

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

This bill creates an aggravating sentencing factor for assault, domestic violence assault and aggravated assault. If the offensive physical contact, bodily injury or serious bodily injury in the commission of the crime included strangulation, the court must consider it as an aggravating sentencing factor in setting a sentence. "Strangulation" is defined as the application of pressure to another person's throat or neck or the blocking of the other person's nose or mouth that causes the other person to experience impeded breathing or blood circulation.

Committee Amendment "A" (H-378)

This amendment replaces the bill and creates a resolve directing the Maine Commission on Domestic and Sexual Abuse to invite stakeholders to participate in studying strangulation in order to determine the presence and patterns of strangulation in domestic and sexual violence in Maine and the current management of strangulation within Maine's criminal law. The review must include a study of model practices and research in other states, including the impacts of other states' legislation, public awareness activities and changes in policy. The commission shall invite at a minimum the following stakeholders to participate: representatives from state and local law enforcement, prosecutors, the judicial branch, the Criminal Law Advisory Commission, the Maine Coalition to End Domestic Violence, the Maine Coalition Against Sexual Assault, first responders and other emergency care providers.

The commission shall submit a report by February 15, 2012 to the Joint Standing Committee on Criminal Justice and Public Safety. The report must include the commission's findings and recommendations regarding methods to deal with strangulation in Maine, including, as it determines necessary, proposed legislation; proposed education and training for law enforcement, prosecutors and the judiciary; and proposed programs and outreach for public awareness and advocacy. Upon receipt of the commission's report and recommendations, the committee may report out legislation to the Second Regular Session of the 125th Legislature.

Enacted Law Summary

Resolve 2011, chapter 76 directs the Maine Commission on Domestic and Sexual Abuse to invite stakeholders to participate in studying strangulation in order to determine the presence and patterns of strangulation in domestic and sexual violence in Maine and the current management of strangulation within Maine's criminal law. The review must include a study of model practices and research in other states, including the impacts of other states' legislation, public awareness activities and changes in policy. The commission shall invite at a minimum the following stakeholders to participate: representatives from state and local law enforcement, prosecutors, the judicial branch, the Criminal Law Advisory Commission, the Maine Coalition to End Domestic Violence, the Maine Coalition Against Sexual Assault, first responders and other emergency care providers.

The commission shall submit a report by February 15, 2012 to the Joint Standing Committee on Criminal Justice and Public Safety. The report must include the commission's findings and recommendations regarding methods to deal with strangulation in Maine, including, as it determines necessary, proposed legislation; proposed education and training for law enforcement, prosecutors and the judiciary; and proposed programs and outreach for public awareness and advocacy. Upon receipt of the commission's report and recommendations, the committee may report out legislation to the Second Regular Session of the 125th Legislature.

Resolve 2011, chapter 76 was enacted as an emergency measure effective June 13, 2011.

LD 1040

An Act To Amend the Maine Juvenile Code

PUBLIC 336

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLUMMER GERZOFISKY	OTP-AM	H-532

Joint Standing Committee on Criminal Justice and Public Safety

This bill makes the following changes.

1. It specifies that persons arrested for juvenile crimes, as well as persons under 18 years of age who are arrested for crimes outside of the Maine Juvenile Code, are not eligible for bail.
2. It specifies that detention of juveniles is applicable to all juveniles who commit new juvenile crimes only if specifically authorized by a juvenile community corrections officer.
3. It specifies that a juvenile may not enter an answer on a juvenile petition when the State has filed a request to have the juvenile tried as an adult or has requested that the case be continued for a determination of whether such a request should be filed. The pending bind-over process must first be resolved before an answer is entered.
4. It requires the Juvenile Court to enter a default judgment when a juvenile fails to respond to a summons alleging a juvenile crime that would be a civil violation if committed by an adult.

Committee Amendment "A" (H-532)

This amendment gives the prosecuting attorney for the State the ability to overrule a juvenile community corrections officer regarding detention decisions for motor vehicle and fish or game violations, which is consistent with the process for other juvenile detention situations.

The amendment also allows, but does not require, the Juvenile Court to enter a default judgment when a juvenile fails to respond to a summons alleging a juvenile crime that would be a civil violation if committed by an adult.

Enacted Law Summary

Public Law 2011, chapter 336 specifies that persons arrested for juvenile crimes, as well as persons under 18 years of age who are arrested for crimes outside of the Maine Juvenile Code, are not eligible for bail. It specifies that detention of juveniles is applicable to all juveniles who commit new juvenile crimes only if specifically authorized by a juvenile community corrections officer. Public Law 2011, chapter 336 specifies that a juvenile may not enter an answer on a juvenile petition when the State has filed a request to have the juvenile tried as an adult or has requested that the case be continued for a determination of whether such a request should be filed. The pending bind-over process must first be resolved before an answer is entered.

Public Law 2011, chapter 336 allows, but does not require, the Juvenile Court to enter a default judgment when a juvenile fails to respond to a summons alleging a juvenile crime that would be a civil violation if committed by an adult.

Public Law 2011, chapter 336 also gives the attorney for the State the ability to overrule a juvenile community corrections officer regarding detention decisions for motor vehicle and fish or game violations, which is consistent with the process for other juvenile detention situations.

**LD 1074 An Act To Create the Position of Juvenile Community Service Director ONTP
in the Department of Corrections**

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

This bill creates the position of Juvenile Community Service Director in the Department of Corrections. The director's duties include coordinating volunteers and community businesses and nonprofit organizations to create