

# 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*

16. It amends the Maine Criminal Code sentencing alternative of unconditional discharge addressed in Title 17-A, section 1346 to allow the Class D and Class E crimes not eligible for a sentencing alternative involving probation pursuant to Title 17-A, section 1201, subsection 1 to nonetheless be eligible for an unconditional discharge.

**LD 1400**

**An Act To Address Certain Aspects of Bail**

**PUBLIC 341**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-534

This bill amends the Maine Bail Code in several ways. It adds a new definition of "crime involving domestic violence," which means a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct, as defined in the Title 17-A, as well as a violation of a protective order under Title 19-A, section 4011 in which the alleged victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

The bill replaces "district attorney" with "responsible prosecutorial office" to broaden the application to include the Attorney General's Office as well as any district attorney.

It adds a new provision addressing the preconviction limitations on a bail commissioner's authority as provided in Title 15, section 1092, subsection 4.

It adds a provision requiring that in the preconviction context a bail commissioner specify a court date within 8 weeks of the date of the bail order when that bail order uses one or more release conditions not automatically included in every bail order for pretrial release.

The bill adds a provision that requires that the court and not a bail commissioner set preconviction bail for a crime if: the condition of release alleged to be violated relates to new criminal conduct for a Class C or above crime or a Class D or Class E crime that involves domestic violence, sexual assault or sexual exploitation of minors; the underlying crime for which preconviction bail was granted is classified as Class C or above; or the underlying crime for which preconviction bail was granted involves domestic violence, sexual assault or sexual exploitation of minors.

The bill clarifies that a law enforcement officer may make a warrantless arrest in the context of an anticipated motion to revoke bail by the attorney for the State. It expressly authorizes an arrest under these circumstances when the attorney for the State requests that the defendant be arrested for purposes of instituting a revocation of bail. The bill does not address an arrest for a violation of the crime of violation of a condition of release pursuant to Title 15, section 1092.

The bill adds to the list of circumstances in which a law enforcement officer may make a warrantless arrest the following: a violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State; failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A; and a Class D or Class E crime committed while released on preconviction or post-conviction bail.

**Committee Amendment "A" (H-534)**

This amendment clarifies that if a bail commissioner does not have sufficient information to determine whether the bail commissioner is authorized to set bail on a violation of a condition of release, the bail commissioner may not set bail.

*Joint Standing Committee on Criminal Justice and Public Safety*

**Enacted Law Summary**

Public Law 2011, chapter 341 amends the Maine Bail Code in the following ways.

1. It adds a new definition of "crime involving domestic violence," which means a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct, as defined in the Title 17-A, as well as a violation of a protective order under Title 19-A, section 4011 in which the alleged victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.
2. It replaces "district attorney" with "responsible prosecutorial office" to broaden the application to include the Attorney General's Office as well as any district attorney.
3. It adds a new provision addressing the preconviction limitations on a bail commissioner's authority as provided in Title 15, section 1092, subsection 4. It also clarifies that if a bail commissioner does not have sufficient information to determine whether the bail commissioner is authorized to set bail on a violation of a condition of release, the bail commissioner may not set bail.
4. It adds a provision requiring that in the preconviction context a bail commissioner specify a court date within 8 weeks of the date of the bail order when that bail order uses one or more release conditions not automatically included in every bail order for pretrial release.
5. It adds a provision that requires that the court and not a bail commissioner set preconviction bail for a crime if: the condition of release alleged to be violated relates to new criminal conduct for a Class C or above crime or a Class D or Class E crime that involves domestic violence, sexual assault or sexual exploitation of minors; the underlying crime for which preconviction bail was granted is classified as Class C or above; or the underlying crime for which preconviction bail was granted involves domestic violence, sexual assault or sexual exploitation of minors.
6. It clarifies that a law enforcement officer may make a warrantless arrest in the context of an anticipated motion to revoke bail by the attorney for the State. It expressly authorizes an arrest under these circumstances when the attorney for the State requests that the defendant be arrested for purposes of instituting a revocation of bail. It does not address an arrest for a violation of the crime of violation of a condition of release pursuant to Title 15, section 1092.
7. It adds to the list of circumstances in which a law enforcement officer may make a warrantless arrest the following: a violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State; failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A; and a Class D or Class E crime committed while released on preconviction or post-conviction bail.

**LD 1404      An Act To Enhance Public Safety Response to High-risk Events**

**ONTP**

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

This bill requires the establishment of the Committee on Tactical Force Administration to review and make recommendations on tactical law enforcement incidents. The bill requires the Board of Trustees of the Maine Criminal Justice Academy to adopt certification standards and training programs for crisis negotiators and tactical