

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
125<sup>TH</sup> 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  
125<sup>TH</sup> LEGISLATURE  
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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 125<sup>th</sup> 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 125<sup>th</sup> 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 827      An Act To Bring the State's Laws into Compliance with the National Instant Criminal Background Check System**

**MAJORITY  
(ONTP) REPORT**

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

This bill amends current law regarding the possession of firearms to create a comprehensive system for the restoration of the right to possess firearms by persons with mental illness who prove that they are no longer a danger to themselves or others. The change will qualify Maine for federal funding under the National Instant Criminal Background Check System pursuant to the federal NICS Improvement Amendments Act of 2007.

The bill expands the list of those who can apply to have the right to possess a firearm restored to include persons who have been admitted to a hospital pursuant to the Maine Revised Statutes, Title 34-B, section 3863 and persons found by a Probate Court to lack the capacity to contract or manage their own affairs. Existing law permits application for restoration by persons who are committed involuntarily to a hospital pursuant to Title 34-B, section 3864; persons who are found not criminally responsible by reason of insanity with respect to a criminal charge; and persons who are found not competent to stand trial with respect to a criminal charge.

The bill requires that the Commissioner of Public Safety, when reviewing applications for restoration, at a minimum consider mental health and criminal history records and the applicant's reputation developed through character witnesses and any other character evidence. The bill also removes the Commissioner of Public Safety's discretion to grant restoration if the applicant satisfies the statutory criteria that the person is not likely to act in a manner that is dangerous to public safety and that the restoration would not be contrary to public interest.

**Committee Amendment "A" (H-612)**

This amendment is the minority report of the committee. It shortens the waiting period for applying to have the right to own, possess or control a firearm from 5 years from the date of final discharge from commitment to 2 years from the date of adjudication or commitment. The amendment expands the restoration of rights to also include the provisions of 18 United States Code, Section 922(d)(4). The amendment also adds new sections regarding involuntary commitment pursuant to the Maine Revised Statutes, Title 34-B, section 3863 and regarding persons found to be incapacitated pursuant to Title 18-A, section 5-101 to inform a person subject to these provisions that the person is prohibited from owning, possessing or controlling firearms.

This amendment was not adopted.

**LD 880      An Act To Protect Minors from Questioning by Private Investigators**

**PUBLIC 161**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MORISSETTE WHITEMORE	OTP-AM	H-222

This bill amends the provision regarding unlawful acts of a private investigator by creating the Class D offense of questioning a minor. A private investigator is guilty of the new offense if the private investigator questions a person who is under 14 years of age and the private investigator does not have the consent of that person's parent or legal

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

guardian to do so.

**Committee Amendment "A" (H-222)**

This amendment replaces the bill and amends the provision of law regarding the refusal, suspension and revocation of a private investigator's license to add new grounds that allow the Commissioner of Public Safety to refuse to issue or renew a license and allow the District Court to suspend or revoke the license of a private investigator. The grounds are that a private investigator contacts or communicates with a child who has not attained 14 years of age regarding a private investigation if that contact or communication by the private investigator includes conduct with the intent to harass, torment, intimidate or threaten a child.

**Enacted Law Summary**

Public Law 2011, chapter 161 amends the provision of law regarding the refusal, suspension and revocation of a private investigator's license to add new grounds that allow the Commissioner of Public Safety to refuse to issue or renew a license and allow the District Court to suspend or revoke the license of a private investigator. The grounds are that a private investigator contacts or communicates with a child who has not attained 14 years of age regarding a private investigation if that contact or communication by the private investigator includes conduct with the intent to harass, torment, intimidate or threaten a child.

**LD 885      An Act To Increase Penalties for Operating a Motor Vehicle under the Influence of Drugs or Alcohol      ONTP**

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

This bill increases the suspension periods for criminal operating under the influence from 90 to 180 days for a first offense, from 3 years to 5 years for a second offense and from 6 years to 10 years for a third offense. The bill also repeals the provisions that allow issuance of a special or conditional license before the total period of suspension has been served. This prohibition applies to the issuance of restricted licenses for the purpose of allowing participation in education and treatment programs and employment.

**LD 912      An Act To Amend the Law Governing Administrative Suspensions of Driver's Licenses      MAJORITY (ONTP) REPORT**

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

Current law gives the Secretary of State authority to stay a suspension of a driver's license during the statutory suspension period and issue a work-restricted license on receipt of a petition for a work-restricted license for a person under suspension for operating a motor vehicle with an excessive alcohol level or for a person with a juvenile provisional license under suspension for operating a motor vehicle with an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

This bill gives the Secretary of State authority to stay a suspension during the statutory suspension period and issue a work-restricted license on receipt of a petition for a work-restricted license for a person under suspension for any offense under the Title 29-A, chapter 23. The bill also provides that the Secretary of State may not issue a