

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH 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

128TH 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 128th 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 128th 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.

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dealer who loans the vehicle using loaner plates.

This amendment was not adopted.

LD 1091

**An Act To Implement Certain Recommendations of the Criminal Law
Advisory Commission Relative to the Maine Criminal Code and Related
Statutes**

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-361

This bill makes changes to the laws recommended by the Criminal Law Advisory Commission.

Part A does the following:

1. Amends the Maine Revised Statutes, Title 15, section 393, subsection 1-B by replacing the words "pending charging instrument" with the words "the charge that gave rise to the prohibition" to eliminate a potential ambiguity; and
2. Enacts as Title 15, section 1094-C a provision that makes it a Class C crime for a person arrested for an alleged murder and who is detained because a Harnish bail proceeding has not yet taken place, the proceeding has been waived in open court by the person or the proceeding has taken place and the person's conditional right to bail has been extinguished and bail has been denied by the court and who has been properly notified not to make direct or indirect contact with any specifically identified family or household member of the alleged victim of the murder for which the person is being detained to intentionally or knowingly make direct or indirect contact with any specifically identified family or household member of the alleged victim.

Part B clarifies provisions of the Criminal History Record Information Act as they apply to granted petitions for full and free pardons.

Part C does the following:

1. Rearranges into 2 subsections the content of Title 17-A, section 33. Subsection 1 contains the content of the current section 33, except that it deletes the words "unless the concurrent cause was clearly sufficient to produce the result and the conduct of the defendant was clearly insufficient." Subsection 2 contains a simplified test to be applied in the event concurrent causation is generated as an issue. It provides that, when a defendant's conduct may have operated concurrently with another cause, in addition to satisfying the "but for" test the defendant's conduct must have been sufficient by itself to produce the result; and
2. Amends Title 17-A, section 505, subsection 2 by adding to the definition of "public way" the words "a way upon which the public has access as invitees or licensees."

Part D allows the use of prior convictions for aggravated assault, elevated aggravated assault and elevated aggravated assault on a pregnant person, and like crimes in other jurisdictions, to be used to elevate the class of subsequent domestic violence crimes from Class D to Class C. The prior conviction may be used to enhance the current charge only if the State or other jurisdiction proved, in the prior case, that the defendant and victim were family or household members.

Part E does the following:

1. Amends Title 17-A, section 1101 by enacting definitions of "cocaine" and "heroin." The definition of "cocaine"

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mirrors that currently found in Title 17-A, section 1102, subsection 1, paragraph F. The definition of "heroin" as "any compound, mixture or preparation containing heroin (diacetylmorphine) in any quantity" is in response to State v. Pinkham, Sr., 2016 ME 59, 137 A. 3d 203; and

2. Repeals the definition of "cocaine" in Title 17-A, section 1102, subsection 1, paragraph F, because its content is moved to section 1101.

Part F of the bill does the following:

1. Amends Title 30-A, section 3821, subsection 3 to clarify that hotel and lodging house registers must be kept for 2 years and must be available for inspection by an agent of the authority that licenses the hotel or lodging house; and

2. Amends Title 34-A, section 1216, subsection 1, paragraph D to clarify that dissemination of certain information pertaining to a person receiving services from the Department of Corrections may be made to any criminal justice agency if necessary to carry out the "administration of criminal justice" as separately defined pursuant to the Criminal History Record Information Act and the Intelligence and Investigative Record Information Act, and to carry out the "administration of juvenile criminal justice" and the "administration of juvenile justice" as separately defined pursuant to the Maine Juvenile Code.

Committee Amendment "A" (H-361)

This amendment provides funding to the Maine Commission on Indigent Legal Services.

This bill was reported out of committee and then carried over to the next special regular session of the 128th Legislature on the Special Appropriations Table by joint order, S.P. 601.

**LD 1092 An Act To Exempt United States Military Recruiters from Paying Fees ONTP
for Criminal History Record Checks**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MADIGAN C CYRWAY S	ONTP	

This bill provides an exemption to recruiters for the Armed Forces of the United States from the fee charged by the State Bureau of Identification for criminal history record checks.

**LD 1128 Resolve, To Establish the Committee To Study the Processing of Died On
Evidence from Sexual Assault Test Kits Adjournment**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAUGHTRY M BELLOWS S	OTP-AM ONTP	H-253

This resolve establishes the Committee To Study the Processing of Evidence from Sexual Assault Test Kits. The resolve provides for an 11-member committee that will study the processing of evidence from sexual assault test kits and make recommendations and submit suggested legislation in a report to the Joint Standing Committee on Criminal Justice and Public Safety by December 6, 2017. The resolve authorizes the committee to seek funding contributions to partially or fully fund the costs of the study but does not make the work of the committee contingent on outside funding.

Committee Amendment "A" (H-253)