286

This bill specifies that an actor who is employed as a caregiver or otherwise provides care to a person who is a dependent adult or incapacitated adult and who commits gross sexual assault or unlawful sexual contact against the person whose dependency or incapacity is reasonably apparent or known to the actor is guilty of committing a sex offense as defined in the Sex Offender Registration and Notification Act of 1999 requiring a 10-year registration. Registration requirements for persons who commit these new crimes in the Maine Revised Statutes, Title 17-A, section 253, subsection 2, paragraph K or Title 17-A, section 255-A, subsection 1, paragraph W or paragraph X do not apply until October 1, 2011.

Committee Amendment "A" (S-286)

This amendment replaces the bill. The amendment criminalizes sexual conduct between incapacitated adults and caregivers that is not already criminal. Specifically, the amendment creates new versions of gross sexual assault, unlawful sexual contact and unlawful sexual touching. This amendment criminalizes conduct that is committed against a person who has a mental disability that is reasonably apparent or is known to the actor. The amendment codifies this misconduct in situations where the person with the mental disability either is cared for in a facility licensed or funded by the Department of Health and Human Services or is cared for by a person privately employed

Joint Standing Committee on Criminal Justice and Public Safety

to do so. The amendment recognizes that there are other incapacitated adults who may not have mental retardation but are vulnerable to sexual abuse.

The amendment also expands the list of sex offenses for which a person must register under the Sex Offender Registration and Notification Act of 1999. Specifically, the amendment directs persons to register for 10 years if convicted and sentenced on or after October 1, 2011 of a sex offense, which includes, in addition to the offenses listed in the Title 34-A, section 11203, subsection 6, a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses, without regard to the age of the victim: Title 17-A, section 253, subsection 2, paragraphs J, K and L and Title 17-A, section 255-A, subsection 1, paragraphs C, G, Q, R, R-1, R-2, W and X.

Enacted Law Summary

Public Law 2011, chapter 423 criminalizes sexual conduct between incapacitated adults and caregivers that is not already criminal. Specifically, Public Law 2011, chapter 423 creates new versions of gross sexual assault, unlawful sexual contact and unlawful sexual touching. Public Law 2011, chapter 423 criminalizes conduct that is committed against a person who has a mental disability that is reasonably apparent or is known to the actor. Public Law 2011, chapter 423 codifies this misconduct in situations where the person with the mental disability either is cared for in a facility licensed or funded by the Department of Health and Human Services or is cared for by a person privately employed to do so. It also recognizes that there are other incapacitated adults who may not have mental retardation but are vulnerable to sexual abuse.

Public Law 2011, chapter 423 also expands the list of sex offenses for which a person must register under the Sex Offender Registration and Notification Act of 1999. Specifically, it directs persons to register for 10 years if convicted and sentenced on or after October 1, 2011 of a sex offense, which includes, in addition to the offenses listed in the Title 34-A, section 11203, subsection 6, a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses, without regard to the age of the victim: Title 17-A, section 253, subsection 2, paragraphs J, K and L and Title 17-A, section 255-A, subsection 1, paragraphs C, G, Q, R, R-1, R-2, W and X.

LD 638 An Act To Require Sex Offenders To Complete Their Full Time on the ONTP
Sex Offender Registry

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARVELL	ONTP	

This bill specifies that during any period in which a person subject to the 10-year registrant requirements under the Sex Offender Registration and Notification Act of 1999, as amended, fails to comply with verification requirements, the Department of Public Safety, State Bureau of Identification, pursuant to any rules the bureau may adopt, shall toll the registration period for the duration of the time that the registrant is not in compliance. Once the registrant is in compliance, the 10-year period resumes at the point at which it was tolled. During the period when the registrant is not in compliance, the bureau is required to continue to maintain the registrant's information on the Internet.