

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



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

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

October 2018

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STATE OF MAINE

128TH LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions 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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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 1048 An Act To Reclassify Certain Offenses and Increase the Efficiency of the Criminal Justice System

**Died On
Adjournment**

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

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature. It was again carried over to the Second Special Session by joint order S.P. 748; on the adjournment of the Second Special Session, the bill had not been reported out of committee.

This bill requires the use of the Uniform Summons and Complaint form for criminal violations of the Maine Revised Statutes, Titles 12, 17-A and 29-A and the Violation Summons and Complaint for civil violations of those titles. This bill requires the Violation Summons and Complaint form to be the same form that is currently used for traffic infractions and standardizes the use, including the issuance and disposition, of that form by law enforcement officers and the Maine Warden Service. This bill specifies that district attorneys are required to prosecute only criminal violations of the inland fisheries and wildlife laws and removes references to citations, which are no longer used by the warden service.

LD 1091 An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code and Related Statutes

**PUBLIC 432
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-361 S-522 HAMPER J

This bill was reported out of committee during the First Regular Session of the 128th Legislature and then carried over to the Second Regular Session on the Special Appropriations Table. It was again carried over, still on the Special Appropriations Table, to the Second Special Session by joint order S.P. 748.

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

Part A of the bill does the following:

1. It 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. It enacts as Title 15, section 1094-C a provision that makes it a Class C crime for a person arrested for an alleged murder to intentionally or knowingly make direct or indirect contact with any specifically identified family or household member of the alleged victim if that person 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.

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

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Part C does the following:

1. It 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. It 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. It amends Title 17-A, section 1101 by enacting definitions of "cocaine" and "heroin." The definition of "cocaine" 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. It 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. It 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. It 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 Record History 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.

Senate Amendment "A" To Committee Amendment "A" (S-522)

This amendment removes the General Fund appropriation for fiscal year 2017-18.

Enacted Law Summary

Public Law 2017, chapter 432 makes the following changes to or enacts the following provisions of the criminal

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laws:

1. It 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;
2. It enacts as Title 15, section 1094-C a provision that makes it a Class C crime for a person arrested for an alleged murder to intentionally or knowingly make direct or indirect contact with any specifically identified family or household member of the alleged victim if that person 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.
3. It clarifies provisions of the Criminal History Record Information Act as they apply to granted petitions for full and free pardons;
4. It 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;
5. It 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";
6. It 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;
7. It amends Title 17-A, section 1101 by enacting definitions of "cocaine" and "heroin." The definition of "cocaine" 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;
8. It repeals the definition of "cocaine" in Title 17-A, section 1102, subsection 1, paragraph F, because its content is moved to section 1101;
9. It 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;
10. It 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; and
11. It provides an appropriation to the Maine Commission on Indigent Legal Services of \$6000 for fiscal year 2018-19.

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Public Law 2017, chapter 432 was enacted as an emergency measure effective July 4, 2018.

LD 1146 Resolve, To Provide Wage Parity for Law Enforcement Officers in the Department of Corrections with Other Law Enforcement Officers ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREY A MAKER J	ONTP	

This resolve was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

In Resolve 2015, chapter 80, the salary schedules for certain law enforcement positions, including those in the Department of Public Safety, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, but not including the Department of Corrections, were adjusted upward by 12% to 18%. This resolve requires the salary schedules for law enforcement positions in the Department of Corrections to be adjusted upward by 15%.

LD 1168 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Victims' Bill of Rights Died On Adjournment

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU M HERBIG E		

This resolution was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature. It was again carried over to the Second Special Session by joint order S.P. 748; on the adjournment of the Second Special Session, this resolution had not been reported out of committee.

This resolution proposes to amend the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights for victims of crime. The purpose of this resolution is to place into the Constitution of Maine various rights regarding notification of public proceedings at which the victim has a right to be heard, the right to confer with the prosecution and the right to prompt and full restitution. This resolution requires a court to grant a request by the victim to enforce the rights of the victim and to provide a remedy for violations of the victim's rights, including the appeal of a sentence. This resolution does not provide a victim a cause of action for compensation or damages against the State or a political subdivision of the State, including the courts, or any officer, employee or agent of the State or a political subdivision of the State.

LD 1183 An Act To Expand Use of Electronic Monitoring in Domestic Violence, Sexual Assault and Stalking Cases ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE K DIAMOND B	ONTP	

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

The bill provides funding to expand the use of electronic monitoring as part of a coordinated response to domestic violence, sexual assault and stalking. It provides funds for victim advocates and case management and funds to