

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

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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.

institutional grounds must meet with a member of a multidisciplinary treatment team affiliated with the institution at least every 14 days and with a team member qualified to prescribe medication at least monthly.

LD 1438

**An Act To Implement Certain Recommendations of the Criminal Law
Advisory Commission Relative to the Maine Bail Code, Statutory
Post-conviction Review, the Maine Criminal Code and a Related Statute**

PUBLIC 266

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-456

This bill implements the Criminal Law Advisory Commission recommendations as follows.

1. Current law provides that a person who has been sentenced but granted a stay of execution to report to the court at a specific time and who fails to report commits a Class E crime or a Class C crime depending on the length of the original sentence imposed. Existing statute does not specify a culpable mental state for failure to report. This bill clarifies that a failure to report is a strict liability crime, which means that it does not include a culpable mental state element, making it equivalent in this respect to a failure to appear and a violation of a condition of release.
2. In the context of a failure to report, it amends language to ensure that circumstances in which a sentence is automatically stayed or automatically terminated are included in addition to circumstances in which the stay order provides a specific date.
3. It makes a technical correction to the affirmative defense language for failure to report.
4. Current law provides for an action for post-conviction review of a criminal judgment or of a post-sentencing proceeding following the criminal judgment when the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment. This bill provides that these restraints and impediments include community service work imposed by the challenged criminal judgment that has not been fully performed when the person has not inexcusably failed to complete the work within the time specified by the court.
5. It rectifies an oversight that occurred during the Second Regular Session of the 125th Legislature when the law granting grounds for relief to show that a challenged criminal judgment or sentence is unlawful or unlawfully imposed was amended.
6. It provides that a person who has taken an appeal from a judgment of not criminally responsible by reason of insanity may use the remedy of post-conviction review while the appeal is pending.
7. It makes a number of technical corrections to clarify provisions regarding the exhaustion of remedies with respect to appeals.
8. It amends the Class C version of the crime of visual sexual aggression against a child by adding that a person is guilty of the crime if the person engages in the prohibited activity for the purpose of causing affront or alarm. This language was included in the Class D version of the crime but omitted from the Class C version of the crime when both were enacted by Public Law 2003, chapter 711, Part B, section 4.
9. It amends the law that provides an affirmative defense to prosecution for prohibited contact with a minor to make clear that the defendant may not be the person whose consent with respect to contact with the minor provides the basis for the affirmative defense.
10. It provides that when an offender defaults on the payment of a fine and the court determines it to be excusable, in addition to the current statutory options of giving the offender additional time for payment or reducing the

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amount of each installment, the court may permit the offender to perform community service work if the community service work is supervised by a local sheriff or by a community confinement monitoring agency with which that sheriff has contracted.

11. It adds a person conducting research at a school of pharmacology to the list of persons who are authorized to possess, furnish and have control of scheduled or prescription drugs, controlled substances or hypodermic apparatuses.

Committee Amendment "A" (H-456)

This amendment removes the provision of the bill that amends the Class C version of the crime of visual sexual aggression against a child to include engaging in the prohibited activity for the purpose of causing affront or alarm.

The bill amends the law that provides an affirmative defense to prosecution for prohibited contact with a minor by making it explicit that the defendant may not be the person whose consent, with respect to contact with the minor, provides the basis for the affirmative defense. This amendment removes that provision.

Enacted Law Summary

Public Law 2013, chapter 266 implements the Criminal Law Advisory Commission recommendations as follows.

1. Current law provides that a person who has been sentenced but granted a stay of execution to report to the court at a specific time and who fails to report commits a Class E crime or a Class C crime depending on the length of the original sentence imposed. Existing statute does not specify a culpable mental state for failure to report. Public Law 2013, chapter 266 clarifies that a failure to report is a strict liability crime, which means that it does not include a culpable mental state element, making it equivalent in this respect to a failure to appear and a violation of a condition of release.

2. In the context of a failure to report, it amends language to ensure that circumstances in which a sentence is automatically stayed or automatically terminated are included in addition to circumstances in which the stay order provides a specific date.

3. It makes a technical correction to the affirmative defense language for failure to report.

4. Current law provides for an action for post-conviction review of a criminal judgment or of a post-sentencing proceeding following the criminal judgment when the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment. Public Law 2013, chapter 266 provides that these restraints and impediments include community service work imposed by the challenged criminal judgment that has not been fully performed when the person has not inexcusably failed to complete the work within the time specified by the court.

5. It rectifies an oversight that occurred during the Second Regular Session of the 125th Legislature when the law granting grounds for relief to show that a challenged criminal judgment or sentence is unlawful or unlawfully imposed was amended.

6. It provides that a person who has taken an appeal from a judgment of not criminally responsible by reason of insanity may use the remedy of post-conviction review while the appeal is pending.

7. It makes a number of technical corrections to clarify provisions regarding the exhaustion of remedies with respect to appeals.

8. It provides that when an offender defaults on the payment of a fine and the court determines it to be excusable, in addition to the current statutory options of giving the offender additional time for payment or reducing the amount of each installment, the court may permit the offender to perform community service work if the community service

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work is supervised by a local sheriff or by a community confinement monitoring agency with which that sheriff has contracted.

9. It adds a person conducting research at a school of pharmacology to the list of persons who are authorized to possess, furnish and have control of scheduled or prescription drugs, controlled substances or hypodermic apparatuses.

LD 1439 An Act To Repeal Certain Maine Criminal Code Provisions Addressing PUBLIC 194
So-called Bath Salts Containing Synthetic Hallucinogenic Drugs and
Instead To Define Them as Schedule W Drugs

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

This bill is proposed by the Criminal Law Advisory Commission. It repeals provisions criminalizing synthetic hallucinogenic drugs in chapter 45 of the Maine Criminal Code and in related provisions regarding asset forfeiture in the Maine Revised Statutes, Title 15 and regarding drug-related offenses in Title 22 and instead classifies these drugs as schedule W drugs. As schedule W drugs, they are treated the same as all other schedule W drugs for purposes of possession, trafficking and furnishing.

This bill also repeals an unnecessary provision of law that prohibits including a drug or substance in schedule W, X, Y or Z that is legally sold in the State without any federal or state requirements as to prescription and that is unaltered as to its form.

Enacted Law Summary

Public Law 2013, chapter 194 repeals provisions criminalizing synthetic hallucinogenic drugs in chapter 45 of the Maine Criminal Code and in related provisions regarding asset forfeiture in the Maine Revised Statutes, Title 15 and regarding drug-related offenses in Title 22 and instead classifies these drugs as schedule W drugs. As schedule W drugs, they are treated the same as all other schedule W drugs for purposes of possession, trafficking and furnishing.

Public Law 2013, chapter 194 also repeals an unnecessary provision of law that prohibits including a drug or substance in schedule W, X, Y or Z that is legally sold in the State without any federal or state requirements as to prescription and that is unaltered as to its form.

LD 1470 An Act To Develop Juvenile Assessment Centers ONTP

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

This bill develops guidelines for the establishment of juvenile assessment centers throughout the State. It provides that one center may be established in each prosecutorial district and that each center is responsible for providing collocated central intake and screening services for juveniles referred to the Department of Corrections. This bill directs centers to provide for the coordination and sharing of information among the participating agencies to facilitate the screening of and case processing for juveniles referred to the department and must provide a forum for the department to conduct predisposition assessments and evaluations of juveniles.

This bill establishes a juvenile assessment advisory board to govern each center and provides that the board must