

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH 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 2019

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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 129th 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 129th Legislature is Thursday, September 19, 2019. 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 762 An Act Regarding Consent by a Motor Vehicle Operator to a Blood Test

**Died Between
Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R	OTP-AM ONTP	H-284 S-198 ROSEN K

This bill brings the implied consent provisions concerning operating under the influence into compliance with recent case law from the United States Supreme Court that requires a search warrant before taking a sample of blood or urine from a person suspected of operating under the influence.

Committee Amendment "A" (H-284)

This amendment is the majority report of the committee. The amendment replaces the bill and provides a new title. The amendment amends the criminal operating under the influence statutes for motor vehicle operators to:

1. Provide that refusal to submit to a blood test at the request of a law enforcement officer in the absence of a warrant is not a ground for imposition of a mandatory period of incarceration, does not constitute an operating under the influence offense for the purpose of requiring the imposition or enhancement of a mandatory minimum sentence of incarceration and is not admissible in evidence at a hearing or trial; and
2. Add to the warning given to a person being asked to submit to a test a statement that refusal to submit to a blood test at the request of a law enforcement officer in the absence of a warrant is not a ground for imposition of a mandatory period of incarceration.

Senate Amendment "A" To Committee Amendment "A" (S-198)

This amendment removes from the committee amendment wording regarding the admissibility of evidence at trial, correcting a drafting error in the committee amendment.

LD 767 An Act To Ensure the Availability of In-person Visitation in County Jails

PUBLIC 76

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R BELLOWS S	OTP OTP-AM	

This bill requires the sheriff of a county jail to provide for in-person visitation between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff. The bill authorizes a sheriff to restrict a particular prisoner to video-only visitation upon a determination that allowing in-person visitation for that prisoner may jeopardize the safety and security of the jail. The bill also requires the sheriff to provide opportunities for in-person visitation involving physical contact between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff.

Committee Amendment "A" (H-65)

This amendment is the minority report of the committee. The amendment authorizes, instead of requires as in the bill, the sheriff of a county jail to provide for in-person visitation between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff. The amendment also authorizes, instead of requires as in the bill, the sheriff to

Joint Standing Committee on Criminal Justice and Public Safety

provide opportunities for in-person visitation involving physical contact between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff.

This amendment was not adopted.

Enacted Law Summary

Public Law 2019, chapter 76 requires the sheriff of a county jail to provide for in-person visitation between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff. The law authorizes the sheriff to provide video-only visitation for all visitation at the jail or for in-person visitation involving physical contact between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff.

**LD 779 An Act To Improve the Definition of "Strangulation" in the Aggravated PUBLIC 91
Assault Laws**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLAXTON N	OTP-AM	S-47

This bill removes the requirement that the act of strangulation has to be intentional in order to be considered aggravated assault.

Committee Amendment "A" (S-47)

This amendment clarifies that, in order for the act of strangulation to be considered aggravated assault, the actor must intentionally, knowingly or recklessly apply pressure on another person's throat or neck.

Enacted Law Summary

Public Law 2019, chapter 91 clarifies in the law that, in order for the act of strangulation to be considered aggravated assault, the actor must intentionally, knowingly or recklessly apply pressure on another person's throat or neck.

**LD 788 An Act To Authorize the Use of Handheld Narcotics Analyzers Accepted Majority
(ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KEIM L STEWART T	ONTP OTP	

This bill provides that a law enforcement agency that has in its possession a drug or substance for analysis as a scheduled drug may, in addition to or instead of analysis of the drug or substance in a laboratory, submit the drug or substance for analysis by means of a handheld narcotics analyzer that has been evaluated and certified by the Department of Health and Human Services, Health and Environmental Testing Laboratory as reliable for field testing of scheduled drugs. The bill requires that a law enforcement officer who analyzes a drug or substance by means of a handheld narcotics analyzer in accordance with procedures adopted by the Health and Environmental Testing Laboratory must upon completion of the analysis issue a signed certificate stating the results of the analysis. The bill provides that such a certificate, when duly signed and sworn to by a person certified as qualified for this purpose by the Department of Health and Human Services under certification standards set by that department, is admissible in evidence in a court of the State, and gives rise to a permissible inference under the Maine Rules of