

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

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

June 2012

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STATE OF MAINE

125TH LEGISLATURE
SECOND 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 Second 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.

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

The effective date for non-emergency legislation enacted in the Second Regular Session of the 125th Legislature is Thursday, August 30, 2012. 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 1095 An Act To Facilitate the Construction and Operation of Private Prisons
by Authorizing the Transport of Prisoners out of State ONTP**

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill facilitates the construction and operation of private prisons by specifically authorizing the Commissioner of Corrections to transport a prisoner out of the State for any purpose that the commissioner determines necessary and appropriate, including the transfer of a prisoner to a public or private correctional facility.

**LD 1143 An Act To Require That Law Enforcement Officials Collect DNA
Samples from Persons Arrested for Certain Crimes MAJORITY
(ONTP) REPORT**

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

This bill was carried over from the First Regular Session of the 125th Legislature.

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.

LD 1514 An Act To Amend the Sex Offender Registration Laws PUBLIC 663

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL GERZOFISKY	OTP-AM	H-873

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill creates the Sex Offender Registration and Notification Act of 2011, which is applicable to persons sentenced on or after October 15, 2011. The Act maintains registration and notification provisions but adds to these processes a tiering system and the development and application of risk assessment. The new Act's purpose continues

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to be to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning registrants and offenders.

Offenders are classified by offense as Tier I, Tier II or Tier III offenders and must register for 10 years, for 25 years or for life, respectively. However, the bill also creates a new risk assessment process, which involves the Department of Corrections' coordinating the adoption or development of a risk assessment instrument and the qualifying of evaluators to apply the instrument. At certain times of verification of registration information, a registrant may request a risk assessment for purposes of reclassification or removal from the registry.

The bill adopts the same penalties for failure to comply with requirements of registration and adopts the same notification process as exists in the Maine Revised Statutes, Title 34-A, chapter 15, the Sex Offender Registration and Notification Act of 1999.

Committee Amendment "A" (H-873)

This amendment replaces the bill and does the following.

1. It changes the effective date of the application of new registration and notification changes from October 15, 2011 to January 1, 2013 and is applicable only to a person who commits certain criminal sexual conduct and is sentenced on or after January 1, 2013.
2. It removes provisions dealing with risk assessment and establishes an ongoing Sex Offender Risk Assessment Advisory Commission to conduct an ongoing study of methods to predict the risk of recidivism by sex offenders.
3. It removes the offense classification method in the bill, which listed each offense specifically under each tier level. This amendment replaces that method with one based on the classification of the crime. In general, Class E and Class D crimes are Tier I offenses, Class C crimes are Tier II offenses and Class B and Class A crimes are Tier III offenses.
4. It removes the section of the bill regarding exceptions to the duty to register.
5. It changes the time a registrant has to notify the Department of Public Safety of a change of residence, place of employment or college or school being attended from 5 days to 3 days.
6. It adds telephone numbers, Internet identifiers, driver's license, passport, immigration documents and vehicle information to the list of information the Department of Public Safety must collect from sex offender registrants for the department's registry database.
7. It requires the Department of Public Safety, State Bureau of Identification to establish an e-mail notification system to alert a member of the public who has subscribed to the e-mail notification system when a registrant moves into the subscriber's geographic area.
8. It provides that a registrant who commits a subsequent sex offense must register for life.
9. It requires a registrant traveling abroad to provide the Department of Public Safety with certain information about that registrant's travel.
10. It changes the frequency of a registrant's duty to verify that registrant's information to every 90 days for a Tier III registrant, every 180 days for a Tier II registrant and annually for a Tier I registrant.
11. It directs the Sex Offender Risk Assessment Advisory Commission to study the structure and duties of Colorado's Sex Offender Management Board and report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 5, 2013.

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It authorizes that committee to introduce a bill implementing the commission's recommendations to the First Regular Session of 126th Legislature.

12. It adds new sex offenses enacted in the First Regular Session of the 125th Legislature to the Tier I, Tier II and Tier III offenses.

13. It makes a number of technical changes.

Enacted Law Summary

Public Law, 2011, chapter 663 creates the Sex Offender Registration and Notification Act of 2013 (SORNA 2013), which is applicable only to a person who commits certain criminal sexual conduct and is sentenced for that conduct on or after January 1, 2013.

Public Law 2011, chapter 663 does the following.

1. It creates a three tier classification system for the placement of offenders on the new sex offender registry based on the classification of the crime. In general, Class E and Class D crimes are Tier I offenses, Class C crimes are Tier II offenses and Class B and Class A crimes are Tier III offenses. The registration requirement for each tier is 10 years, 25 years and life, respectively. A registrant who commits a subsequent offense must register for life.
2. It imposes a duty on an offender to register when that offender is notified to do so by the court of jurisdiction, the Department of Public Safety or a law enforcement agency. The Department of Public Safety, the county jail or the state mental health institute that has custody of the offender must inform the offender, prior to release, of the duty to register.
3. It directs the Department of Public Safety, State Bureau of Identification (bureau) to establish and maintain a registry database of registrants under SORNA 2013 that includes, but is not limited to: the physical characteristics of the registrant; a description of the offense; the registrant's offense history, mailing address, places of employment, places of schools being attended, photograph, fingerprints, telephone numbers, Internet identifiers, driver's license, professional licenses, passport, immigration documents, social security number, temporary lodging and dates of travel both domestic and abroad, and vehicle information. It allows the bureau to provide information in the registry database to a national or regional registry and to the Department of Public Safety and applicable law enforcement and criminal justice agencies.
4. It directs the bureau to post on the Internet for public consumption photographs of the registrant, in addition to a registrant's name, date of birth, town or city where that registrant resides, place of employment and schools the registrant attends. It also directs the bureau to post statutory cites for registrant's offense, the applicable tier level in the classification system, the frequency with which the registrant must verify that registrant's information in the registry and the registrant's address and its location on a map.
5. It requires the bureau to establish an e-mail notification system to alert a member of the public who has subscribed to the e-mail notification system when a registrant moves into the subscriber's geographic area.
6. It requires a registrant to verify the accuracy of the registrant's information every 90 days for a Tier III registrant, every 180 days for a Tier II registrant and annually for a Tier I registrant. The bureau may suspend the verification requirements if the registrant leaves the state, establishes a residence in another state and remains physically absent from this State or is incarcerated.
7. It provides that a registrant must notify the bureau of a change of residence, place of employment, or college or school the registrant attends within 3 days.
8. It authorizes the bureau to charge a \$25 annual fee to a person required to register.

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- 9. It makes it a crime for a person to fail to comply with the provisions of SORNA 2013.
- 10. It requires the Department of Public Safety to provide law enforcement agencies with technical assistance regarding community education about the conditional release or discharge of a registrant.
- 11. It creates the Sex Offender Risk Assessment Commission to study the methods that may be used to predict the risk of recidivism by a sex offender and develop a method that may be used for such purposes.
- 12. It directs the Sex Offender Risk Assessment Advisory Commission to study the structure and duties of Colorado's Sex Offender Management Board and report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 5, 2013. It authorizes the committee to introduce a bill implementing the commission's recommendations to the First Regular Session of 126th Legislature.

LD 1597 An Act To Make Certain Juvenile Case Records Confidential

PUBLIC 580

Sponsor(s)

HASKELL

Committee Report

OTP-AM

Amendments Adopted

H-779

This bill specifies that, when the Secretary of State receives notice from a juvenile community corrections officer that a juvenile has violated the law prohibiting illegal transportation of drugs by a minor or the law prohibiting illegal transportation of liquor by a minor, the Secretary of State's suspension of that juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle and right to apply for and obtain a license may not be made public or become part of a juvenile's driving record or motor vehicle record.

The bill also specifies that, when a juvenile has been adjudicated as having committed a juvenile crime involving the operation of a motor vehicle, and the court transmits records containing the details of the adjudication to the Secretary of State, the Secretary of State may use those records only for purposes of hearings held by the Secretary of State and the records may not otherwise be made public or become part of a juvenile's driving record or motor vehicle record.

Committee Amendment "A" (H-779)

This amendment replaces the title and removes the provisions of the bill that prohibit the Secretary of State from releasing information to the public about a juvenile's violation of a law prohibiting the transport of illegal drugs or liquor when suspending that juvenile's motor vehicle license or permit. Instead, the amendment provides that such information may be released only to a law enforcement officer and the courts after the suspension has been terminated and only for the purpose of prosecuting a violation of the prohibition against operating a motor vehicle while the license or permit is suspended or revoked.

This amendment also removes provisions of the bill limiting the use of a juvenile's records to hearings conducted by the Secretary of State.

Enacted Law Summary

Public Law 2011, chapter 580 provides that when the Secretary of State receives notice from a juvenile community corrections officer that a juvenile has violated the law prohibiting illegal transportation of drugs by a minor or the law prohibiting illegal transportation of liquor by a minor, that information may be released only to a law enforcement officer and the courts after the suspension of that juvenile's license or permit to operate a motor vehicle