

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

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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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Current law allows a court, when an offender defaults in payment of a fine imposed for a conviction of a Class D or Class E crime, to order the offender to perform community service work. The order may be issued only following a default hearing at which the offender is entitled to legal counsel.

This bill allows the court, prior to the default hearing, to offer the offender the option of performing community service work under the same terms and conditions as community service work ordered after the default hearing.

LD 1112 **An Act To Amend the Maine Juvenile Code and Related Statutes**

PUBLIC 234

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM ONTP	H-262

This bill makes the following changes to the Juvenile Code.

1. It provides that a person or entity performing a court-ordered mental health examination or evaluation of a juvenile may make a written demand for that juvenile's records or copies of those records held by another individual or entity.
2. It corrects an oversight to clarify that the juvenile crimes involving a useable amount of marijuana, drug paraphernalia, illegal transportation and certain types of intoxicating liquor need only be supported by a preponderance of the evidence rather than by evidence beyond a reasonable doubt as required for other juvenile crimes.
3. It adds a definition of "mental disease or defect" to the Maine Juvenile Code that is the same as the definition in the Maine Criminal Code for purposes of establishing lack of criminal responsibility by reason of insanity except it excludes the fact that a juvenile has not attained the level of mental or emotional development normally associated with an adult individual.
4. It removes duplicative or obsolete definitions for "he," "law enforcement officer," "organization" and "person."
5. It clarifies that the general principles contained in the Maine Revised Statutes, Title 17-A, Part 1, except specific provisions that are inconsistent with or inapplicable to the Maine Juvenile Code, are applicable to juvenile crimes.
6. It requires that a juvenile respond by way of an answer to a petition of allegation of a juvenile crime. A juvenile response may be through counsel.
7. It provides that, in addition to admitting the allegations of a petition, a juvenile or a juvenile's counsel may answer a petition by denying allegations, by asserting the absence of criminal responsibility by reason of insanity or by not contesting the allegations.
8. It allows a juvenile or a juvenile's counsel to answer by a denial and by an assertion of the absence of criminal responsibility by reason of insanity.
9. It allows a court to accept a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, when the case has been continued for investigation and for a bind-over hearing.
10. It provides that a court must enter an answer of denial if a juvenile or a juvenile's counsel declines to enter an answer.
11. It provides that a dispositional hearing will be set for a juvenile if the court accepts an answer admitting or not

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contesting the allegations of the petition.

12. It provides that if the answer entered by a juvenile is a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, or if the court declines to accept an answer admitting or not contesting the allegations of the petition, an adjudicatory hearing must be set.

13. It provides for a right to periodic review of a disposition of a juvenile found incompetent to proceed. It also clarifies that the commitment of a juvenile to the Department of Health and Human Services is a commitment to the custody of the Commissioner of Health and Human Services.

14. It changes the period of time within which a juvenile may take an appeal from the juvenile court to the Superior Court from five to seven days after the entry of an order of disposition. This is the same appeal period as is provided for a petition contesting extradition.

Committee Amendment "A" (H-262)

This amendment clarifies that a juvenile must personally appear in court to enter an answer to allegations in a petition. The bill provides that when an answer is entered or the court declines to accept an answer admitting or not contesting the allegations of a petition, an adjudicatory hearing must be set. This amendment removes the reference to an adjudicatory hearing and instead provides that the matter must be set for further proceedings in order to accommodate existing local procedures.

Enacted Law Summary

Public Law 2013, chapter 234 makes the following changes to the Juvenile Code.

1. It provides that a person or entity performing a court-ordered mental health examination or evaluation of a juvenile may make a written demand for that juvenile's records or copies of those records held by another individual or entity.
2. It corrects an oversight to clarify that the juvenile crimes involving a useable amount of marijuana, drug paraphernalia, illegal transportation and certain types of intoxicating liquor need only be supported by a preponderance of the evidence rather than by evidence beyond a reasonable doubt as required for other juvenile crimes.
3. It adds a definition of "mental disease or defect" to the Maine Juvenile Code that is the same as the definition in the Maine Criminal Code for purposes of establishing lack of criminal responsibility by reason of insanity except it excludes the fact that a juvenile has not attained the level of mental or emotional development normally associated with an adult individual.
4. It removes duplicative or obsolete definitions for "he," "law enforcement officer," "organization" and "person."
5. It clarifies that the general principles contained in the Maine Revised Statutes, Title 17-A, Part 1, except specific provisions that are inconsistent with or inapplicable to the Maine Juvenile Code, are applicable to juvenile crimes.
6. It requires that a juvenile respond by way of an answer to a petition of allegation of a juvenile crime. A juvenile response may be through counsel but must appear before the court in person.
7. It provides that, in addition to admitting the allegations of a petition, a juvenile or a juvenile's counsel may answer a petition by denying allegations, by asserting the absence of criminal responsibility by reason of insanity or by not contesting the allegations.
8. It allows a juvenile or a juvenile's counsel to answer by a denial and by an assertion of the absence of criminal responsibility by reason of insanity.

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- 9. It allows a court to accept a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, when the case has been continued for investigation and for a bind-over hearing.
- 10. It provides that a court must enter an answer of denial if a juvenile or a juvenile's counsel declines to enter an answer.
- 11. It provides that a dispositional hearing will be set for a juvenile if the court accepts an answer admitting or not contesting the allegations of the petition.
- 12. It provides that if the answer entered by a juvenile is a denial or an assertion of the absence of criminal responsibility by reason of insanity, or both, or if the court declines to accept an answer admitting or not contesting the allegations of the petition, an adjudicatory hearing must be set.
- 13. It provides for a right to periodic review of a disposition of a juvenile found incompetent to proceed. It also clarifies that the commitment of a juvenile to the Department of Health and Human Services is a commitment to the custody of the Commissioner of Health and Human Services.
- 14. It changes the period of time within which a juvenile may take an appeal from the juvenile court to the Superior Court from 5 to 7 days after the entry of an order of disposition. This is the same appeal period as is provided for a petition contesting extradition.

LD 1159 An Act To Address Human Trafficking, Sex Trafficking and Prostitution

PUBLIC 407

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill broadens the definition of "human trafficking offense" to include the Maine Criminal Code crimes of aggravated sex trafficking, sex trafficking and all other crimes in the Maine Revised Statutes, Title 17-A, chapters 11, 12 and 13 if accompanied by the withholding of government-issued immigration or identification documents or committed as part of a scheme to compel participation in prostitution or labor using specific types of threats.

This bill also makes changes in the Maine Criminal Code to address human trafficking and the subcategory of sex trafficking. Specifically, the bill:

- 1. Renames the crimes of aggravated promotion of prostitution and promotion of prostitution "aggravated sex trafficking" and "sex trafficking," respectively, in order to more accurately describe the defined criminal conduct;
- 2. Adds a provision to the crime of aggravated sex trafficking to include a victim who suffers from a mental disability;
- 3. Updates language in statute concerning aggravated sex trafficking regarding the terms "narcotic" and "alcoholic liquor;"
- 4. Amends the crime of sex trafficking to provide that a new violation after having been twice previously convicted of sex trafficking, engaging in prostitution, engaging a prostitute or patronizing prostitution of a minor, or attempts to commit those crimes or engaging in substantially similar conduct in another jurisdiction, constitutes a Class C crime;
- 5. Amends the crime of engaging in prostitution to permit the trial court at the time of sentencing to employ any