

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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STATE OF MAINE

129TH 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 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 1397 An Act Regarding the Admissibility of Certain Statements of Juveniles

PUBLIC 220

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MORALES V	OTP-AM	H-299

This bill amends the Maine Juvenile Code to provide that statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during an informal adjustment or during a restorative justice program or substance use disorder or mental health treatment program attended by the juvenile in connection with an informal adjustment are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed. The bill also removes a cross-reference to a provision of law regarding community resolution teams, which has been repealed.

Committee Amendment "A" (H-299)

This amendment replaces the bill and provides a new title. The amendment amends the Maine Juvenile Code to provide that statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during an informal adjustment or during a restorative justice program or made to a clinical provider during substance use disorder, sexual behavior or mental health assessment or treatment attended by the juvenile are not admissible in evidence during the State's case in chief at an adjudicatory hearing against that juvenile on a petition based on the same facts that caused the referral for informal adjustment, restorative justice, assessment or treatment. The amendment provides for similar protections in school disciplinary proceedings. The amendment adds a definition of "restorative justice program." The amendment also retains the provision of the bill that removes a cross-reference to a provision of law regarding community resolution teams, which has been repealed.

Enacted Law Summary

Public Law 2019, chapter 220 amends the Maine Juvenile Code to provide that statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during an informal adjustment or during a restorative justice program or made to a clinical provider during substance use disorder, sexual behavior or mental health assessment or treatment attended by the juvenile are not admissible in evidence during the State's case in chief at an adjudicatory hearing against that juvenile on a petition based on the same facts that caused the referral for informal adjustment, restorative justice, assessment or treatment. The law provides similar protections in school disciplinary proceedings. The law adds to the Juvenile Code a definition of "restorative justice program."

LD 1407 An Act To Revise and Recodify Certain Provisions of the Maine Criminal Code

**PUBLIC 113
EMERGENCY**

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

This bill, which was submitted by the Criminal Law Advisory Commission, recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3 and other portions of the Maine Criminal Code and amends other laws affected by this recodification and revision accordingly. The purpose of this bill is to reorganize certain portions of the Maine Criminal Code to be more logical and user-friendly while bringing the language into conformity with current drafting standards, clarifying current law and eliminating inconsistencies within Title 17-A. While much of the revision throughout this bill is intended to be technical in nature, the following changes are more substantive. This bill is an emergency measure.

PART A

Joint Standing Committee on Criminal Justice and Public Safety

Part A recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3 as follows:

1. Chapter 61, General Sentencing Provisions, which is the current chapter 47:

- A. Allows the court to accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative, the imposition of which is deferred;
- B. Specifies that, as with the Department of Corrections, the legal authority of jails to transfer individuals from one facility to another by agreement is not impaired by the provisions of chapter 61;
- C. Subjects to forfeiture a firearm that constitutes the basis for a conviction of aggravated unlawful operation of a methamphetamine laboratory;
- D. Clarifies that the maximum term of imprisonment for a Class D crime is less than one year; and
- E. Requires that a court terminate probation, administrative release or supervised release if the court determines that the previously imposed sentence and the new sentence must be served consecutively;

2. Chapter 63, Sentences of Imprisonment, which is the current chapter 51:

- A. Specifies that, in imposing a sentencing alternative that includes a term of imprisonment, the court is required to set a definite period of imprisonment;
- B. Specifies the steps of the sentencing process the court must take in imposing a sentence for the crime of murder;
- C. Specifies that the court must employ specific steps of the sentencing process when imposing a period of supervised release after imprisonment and determine the appropriate period of supervised release;
- D. Specifies that no portion of a term of imprisonment for murder may be suspended;
- E. Specifies that, unless the law that the individual is convicted of violating expressly provides that an authorized term of imprisonment may not be suspended and if the individual is eligible for probation or administrative release, a court may suspend the authorized term of imprisonment in whole or in part and accompany the suspension with a period of probation or administrative release. The period of probation may not exceed the maximum period of probation authorized for the crime, and the period of administrative release may not exceed one year;
- F. Clarifies that provisions regarding a previously imposed sentence when a new sentence is to be served consecutively apply to administrative release as well as probation;
- G. Clarifies that when an individual is committed to a Department of Corrections correctional facility the sentence commences on the date on which the individual is received into the correctional facility designated as the place of confinement by the Commissioner of Corrections or the commissioner's designee instead of designated solely by the commissioner;
- H. Does not retain the provision in current law prohibiting the court from resentencing a defendant if the sentences are consecutive as a matter of law;
- I. Includes administrative release in the provision prohibiting a court from imposing a sentence of imprisonment, not wholly suspended, to be served consecutively with any split sentence, or to any sentence

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including supervised release previously imposed or imposed on the same date, if the net result would be to have the individual released from physical confinement be on probation, administrative release or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence; and

J. Allows the court to rearrange the order of sentences;

3. Chapter 65, Fines, Fees, Assessments and Surcharges, gathers various provisions regarding fines, fees, assessments and surcharges from throughout Part 3 into one chapter. Specifically, chapter 65 does the following:

A. Subchapter 1, Fines, which is the current chapter 53:

- (1) Requires the court, in imposing a sentencing alternative that includes a fine, to set a specific amount of money;
- (2) Collects the current statutory exceptions to the maximum fine amounts based on the class of the crime and requires that the State plead and prove each of them. The definition and sentence hearing procedure for the pecuniary gain exception are also changed;
- (3) Specifies that, for purposes of a default hearing, "convicted person" includes an individual or individuals authorized to make disbursements from the assets of a convicted organization;
- (4) Subjects a person on administrative release to the provisions regarding reporting of default and motions to revoke based on failure to pay a fine; and
- (5) Treats the imposition of community service work for an unexcused default as a stand-alone court sanction instead of as a sentencing alternative as under current law; and

B. Subchapter 2, Fees, Assessments and Surcharges, which is the current chapters 49, 54-B, 54-F and 54-G:

- (1) Specifies that the provisions regarding failure to pay a county jail reimbursement fee apply to a person on administrative release as well as on probation;
- (2) Changes the credit that an individual committed for nonpayment of a reimbursement fee is given toward the payment of a reimbursement fee for each day of confinement that the individual is in custody to not be less than \$25 or more than \$100;
- (3) Specifies that a court may impose other surcharges and assessments that are outside the Maine Criminal Code; and
- (4) Specifies that the authority of the Supreme Judicial Court to impose fees, surcharges or assessments by administrative order or rule is not affected by the provisions of chapter 65;

4. Chapter 67, Conditional Release, contains the provisions of law regarding probation, administrative release, supervised release for sex offenders and deferred disposition with the following changes:

A. Subchapter 1, Probation, which is the current chapter 49:

- (1) Requires the court in imposing a sentencing alternative under section 1502 that includes a period of probation to set a definite period of probation;
- (2) Authorizes any court to rearrange the order of sentences; and

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(3) Authorizes a probation officer to offer a person who has violated probation in a noncriminal manner the option of participating in a public restitution program or treatment program administered through a correctional facility or county jail instead of commencing a probation revocation proceeding or residing at a county jail or, as under current law, a correctional facility, for a period of time not exceeding 90 days; and

B. Subchapter 2, Administrative Release, which is the current chapter 54-G:

(1) Allows a court to terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment;

(2) Requires the court, as a result of an administrative release revocation hearing, to respecify the place of imprisonment for both the portion of previously suspended sentence of imprisonment required to be served and any remaining suspended portion if necessary to carry out the intent of section 1805, subsection 1, paragraph D; and

(3) Does not retain the current provisions of law that specify a suspended sentence with administrative release commences on the date the person goes into actual execution of the sentence; and

C. Subchapter 3, Supervised Release for Sex Offenders, which is the current chapter 50, authorizes a court to terminate a period of supervised release that would delay commencement of a consecutive unsuspended term of imprisonment;

5. Chapter 71, Community Service Work, which is the current chapter 54-C:

A. Requires an individual who has been sentenced to perform a specified number of hours of community service work and who is in danger of default for failing to complete the work in the manner ordered by the court to request a modification to avoid the default. The court may modify its prior order as to the time for completion, the nature of the work to be performed or the entity for which the work is to be performed; and

B. Specifies the process for a default proceeding for an individual who has been sentenced to perform community service work who fails to complete the sentence, including a reporting process to the court, a motion and hearing process to adjudicate the default, which includes the right to counsel, and specific dispositional alternatives available to the court both in the case of an unexcused default and an excused default;

6. Chapter 75, Victims' Rights, which is the current chapter 48, provides a definition of "immediate family" of the victim; and

7. Chapter 81, Administration of Imposed Sentences of Imprisonment, contains the provisions of law regarding administration of imposed sentences of imprisonment, including the place of commitment and calculations of deductions for time detained prior to and after conviction, including discretionary deductions, and:

A. Establishes definitions of "jail" and "sentence of imprisonment" for purposes of the chapter;

B. Establishes a section for provisions that apply generally to sentences of imprisonment, such as deductions and how those deductions are applied to concurrent and consecutive sentences;

C. Specifies that detention in a mental health institution is considered the same as detention in a correctional facility, jail or local lockup for purposes of calculating deductions;

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D. Does not retain the current provision of law giving the attorney for the State the right to be heard at the time of sentence and to recommend a specific sentence or other disposition and requiring the court to consider any statements made by the attorney for the State, along with all other appropriate factors, in determining the sentence. It also does not retain the references to current chapter 48, Victims' Rights;

E. Clarifies that the restoration of certain deductions requires a determination that is in the discretion of the chief administrative officer of the correctional facility or the jail administrator; and

F. Requires that a person who is being detained for the conduct for which the sentence is imposed receives credit for time detained in a mental health institute.

PART B

Part B makes changes to the current law to reflect the changes made in Part A, including:

1. Adding new definitions of "concurrent sentence," "consecutive sentence," "individual," "jail" and "split sentence" for purposes of the Maine Criminal Code;
2. Specifying that the definitions of "day," "week," "month" and "year" apply for the purposes of imposing imprisonment or probation, administrative release or supervised release;
3. Specifying that the court, but only for an individual, may suspend all or a portion of a minimum fine or impose a lesser fine other than the mandatory fine for certain drug offenses, assault and operating under the influence if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty; and
4. For purposes of imposition of a fine based on the value of a scheduled drug that is the basis for a conviction, requiring the State to plead and prove the value of the scheduled drug.

PART C

Part C provides for the correction and update of other sections of law not touched in the bill, such as cross-references in the Maine Revised Statutes to provisions of law repealed in this bill.

Enacted Law Summary

Public Law 2019, chapter 113 recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3 and other portions of the Maine Criminal Code and amends other laws affected by the recodification and revision accordingly. The law reorganizes certain portions of the Maine Criminal Code to be more logical and user-friendly while bringing the language into conformity with current drafting standards, clarifying current law and eliminating inconsistencies within Title 17-A.

PART A

Part A recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3 as follows:

1. Chapter 61, General Sentencing Provisions, which is the current chapter 47:
 - A. Allows the court to accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative, the imposition of which is deferred;
 - B. Specifies that, as with the Department of Corrections, the legal authority of jails to transfer individuals

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from one facility to another by agreement is not impaired by the provisions of chapter 61;

C. Subjects to forfeiture a firearm that constitutes the basis for a conviction of aggravated unlawful operation of a methamphetamine laboratory;

D. Clarifies that the maximum term of imprisonment for a Class D crime is less than one year; and

E. Requires that a court terminate probation, administrative release or supervised release if the court determines that the previously imposed sentence and the new sentence must be served consecutively;

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A. Specifies that, in imposing a sentencing alternative that includes a term of imprisonment, the court is required to set a definite period of imprisonment;

B. Specifies the steps of the sentencing process the court must take in imposing a sentence for the crime of murder;

C. Specifies that the court must employ specific steps of the sentencing process when imposing a period of supervised release after imprisonment and determine the appropriate period of supervised release;

D. Specifies that no portion of a term of imprisonment for murder may be suspended;

E. Specifies that, unless the law that the individual is convicted of violating expressly provides that an authorized term of imprisonment may not be suspended and if the individual is eligible for probation or administrative release, a court may suspend the authorized term of imprisonment in whole or in part and accompany the suspension with a period of probation or administrative release. The period of probation may not exceed the maximum period of probation authorized for the crime, and the period of administrative release may not exceed one year;

F. Clarifies that provisions regarding a previously imposed sentence when a new sentence is to be served consecutively apply to administrative release as well as probation;

G. Clarifies that when an individual is committed to a Department of Corrections correctional facility the sentence commences on the date on which the individual is received into the correctional facility designated as the place of confinement by the Commissioner of Corrections or the commissioner's designee instead of designated solely by the commissioner;

H. Does not retain the provision in current law prohibiting the court from resentencing a defendant if the sentences are consecutive as a matter of law;

I. Includes administrative release in the provision prohibiting a court from imposing a sentence of imprisonment, not wholly suspended, to be served consecutively with any split sentence, or to any sentence including supervised release previously imposed or imposed on the same date, if the net result would be to have the individual released from physical confinement be on probation, administrative release or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence; and

J. Allows the court to rearrange the order of sentences;

3. Chapter 65, Fines, Fees, Assessments and Surcharges, gathers various provisions regarding fines, fees, assessments and surcharges from throughout Part 3 into one chapter. Specifically, chapter 65 does the following:

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A. Subchapter 1, Fines, which is the current chapter 53:

- (1) Requires the court, in imposing a sentencing alternative that includes a fine, to set a specific amount of money;
- (2) Collects the current statutory exceptions to the maximum fine amounts based on the class of the crime and requires that the State plead and prove each of them. The definition and sentence hearing procedure for the pecuniary gain exception are also changed;
- (3) Specifies that, for purposes of a default hearing, "convicted person" includes an individual or individuals authorized to make disbursements from the assets of a convicted organization;
- (4) Subjects a person on administrative release to the provisions regarding reporting of default and motions to revoke based on failure to pay a fine; and
- (5) Treats the imposition of community service work for an unexcused default as a stand-alone court sanction instead of as a sentencing alternative as under current law; and

B. Subchapter 2, Fees, Assessments and Surcharges, which is the current chapters 49, 54-B, 54-F and 54-G:

- (1) Specifies that the provisions regarding failure to pay a county jail reimbursement fee apply to a person on administrative release as well as on probation;
- (2) Changes the credit that an individual committed for nonpayment of a reimbursement fee is given toward the payment of a reimbursement fee for each day of confinement that the individual is in custody to not be less than \$25 or more than \$100;
- (3) Specifies that a court may impose other surcharges and assessments that are outside the Maine Criminal Code; and
- (4) Specifies that the authority of the Supreme Judicial Court to impose fees, surcharges or assessments by administrative order or rule is not affected by the provisions of chapter 65;

4. Chapter 67, Conditional Release, contains the provisions of law regarding probation, administrative release, supervised release for sex offenders and deferred disposition with the following changes:

A. Subchapter 1, Probation, which is the current chapter 49:

- (1) Requires the court in imposing a sentencing alternative under section 1502 that includes a period of probation to set a definite period of probation;
- (2) Authorizes any court to rearrange the order of sentences; and
- (3) Authorizes a probation officer to offer a person who has violated probation in a noncriminal manner the option of participating in a public restitution program or treatment program administered through a correctional facility or county jail instead of commencing a probation revocation proceeding or residing at a county jail or, as under current law, a correctional facility, for a period of time not exceeding 90 days; and

B. Subchapter 2, Administrative Release, which is the current chapter 54-G:

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(1) Allows a court to terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment;

(2) Requires the court, as a result of an administrative release revocation hearing, to respecify the place of imprisonment for both the portion of previously suspended sentence of imprisonment required to be served and any remaining suspended portion if necessary to carry out the intent of section 1805, subsection 1, paragraph D; and

(3) Does not retain the current provisions of law that specify a suspended sentence with administrative release commences on the date the person goes into actual execution of the sentence; and

C. Subchapter 3, Supervised Release for Sex Offenders, which is the current chapter 50, authorizes a court to terminate a period of supervised release that would delay commencement of a consecutive unsuspended term of imprisonment;

5. Chapter 71, Community Service Work, which is the current chapter 54-C:

A. Requires an individual who has been sentenced to perform a specified number of hours of community service work and who is in danger of default for failing to complete the work in the manner ordered by the court to request a modification to avoid the default. The court may modify its prior order as to the time for completion, the nature of the work to be performed or the entity for which the work is to be performed; and

B. Specifies the process for a default proceeding for an individual who has been sentenced to perform community service work who fails to complete the sentence, including a reporting process to the court, a motion and hearing process to adjudicate the default, which includes the right to counsel, and specific dispositional alternatives available to the court both in the case of an unexcused default and an excused default;

6. Chapter 75, Victims' Rights, which is the current chapter 48, provides a definition of "immediate family" of the victim; and

7. Chapter 81, Administration of Imposed Sentences of Imprisonment, contains the provisions of law regarding administration of imposed sentences of imprisonment, including the place of commitment and calculations of deductions for time detained prior to and after conviction, including discretionary deductions, and:

A. Establishes definitions of "jail" and "sentence of imprisonment" for purposes of the chapter;

B. Establishes a section for provisions that apply generally to sentences of imprisonment, such as deductions and how those deductions are applied to concurrent and consecutive sentences;

C. Specifies that detention in a mental health institution is considered the same as detention in a correctional facility, jail or local lockup for purposes of calculating deductions;

D. Does not retain the current provision of law giving the attorney for the State the right to be heard at the time of sentence and to recommend a specific sentence or other disposition and requiring the court to consider any statements made by the attorney for the State, along with all other appropriate factors, in determining the sentence. It also does not retain the references to current chapter 48, Victims' Rights;

E. Clarifies that the restoration of certain deductions requires a determination that is in the discretion of the chief administrative officer of the correctional facility or the jail administrator; and

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F. Requires that a person who is being detained for the conduct for which the sentence is imposed receives credit for time detained in a mental health institute.

PART B

Part B makes changes to the current law to reflect the changes made in Part A, including:

1. Adding new definitions of "concurrent sentence," "consecutive sentence," "individual," "jail" and "split sentence" for purposes of the Maine Criminal Code;
2. Specifying that the definitions of "day," "week," "month" and "year" apply for the purposes of imposing imprisonment or probation, administrative release or supervised release;
3. Specifying that the court, but only for an individual, may suspend all or a portion of a minimum fine or impose a lesser fine other than the mandatory fine for certain drug offenses, assault and operating under the influence if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty; and
4. For purposes of imposition of a fine based on the value of a scheduled drug that is the basis for a conviction, requiring the State to plead and prove the value of the scheduled drug.

PART C

Part C provides for the correction and update of other sections of law not touched in the bill, such as cross-references in the Maine Revised Statutes to provisions of law repealed in this bill.

Public Law 2019, chapter 113 was enacted as an emergency measure effective May 16, 2019.

LD 1408 An Act To Allow Law Enforcement Officers To Wear Insignia on Their Uniforms To Indicate That They Are Veterans

PUBLIC 221

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HERBIG E HARRINGTON M	OTP-AM	S-115

This bill allows a law enforcement officer employed by the State, a county or a municipality to wear insignia on the law enforcement officer's uniform to indicate that the law enforcement officer is a veteran of the Armed Forces of the United States. It directs the Department of Public Safety to adopt routine technical rules to implement the change in law.

Committee Amendment "A" (S-115)

This amendment replaces the bill. The amendment authorizes a law enforcement agency to allow a law enforcement officer who is a veteran of the Armed Forces of the United States and who is employed by the agency to wear insignia on the officer's uniform to indicate that the officer is a veteran.

Enacted Law Summary

Public Law 2019, chapter 221 authorizes a law enforcement agency to allow a law enforcement officer who is a veteran of the Armed Forces of the United States and who is employed by the agency to wear insignia on the officer's uniform to indicate that the officer is a veteran.