

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
128<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 2017

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# STATE OF MAINE

128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## 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 128<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.

*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 128<sup>th</sup> Legislature is Wednesday, November 1, 2017. 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*

**LD 252      An Act To Improve Safety in the Disposal of Expired Marine Flares**

**Veto Sustained**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J MIRAMANT D	OTP-AM ONTP	H-62

This bill establishes within the Department of Public Safety programs for the collection and disposal of expired marine flares and for public education regarding expired marine flares.

**Committee Amendment "A" (H-62)**

This amendment replaces the bill. The amendment provides for the State Fire Marshal to establish, within existing resources, a program of storage, collection and disposal of expired marine flares. The amendment requires the State Fire Marshal to accept from owners and fire departments expired marine flares and to dispose of the expired flares safely. The amendment provides for public education to be undertaken by the State Fire Marshal in collaboration with the Department of Agriculture, Conservation and Forestry, the Department of Inland Fisheries and Wildlife, the Department of Environmental Protection, the Department of Marine Resources and the Department of Public Safety.

**LD 321      An Act To Enhance Safety on School Property**

**Accepted Majority  
(ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COREY P VOLK A	ONTP OTP-AM	

This bill creates the Class E crime of criminal trespass on school property if a person who is not authorized to be in or on school property enters or remains in or on the property that is posted. The bill also prohibits a person from staying on school property after being asked not to enter or being asked to leave the property by the principal, principal's designee, member of the school staff or law enforcement officer.

**Committee Amendment "A" (H-25)**

This amendment is the minority report of the committee. This amendment removes from the bill the provision that allows a principal or the principal's designee or a member of the school staff to take into custody and detain a person believed to be committing criminal trespass on school property.

This amendment was not adopted.

**LD 332      An Act Regarding Service of Criminal Process on Electronic  
Communication Service Providers and Remote Computing Service  
Providers**

**PUBLIC 144  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-339

This bill contains recommendations of the Criminal Law Advisory Commission.

## ***Joint Standing Committee on Criminal Justice and Public Safety***

This bill is emergency legislation. Consistent with existing Maine and federal law, this bill makes explicit that a Maine search warrant or a Maine grand jury subpoena may compel production of records by a provider of electronic communication service or remote computing service, even if the provider is outside the State, and establishes the appropriate procedure for service of such legal process. Compelling the production of records will provide access to service provider records that often are critical to the investigation of crime, as criminals commonly use cell phones, computers and the Internet in connection with criminal activities. The federal Stored Communications Act, 18 United States Code, Section 2703(a), (b)(1)(A) and (c)(2) already expressly requires providers of electronic communication service and remote computing service to comply with state grand jury subpoenas for basic subscriber information and state search warrants for content information and location information. Likewise, under Maine law the authority to compel production of basic subscriber information with a grand jury subpoena already exists under the Maine Rules of Unified Criminal Procedure, Rule 17 and Rule 17A, and the authority to compel production of content information and location information with a search warrant already exists under the Maine Revised Statutes, Title 16, sections 642 and 648. This clarification is necessary to resolve uncertainty about the court's authority under Title 15, section 55 to issue search warrants for records in the possession of entities outside of Maine. Such uncertainty may impede the investigation of crimes in Maine and undermine the federal law that requires providers to comply with state search warrants and grand jury subpoenas. Emergency legislation is necessary to immediately clarify the court's authority to review requests for criminal process required for the investigation of alleged criminal activity in Maine.

### **Committee Amendment "A" (H-339)**

This amendment makes the following changes to the bill.

1. It specifies that the clerk who is authorized to receive service of a grand jury subpoena or search warrant is the commercial clerk.
2. It prioritizes the method of service of criminal process, specifying first priority as through the specific means identified by the electronic service provider or remote computing service provider.
3. It specifies that the provisions applicable to a search for records from a foreign entity provider apply to records that are in the possession or control of the foreign entity provider.
4. It provides a mechanism for a foreign entity provider or a domestic entity provider to obtain an extension beyond 14 days to reply to a search warrant through notice to the law enforcement officer who served the warrant. It strikes from the procedure the requirement that the foreign entity provider file a request for relief with the court.
5. It provides for production of the requested grand jury documents to the grand jury and provides that the prosecutor's or the grand jury's address must be included in the subpoena.
6. It provides in the mechanism for expedited production of records a way for the provider to request a 14-day period for return of the information if the only adverse result finding is for the reason of jeopardizing the investigation, undue delay of trial or a significantly detrimental consequence that is not immediate danger of death or serious physical injury, flight from prosecution, destruction of or tampering with evidence or intimidation of a potential witness.

### **Enacted Law Summary**

Public Law 2017, chapter 144 makes explicit that a Maine search warrant or a Maine grand jury subpoena may compel production of records by a provider of electronic communication service or remote computing service, even if the provider is outside the State, and establishes the appropriate procedure for service of such legal process. This law will provide access to service provider records that often are critical to the investigation of crime, as criminals commonly use cell phones, computers and the Internet in connection with criminal activities. The federal Stored

***Joint Standing Committee on Criminal Justice and Public Safety***

Communications Act, 18 United States Code, Section 2703(a), (b)(1)(A) and (c)(2) already expressly requires providers of electronic communication service and remote computing service to comply with state grand jury subpoenas for basic subscriber information and state search warrants for content information and location information. Likewise, under Maine law the authority to compel production of basic subscriber information with a grand jury subpoena already exists under the Maine Rules of Unified Criminal Procedure, Rule 17 and Rule 17A, and the authority to compel production of content information and location information with a search warrant already exists under the Maine Revised Statutes, Title 16, sections 642 and 648. This clarification is necessary to resolve uncertainty about the court's authority under Title 15, section 55 to issue search warrants for records in the possession of entities outside of Maine. Such uncertainty may impede the investigation of crimes in Maine and undermine the federal law that requires providers to comply with state search warrants and grand jury subpoenas.

The law specifies that the clerk who is authorized to receive service of a grand jury subpoena or search warrant is the commercial clerk. It prioritizes the method of service of criminal process, specifying first priority as through the specific means identified by the electronic service provider or remote computing service provider. It specifies that the provisions applicable to a search for records from a foreign entity provider apply to records that are in the possession or control of the foreign entity provider. It provides a mechanism for a foreign entity provider or a domestic entity provider to obtain an extension beyond 14 days to reply to a search warrant through notice to the law enforcement officer who served the warrant. It strikes from the procedure the requirement that the foreign entity provider file a request for relief with the court. It provides for production of the requested grand jury documents to the grand jury and provides that the prosecutor's or the grand jury's address must be included in the subpoena. It provides in the mechanism for expedited production of records a way for the provider to request a 14-day period for return of the information if the only adverse result finding is for the reason of jeopardizing the investigation, undue delay of trial or a significantly detrimental consequence that is not immediate danger of death or serious physical injury, flight from prosecution, destruction of or tampering with evidence or intimidation of a potential witness.

Public Law 2017, chapter 144 was enacted as an emergency measure effective June 8, 2017.

**LD 343      An Act To Prohibit the Discharge of a Firearm within 300 Feet of a State-owned Boat Launching Ramp**

**PUBLIC 69**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P MARTIN D	OTP-AM	S-52

This bill makes discharging a firearm within 300 feet of a state-owned boat launching ramp a Class E crime.

**Committee Amendment "A" (S-52)**

This amendment replaces the bill and provides that an agency of the State having jurisdiction over a state-owned boat launching ramp may post notice, in a prominent location at the boat launching ramp, that the discharge of a firearm is prohibited within 300 feet of the boat launching ramp. A person who discharges a firearm within 300 feet of a boat launching ramp that is posted in accordance with this provision commits a Class E crime.

**Enacted Law Summary**

Public Law 2017, chapter 69 provides that an agency of the State having jurisdiction over a state-owned boat launching ramp may post notice, in a prominent location at the boat launching ramp, that the discharge of a firearm is prohibited within 300 feet of the boat launching ramp. A person who discharges a firearm within 300 feet of a boat launching ramp that is posted in accordance with this provision commits a Class E crime.