

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH 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 2013

STAFF:

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

MEMBERS:

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STATE OF MAINE

126TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th 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 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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where children are the primary users. This amendment applies the restriction to state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public instead of to privately owned property.

Enacted Law Summary

Public Law 2013, chapter 161 authorizes a municipality to prohibit a sex offender from residing within 750 feet of state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users.

LD 502 An Act To Allow County Jails To Apply Savings to Debt Service CARRIED OVER
without a Reduction in State Payments

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

This bill allows the county jails to apply savings from the county's correctional budget to jail debt service without a reduction in payments from the State Board of Corrections.

This bill was carried over to any special or regular session of the 126th Legislature by joint order, H.P. 1145, as amended by H-B (H-580) and H-C (H-582).

This amendment, which is the majority report of the committee, provides clarification by replacing the term "efficiencies" with "reduced jail expenditures."

LD 526 An Act To Allow for the Disposition of Certain Items Confiscated from ONTP
Criminals Convicted of Sexual Exploitation of Minors

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

This bill amends the law concerning criminal forfeiture of equipment used in the sexual exploitation of minors by extending the period in which a motion may be filed for forfeiture of the equipment, allowing a representative of a law enforcement agency to bring the motion, expanding the list of electronic equipment that may be seized and allowing the representative of a law enforcement agency to recommend to the court the final disposition or use of the forfeited equipment.

LD 527 An Act To Protect Vulnerable Adults from Exploitation PUBLIC 414

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION CAIN	OTP-AM	H-189

This bill provides that dementia and other cognitive impairments are included in the concept of being manifestly unable to make a reasonable judgement regarding conduct that constitutes a crime when considering consent as a defense. It further provides that consent cannot be induced by "undue influence," which is defined to mean misuse or manipulation of a trusting relationship of a dependent person who has significant limitations and who is 60 years of age or older, an incapacitated adult or a dependent adult. Finally, the bill increases the crime of the misuse of entrusted property to a felony when the victim is 60 years of age or older, incapacitated or dependent and the value

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of the property is greater than \$1,000 to be consistent with the crime of theft.

Committee Amendment "A" (H-189)

This amendment replaces the bill and does the following.

1. Current law provides that consent is not a defense against a charge involving a crime against the person or property of another if the consent is given by a person who for certain reasons, including mental illness or defect, is unable to make a reasonable judgment regarding the conduct that constitutes the crime. This amendment includes physical illness among these reasons and clarifies that mental illness or defect includes dementia and other cognitive impairments.
2. It creates a permissible inference under the Maine Rules of Evidence, Rule 303, that a defendant exercised unauthorized control of a property with the intent to deprive a person of that property if there is proof that the defendant possessed or controlled the property of a person who, by reason of physical illness or mental illness or defect, is manifestly unable or known by the defendant to be unable to make a reasonable judgment with respect to the disposition of that property or there is proof that the defendant obtained possession or control of the property by undue influence.
3. It defines "undue influence" to mean the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with an incapacitated adult or a dependent adult who is wholly or partially dependent upon that person or others for care or support.
4. It provides that a person who is guilty of misuse of entrusted property against a vulnerable person commits a Class C crime if the property is valued at more than \$1,000 but not more than \$10,000 and commits a Class B crime if the property is valued at more than \$10,000.
5. It defines "vulnerable person" to mean an incapacitated adult as defined in the Maine Revised Statutes, Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6.

Enacted Law Summary

Public Law 2013, chapter 414 does the following.

1. It includes physical illness among the existing reasons consent is not a defense against a charge involving a crime against the person or property of another if the consent is given by a person who for certain reasons, including mental illness or defect, is unable to make a reasonable judgment regarding the conduct that constitutes the crime. It also clarifies that mental illness or defect includes dementia and other cognitive impairments.
2. It creates a permissible inference under the Maine Rules of Evidence, Rule 303, that a defendant exercised unauthorized control of a property with the intent to deprive a person of that property if there is proof that the defendant possessed or controlled the property of a person who, by reason of physical illness or mental illness or defect, is manifestly unable or known by the defendant to be unable to make a reasonable judgment with respect to the disposition of that property or there is proof that the defendant obtained possession or control of the property by undue influence.
3. It defines "undue influence" to mean the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with an incapacitated adult or a dependent adult who is wholly or partially dependent upon that person or others for care or support.
4. It provides that a person who is guilty of misuse of entrusted property against a vulnerable person commits a Class C crime if the property is valued at more than \$1,000 but not more than \$10,000 and commits a Class B

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crime if the property is valued at more than \$10,000.

5. It defines "vulnerable person" to mean an incapacitated adult as defined in the Maine Revised Statutes, Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6.

LD 576 Resolve, To Protect Concealed Handgun Permit and Other Public Records Information on a Temporary Basis

**RESOLVE 1
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T MCCABE		S-2 JACKSON T

This bill was acted upon without reference to committee.

Current law requires the issuing authority of a concealed handgun permit to make a permanent record of each permit that includes the information contained in the permit itself and provides that the permanent record must be available for public inspection. This resolve places a moratorium on public access to such permanent records for a period of approximately 4 months, pending the Legislature's consideration of a measure to amend that section of law.

House Amendment "A" (H-1)

This amendment expands the moratorium established in the resolve on access to permanent records created by issuing authorities of concealed handgun permits to apply to business licenses, hunting licenses and fishing licenses. This amendment was not adopted.

Senate Amendment "A" (S-2)

This amendment removes language that prohibits the redistribution or dissemination of information received regarding handgun permits, clarifies that the moratorium on access does not apply to law enforcement officers and issuing authorities for criminal justice and permitting purposes and clarifies that applications for permits filed or granted after the effective date of the resolve and on or before April 30, 2013 are governed by the law in effect on and after April 30, 2013.

Enacted Law Summary

Resolve 2013, chapter 1 provides that until April 30, 2013, a permanent record that is created by an issuing authority of a concealed handgun permit is confidential and may not be made available for public inspection or copying. Resolve 2013, chapter 1 also provides that the confidential handgun permit information may be disclosed to law enforcement officers and issuing authorities for criminal justice and permitting purposes. Finally, it provides that after April 30, 2013, an application for a concealed handgun permit filed or granted on or after February 19, 2013 and on or before April 30, 2013 will be governed by the law in effect on and after April 30, 2013.

Resolve 2013, chapter 1 was finally passed as an emergency measure effective February 19, 2013.

LD 593 An Act To Require That Carbon Monoxide Detectors Be Installed inside Educational Facilities

**ACCEPTED
MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WERTS JACKSON T	ONTP OTP-AM	