

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

MEMBERS:

SEN. GARRETT PAUL MASON, CHAIR
SEN. RODNEY L. WHITTEMORE
SEN. STAN GERZOFKY

REP. GARY E. PLUMMER, CHAIR
REP. DAVID C. BURNS
REP. RICKY D. LONG
REP. SUSAN E. MORISSETTE
REP. DEBORAH J. SANDERSON
REP. ANNE M. HASKELL
REP. STEPHEN P. HANLEY
REP. MICHAEL A. LAJOIE
REP. ANNA D. BLODGETT
REP. MICHAEL H. CLARKE

STAFF:

CURTIS BENTLEY, LEGISLATIVE ANALYST
ALYSON MAYO, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

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

Committee Amendment "A" (H-872)

This amendment removes the provision of the bill that allows a person convicted of a Class D or Class E crime and sentenced to pay a fine to perform community service work in lieu of paying the fine if that person is unable to pay.

Enacted Law Summary

Public Law 2011, chapter 604 does the following.

1. It creates a new Class D crime of improper contact after bail has been revoked and denied. A person commits this crime if the person, while being detained because the person's preconviction or post-conviction bail has been revoked and denied, intentionally or knowingly makes contact with a person when that contact was prohibited under a former condition of release.
2. It provides that all references to "county jail" or "jail" in the Maine Revised Statutes include the Lincoln and Sagadahoc Multicounty Jail.
3. It corrects an omission with respect to a sexual crime. Public Law 2011, chapter 464, sections 8 and 9 repealed the Maine Revised Statutes, Title 17-A, section 254, subsection 1, paragraph F and moved the substance of the crime to Title 17-A, section 255-A, subsection 1, paragraph F-2. The elements of the crime did not change; it was simply moved from the crime of sexual abuse of a minor to unlawful sexual contact because the core conduct that is criminalized is sexual contact, not the sexual acts prohibited by sexual abuse of a minor. The crime of sexual abuse of a minor is included in the definition of "sex offense" in Title 34-A, section 11203, subsection 6 of the Sex Offender Registration and Notification Act of 1999, and conviction requires registration for 10 years. As the result of an oversight, the definition of "sex offense" was not amended to reflect the change in designation of the crime in the Maine Criminal Code. The correction is retroactive to the effective date of Public Law 2011, chapter 464, September 28, 2011, to allow for conviction of the crime of unlawful sexual contact in violation of Title 17-A, section 255-A, subsection 1, paragraph F-2 to continue to require registration for 10 years.

LD 1857 An Act To Enhance the Protection of Social Service Home Visitors

ONTP

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

This bill provides mandatory minimum sentences for a person convicted of assault, aggravated assault or elevated aggravated assault against a social worker who is visiting that person at that person's home. It also requires a law enforcement agency to provide a law enforcement officer to accompany a social worker on a home visit to a client at the request of that social worker if the social worker is sufficiently concerned for the social worker's safety.

LD 1859 An Act To Protect Firearm Ownership during Times of Emergency

**PUBLIC 626
EMERGENCY**

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

Joint Standing Committee on Criminal Justice and Public Safety

This bill prohibits a person acting on behalf or under the authority of the State or a political subdivision of the State from prohibiting or restricting the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition during a declared state of emergency. This bill also removes the power of the Governor to suspend or limit the sale, dispensing and transportation of firearms during a declared state of emergency.

Enacted Law Summary

Public Law 2011, chapter 626 prohibits a person acting on behalf or under the authority of the State or a political subdivision of the State from prohibiting or restricting the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition during a declared state of emergency. It also removes the power of the Governor to suspend or limit the sale, dispensing and transportation of firearms during a declared state of emergency.

Public Law 2011, chapter 626 was enacted as an emergency measure effective April 12, 2012.

LD 1861 An Act To Amend Statutory Post-conviction Review

PUBLIC 601

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-857

This bill is proposed by the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, chapter 55 and makes a number of changes to post-conviction review.

1. It replaces the outdated phrase "mental disease or defect" with the word "insanity" to be consistent with Title 15, section 103, Title 17-A, sections 39 and 40 and the Maine Rules of Criminal Procedure, Rule 11(a) and Rule 11A(h).
2. It expands the term "assigned justice" to also include "judge" to more accurately reflect to whom a post-conviction case may be assigned.
3. It makes a significant change regarding remedial relief for errors in calculations of good time, meritorious good time and similar deductions pursuant to Title 17-A, section 1253. Remedial relief relative to such administrative actions by the custodian is no longer obtainable by way of post-conviction review. Remedial relief, if any, must now be obtained by way of available administrative remedies pursuant to the Maine Administrative Procedure Act. Current administrative remedies provide for an adequate hearing process and for review of final custodian action pursuant to the Maine Rules of Civil Procedure, Rule 80B or Rule 80C, making access to post-conviction review relief unnecessary and duplicative.
4. It makes clear that remedial relief for errors in calculations of deductions relative to time detained pursuant to Title 17-A, section 1253, subsection 2 remains governed by post-conviction review. Unlike the calculations for deductions for good time and similar types of deductions, the custodian does not make the calculations but instead relies upon a statement from either the transporter of the prisoner or the attorney for the State.
5. In addition to the current unavailability of post-conviction review relative to a revocation of probation proceeding, it clarifies that such is also the case with respect to court proceedings involving the revocation of intensive supervision, supervised release for sex offenders and administrative release. Each such court proceeding is provided in the Maine Criminal Code with a statutorily created hearing process and appellate review, making access to post-conviction relief unnecessary and duplicative.