

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

Committee Amendment "A" from the Maine Criminal Code to the Maine Revised Statutes, Title 22 and changes the penalties.

This amendment was not adopted.

House Amendment "A" To Committee Amendment "A" (H-676)

This amendment reallocates the restriction on the use, trafficking or possession of so-called bath salts proposed in Committee Amendment "A" from the Maine Criminal Code to the Maine Revised Statutes, Title 22 and changes some of the penalties to civil violations and reduces other criminal penalties.

Enacted Law Summary

Public Law 2011, chapter 447 prohibits the possession, trafficking and furnishing of certain synthetic hallucinogenic drugs or so-called bath salts. The prohibited conduct is established in Title 22 and includes civil penalties for possession and criminal penalties for repeat possession offenses, as well as trafficking and furnishing. These changes are repealed June 15, 2013.
Public Law 2011, chapter 447 was enacted as an emergency measure effective July 6, 2011.

LD 1563

An Act To Regulate the Licensing and Oversight of Professional Investigators

PUBLIC 366

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS DC KATZ	OTP-AM	H-585

This bill amends the private investigator laws by changing the terms "private investigator" to "professional investigator" and "private investigating" to "private investigation." It also changes the jurisdiction over professional investigators from the Commissioner of Public Safety to the Chief of the State Police. The bill also exempts persons who undertake Internet research solely for retrieval of data from online sources or databases and who do not question individuals in person, by phone or electronic means from having to be licensed as a professional investigator.

The bill requires a licensee to renew a license even if the license has been suspended. It gives the Chief of the State Police the authority to refuse to issue, suspend or revoke a license, to impose probationary conditions or a fine or to issue a written warning if the licensee has unpermitted contact or communication with a child, makes a material misstatement in filing an application for a license, violates the standards of acceptable professional conduct or commits an act that would have been cause for refusal to issue a license.

The bill requires the Chief of the State Police to investigate a complaint for noncompliance or violation of the professional investigator laws or rules. It requires the Chief of the State Police to notify the licensee, if a complaint has been filed against a licensee, of the content of the complaint not less than 60 days after receipt of the written complaint. It requires the Chief of the State Police to adopt rules regarding the receipt and investigation of complaints. The bill also requires the Chief of the State Police to adopt rules regarding the standards of acceptable professional conduct.

Committee Amendment "A" (H-585)

This amendment specifies that the rule-making authority in the Professional Investigators Act is delegated to the Chief of the State Police, with the advice of the Board of Licensure of Professional Investigators.

The amendment clarifies that the Chief of the State Police does not require authorization of the board to act, but

Joint Standing Committee on Criminal Justice and Public Safety

authorizes the board to provide information to the chief on any matter as it determines appropriate.

The amendment clarifies and conforms violations and penalties language to proper drafting standards and also makes technical changes and corrections.

Enacted Law Summary

Public Law 2011, chapter 366 amends the private investigator laws by changing the terms "private investigator" to "professional investigator" and "private investigating" to "private investigation." It also changes the jurisdiction over professional investigators from the Commissioner of Public Safety to the Chief of the State Police. The rule-making authority in the Professional Investigators Act is delegated to the Chief of the State Police, with the advice of the Board of Licensure of Professional Investigators. The Chief of the State Police may adopt rules regarding the receipt and investigation of complaints, as well as rules regarding the standards of acceptable professional conduct. The Chief of the State Police does not require authorization of the board to act, but the board may provide information to the chief on any matter it determines appropriate.

Public Law 2011, chapter 366 exempts persons who undertake Internet research solely for retrieval of data from online sources or databases and who do not question individuals in person, by phone or electronic means from having to be licensed as a professional investigator.

Public Law 2011, chapter 366 makes licensing changes. It gives the Chief of the State Police the authority to refuse to issue, suspend or revoke a license, to impose probationary conditions or a fine or to issue a written warning if the licensee has unpermitted contact or communication with a child, makes a material misstatement in filing an application for a license, violates the standards of acceptable professional conduct or commits an act that would have been cause for refusal to issue a license.

Public Law 2011, chapter 366 requires the Chief of the State Police to investigate a complaint for noncompliance or violation of the professional investigator laws or rules. Public Law 2011, chapter 366 requires the Chief of the State Police to notify the licensee, if a complaint has been filed against a licensee, of the content of the complaint not less than 60 days after receipt of the written complaint.

**LD 1565 An Act To Give Judges Greater Flexibility When Sentencing Defendants ONTP
Convicted of Murder**

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

Title 17-A, section 1251 provides that a person convicted of the crime of murder must be sentenced to imprisonment for life or for any term of years that is not less than 25 years. The Supreme Judicial Court in the case of State v. Shortsleeves, 580 A.2d 145 (Me. 1990) held that a life sentence may not be imposed unless there are aggravating circumstances and set forth a list of aggravating circumstances that would justify a life sentence.

This bill adds an aggravating circumstance to those set forth in the Shortsleeves decision that would justify a life sentence. The bill provides that the court may sentence a person convicted of the crime of murder to life in prison based on the aggravating circumstance of that person's extreme mistreatment of the body of the victim after the death of the victim.

This bill is in response to the sentencing in Cumberland County Superior Court of Chad Gurney for the murder of Zoe Sarnacki in the case of State v. Gurney, docket number CUMCD - CR - 2009 - 4017.