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

 125^{TH} LEGISLATURE FIRST REGULAR SESSION



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	
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
EMERGENCYenac	ted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINA	AL 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 GOVERNORGovernor has n	not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW	sponsor's request to withdraw legislation granted
	ruled out of order by the presiding officer; legislation died
INDEF PP	indefinitely postponed; legislation died
	r REPORT X ought-not-to-pass report accepted; legislation died
P&S XXX	chapter # of enacted private & special law
	chapter # of enacted public Law
RESOLVE XXX	chapter # of finally passed resolve
	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 1102 An Act To Ensure That Victims Are Kept Informed in Criminal Cases ONTP

Sponsor(s)	Committee Report	Amendments Adopted
GERZOFSKY	ONTP	

This bill amends the Criminal History Record Information Act to require that the victim of a crime be provided with intelligence and investigative information in as complete and rapid a manner as possible, as long as the disclosure of that information is made with safeguards to prevent events such as interference with law enforcement proceedings, an unwarranted invasion of privacy, disclosure of information designated confidential and endangerment of the life of another individual. Current law provides that criminal justice agencies may provide this information to victims but are not required to do so.

LD 1143 An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes

Carried Over

Sponsor(s)	Committee Report	Amendments Adopted
MALONEY		

This bill requires a person who has been arrested, charged or indicted on or after January 1, 2012 for murder, a Class A, B or C crime, sexual abuse of a minor, unlawful sexual contact, visual sexual aggression against a child, sexual misconduct with a child under 14 years of age or soliciting a child by a computer to commit a prohibited act to submit to having a DNA sample taken to be added to the state DNA data base.

The bill provides funds to pay for the collection of DNA samples for the state DNA data base by creating the state DNA Data Base Fund surcharge, which requires an additional assessment on all criminal and motor vehicle violation fines equal to 7% of the amount of the fines, to be deposited into the Fund established and administered by the Department of Public Safety.

Committee Amendment "A" (H-576)

This amendment is the majority report of the committee. The amendment requires a person who has been arrested, charged or indicted on or after January 1, 2013 for murder or criminal homicide in the first or 2nd degree; felony murder; manslaughter; aggravated assault; elevated aggravated assault; gross sexual assault, including that formerly denominated as gross sexual misconduct; rape; sexual abuse of a minor; unlawful sexual contact; visual sexual aggression against a child; sexual misconduct with a child under 14 years of age; kidnapping; criminal restraint; burglary; robbery; arson; aggravated criminal mischief; or any lesser included offense of any of these crimes if the greater offense is initially charged to submit to having a DNA sample taken by a law enforcement agency as part of the booking process. "Lesser included offense" has the same meaning as in the Title 17-A, section 13-A.

The amendment specifies that the DNA sample taken pursuant to this requirement may not be analyzed and must be destroyed unless one of the following conditions is met: the arrest was made upon an arrest warrant for murder or a Class A, B or C crime; the defendant has appeared before a judge who made a finding that there was probable cause for the arrest; or the defendant posted bond or was released prior to appearing before a judge or magistrate and then failed to appear for a scheduled hearing.

Joint Standing Committee on Criminal Justice and Public Safety

The amendment also clarifies that the Chief of the State Police shall expunge the DNA record if the arresting law enforcement agency does not forward the charge to the prosecuting attorney, the prosecuting attorney does not file a charge, the case is dismissed or the defendant is acquitted.

The amendment also strikes from the bill new surcharges and the establishment of the State DNA Data Base Fund and adds an appropriations and allocations section.

Committee Amendment "B" (H-577)

This amendment is the minority report of the committee. The amendment is the same as the majority report, except that it does not automatically allow a DNA sample to be taken upon arrest. The amendment specifies that a DNA sample may not be taken immediately upon arrest unless the arrest was made upon an arrest warrant for murder or a Class A, B or C crime or if the defendant has appeared before a judge who made a finding that there was probable cause for the arrest. If one of these 2 requirements is met, the DNA sample may be taken and the rest of the new provisions apply. The amendment also adds an appropriations and allocations section.

This amendment was not adopted.

LD 1143 was carried over to any special and/or regular session of the 125th Legislature by joint order, H.P. 1190.

LD 1163 An Act To Implement the Recommendations of the Commissioner of Corrections' Study Regarding the Placement of Special Management Prisoners

ONTP

Sponsor(s)	Committee Report	Amendments Adopted
DION	ONTP	

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to implement the recommendations in the Commissioner of Corrections' report regarding the placement of special management prisoners authorized by Resolve 2009, chapter 213.

LD 1165 An Act To Enable Prosecutions for Criminal Invasion of Computer Privacy

PUBLIC 133

Sponsor(s)	<u>Committee Report</u>	Amendments Adopted
DION	OTP-AM	H-185

This bill provides that the crimes of criminal invasion of computer privacy and aggravated criminal invasion of computer privacy may be prosecuted and punished in either the county in which the defendant was located when the defendant committed the crime or in any county in which the computer resource that was accessed, damaged or infected with a virus was located, or, in the case of aggravated criminal invasion of computer privacy, in any county in which the computer program, computer software or computer information that the defendant copied was located.

Committee Amendment "A" (H-185)

This amendment strikes from the bill proposed language that is unnecessary. The items listed in the stricken language are included by definition in the Maine Revised Statutes, Title 17-A, section 434, subsection 2.