

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
127<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE  
AND PUBLIC SAFETY**

August 2015

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# STATE OF MAINE

127<sup>TH</sup> 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 127<sup>th</sup> 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. An appendix provides a summary of relevant session statistics.

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 &amp; 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&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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 First Regular Session of the 127<sup>th</sup> Legislature is October 15, 2015. 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***

criminal and administrative penalties for operating while fatigued are consistent with criminal and administrative penalties for operating under the influence, including the application of those penalties to juveniles.

**Committee Amendment "A" (H-144)**

This amendment is the minority report of the committee. The amendment replaces the bill, which makes operating while fatigued a crime. The amendment instead adds operating while fatigued to the types of motor vehicle operation that are designated as failure to maintain control of a motor vehicle, which is a traffic infraction.

**LD 1002 An Act Regarding the Electronic Monitoring Program**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE	OTP-AM	H-220

This bill includes a General Fund appropriation of \$500,000 in fiscal year 2015-16 and fiscal year 2016-17 for the State Board of Corrections to fund the increased use of electronic monitoring.

**Committee Amendment "A" (H-220)**

This amendment adds to the bill a requirement that a defendant ordered to participate in the electronic monitoring program must pay the costs of participation directly to the organization that provides electronic monitoring unless to do so would impose an undue hardship on the defendant.

This bill was carried over on the Special Appropriations Table to any special or regular session of the 127th Legislature by joint order, S.P. 555.

**LD 1013 An Act To Prevent the Shackling of Pregnant Prisoners and Pregnant Juveniles**

**PUBLIC 315**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL MAKER	OTP-AM ONTP	S-302

This bill prohibits the use of restraints on a pregnant prisoner or detainee except in extraordinary circumstances. When restraints are used, the corrections official must document the extraordinary circumstance that required the use of restraints. The bill clarifies that when a pregnant prisoner or detainee is admitted to a medical facility or birthing center, a corrections officer may not be present in the room during labor or childbirth unless specifically requested by medical personnel. The bill also requires the adoption of policies on the treatment of pregnant prisoners and detainees and requires that information about those policies be disseminated to all prisoners and detainees.

**Committee Amendment "A" (S-302)**

This amendment is the majority report of the committee. The amendment replaces the bill. The amendment clarifies that the Commissioner of Corrections establishes mandatory minimum standards for using restraints applicable to pregnant prisoners and pregnant juveniles in jails by adopting routine technical rules. The amendment clarifies that notice of the rules is provided only to female prisoners and female juveniles. The bill places responsibility for certain provisions on corrections officials, and the amendment makes those provisions applicable to the jail administrator in a jail and the chief administrative officer in a state correctional facility.

**Enacted Law Summary**

*Joint Standing Committee on Criminal Justice and Public Safety*

Public Law 2015, chapter 315 prohibits the use of restraints on a pregnant prisoner or detainee except in extraordinary circumstances. When restraints are used, the the jail administrator or chief administrative officer in a state correctional facility must document the extraordinary circumstance that required the use of restraints. The law provides that when a pregnant prisoner or detainee is admitted to a medical facility or birthing center, a corrections officer may not be present in the room during labor or childbirth unless specifically requested by medical personnel. The law requires the Commissioner of Corrections to establish mandatory minimum standards for using restraints applicable to pregnant prisoners and pregnant juveniles in jails by adopting routine technical rules and to provide notice of those standards to female prisoners and female juveniles.

**LD 1029 An Act To Improve Maine's Juvenile Justice System**

**Veto Sustained**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION GERZOFSKY	OTP-AM OTP-AM	H-235

This bill directs juvenile community corrections officers, when determining alternatives based on preliminary investigations, and the court, when entering a dispositional order for an adjudicated juvenile, to consider that whenever possible and appropriate the juvenile be referred to participate in a program intended to increase community safety by reducing the likelihood of future illegal behavior by the juvenile, to hold the juvenile accountable to the juvenile's victims and the community and to assist the juvenile in becoming a responsible and productive member of society.

The bill prohibits the use of physical restraints on a juvenile during a court proceeding and specifies that restraints must be removed prior to the juvenile's appearance before the court unless a Juvenile Court Judge finds that use of restraints is necessary because the present behavior of the juvenile represents a current threat to that juvenile's safety or the safety of others in the courtroom; recent disruptive courtroom behavior of the juvenile has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on that juvenile or others; present behavior of the juvenile presents a substantial risk of flight from the courtroom; or less restrictive restraints are unavailable.

Prior to a juvenile's appearance in court, the court is directed to inquire of the transporting agency and the judicial marshal or other designated court security as to whether reasonable grounds exist for the use of physical restraints in a particular situation or for a particular juvenile. If the transporting agency or the judicial marshal or other designated court security raises a concern that reasonable grounds exist for the use of physical restraints, the burden at hearing is on the juvenile to show by a preponderance of the evidence that reasonable grounds for use of physical restraints do not exist or that a less restrictive alternative that will alleviate the need for physical restraints exists. The court is directed to permit testimony on the issue of whether the use of physical restraints is necessary in a particular situation or for a particular juvenile.

The bill also amends the provisions regarding the dissemination of certain juvenile court records to specify that dissemination may be allowed only with the consent of the court, after hearing, taking into consideration the purposes of the Maine Juvenile Code. The bill specifies that police records, juvenile community corrections officers' records and all other reports of social and clinical studies may not be open to inspection in cases not open to the general public, and in cases that are open to the general public those records may be open to inspection only with the consent of the court, after hearing, taking into consideration the purposes of the Maine Juvenile Code and the need of the person seeking to inspect the records to access the information through this process. The juvenile, counsel who represented the juvenile at the adjudicatory or dispositional hearing and the district attorney must be given notice of the hearing and an opportunity to be heard.

**Committee Amendment "A" (H-235)**

This amendment is the majority report of the committee. The amendment deletes the phrase "whenever possible