

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

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

May 2008

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Joint Standing Committee on Criminal Justice and Public Safety

LD 3 An Act To Strengthen "Permissible Inference" in the Law Concerning Dissemination of Sexually Explicit Material

DIED ON
ADJOURNMENT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-646

This bill changes the number of copies of sexually explicit material depicting minors from ten to two copies in order to give rise to a permissible inference under the Maine Rules of Evidence of intent to distribute. Possession of sexually explicit materials is a Class D crime, while dissemination of sexually explicit materials is a Class C crime.

Committee Amendment "A" (H-20)

This amendment replaces the bill. The amendment removes the emergency clause and preamble and specifies that, for purposes of dissemination of sexually explicit materials, possession of two or more copies of the same book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person who possesses those items has the intent to disseminate them.

LD 3 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-646)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-20). This amendment was never removed from the Special Appropriations Table and died on adjournment.

LD 68 An Act To Provide a Reward for Information Regarding the Murder of a Law Enforcement Officer

DIED ON
ADJOURNMENT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARLOW	OTP-AM	H-638

This bill provides that when there is reasonable cause to believe that a law enforcement officer has been murdered, the Governor shall, upon application in writing by the Attorney General or the district attorney in the county where the alleged crime was committed, offer a reward of \$25,000 for evidence that leads directly to a conviction for that murder. Upon proof that the terms of the reward offer have been complied with, the Governor shall direct the Treasurer to make payment of the reward.

Committee Amendment "A" (H-123)

This amendment replaces the bill. The amendment retains the \$25,000 reward for information that leads directly to a conviction for the murder of a law enforcement officer when there is reasonable cause to believe that the law enforcement officer has been murdered, but in the amendment the officer must have been murdered while in the performance of the officer's official duties. In such a case, the Governor shall, upon application in writing by the Attorney General or the district attorney for the county in which the alleged crime was committed, offer a reward of \$25,000 for evidence that leads directly to the conviction of the murderer under the Maine Revised Statutes, Title 17-A, sections 201 or 202. Upon satisfactory proof that the terms of the reward offer have been complied with, the Governor shall draw a warrant upon the Treasurer of State for the

Joint Standing Committee on Criminal Justice and Public Safety

payment of the reward. The amendment also moves this process from Title 17-A, the Maine Criminal Code, to Title 2, which deals with the powers and duties of the Governor.

LD 68 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-638)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-123). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 71 An Act To Amend the Laws Governing the Plea of Not Criminally Responsible by Reason of Insanity in Juvenile Cases

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-639

This bill creates a new sentencing alternative and process by which a juvenile is ordered committed after being found not criminally responsible by reason of insanity. The Juvenile Court shall immediately order the juvenile immediately committed to the custody of the Department of Health and Human Services to be placed in an appropriate facility for those with mental illness or mental retardation for care and treatment until the juvenile is no longer a threat to the juvenile or to others or until the juvenile's 18th birthday, when the juvenile must be transferred to an adult facility or released. Six months prior to the juvenile's 18th birthday the State Forensic Service shall issue a report reviewing the appropriateness of continued institutionalization or release. A committed juvenile will continue to attend age-appropriate schools and job skills training. The treatment for a committed juvenile includes rehabilitation, mental health counseling and medication management and family counseling. An annual review must be conducted for a committed juvenile, and the court may order the juvenile to remain committed or released upon conditions, if the court finds that the juvenile is no longer a threat to the juvenile or to others.

Committee Amendment "A" (H-248)

This amendment replaces the bill and does the following.

1. It clarifies definitions of the juvenile defense of not criminally responsible by reason of insanity by making language consistent with the defense as it applies to adult criminal matters.
2. It creates procedures similar to those that exist for adults found not criminally responsible by reason of insanity for the review by the juvenile court of a juvenile's placement, transfer, release and discharge from the custody of the Department of Health and Human Services.
3. It specifies that subsequent hearings for juveniles found not criminally responsible by reason of insanity may not be open to the public.
4. It provides a mechanism for notice to the victim when a juvenile is released from secure treatment.
5. It allocates the procedures governing findings and hearings related to juveniles found not criminally responsible by reason of insanity to the sequence of sections in the Maine Juvenile Code governing adjudicatory hearings, findings and adjudication, thereby clarifying that a finding of not criminally responsible by reason of insanity precludes adjudication of a juvenile crime.
6. It provides procedures by which a juvenile may enter an answer of not criminally responsible by reason of insanity alone or coupled with a denial of the charges.

Joint Standing Committee on Criminal Justice and Public Safety

7. It provides authority to the juvenile court to order a diagnostic evaluation of a juvenile who enters an answer of not criminally responsible by reason of insanity alone or coupled with a denial of the charges.
8. It provides that copies of treatment plans, reports and petitions must be distributed to all parties, including the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile has any.

LD 71 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-639)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-248). Committee Amendment "B" was not removed from the Special Appropriations Table and died on adjournment.

LD 149 An Act To Take into Account the Crime Committed That Facilitated a Sexual Assault

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM	H-647

This bill amends the sentencing laws regarding terms of imprisonment by specifying that if the State pleads and proves that a Class B or C crime was committed with the intent to facilitate a sexual assault, and the person is convicted of both the offense that facilitated the sexual assault and the sexual assault, the sentencing class for the crime that facilitated the sexual assault is one class higher than it would otherwise be. The bill also specifies that if the State pleads and proves that a Class A, B or C crime was committed with the intent to facilitate a sexual assault, and the person is convicted of both the offense that facilitated the sexual assault and the sexual assault, the court shall sentence the person to serve the terms of imprisonment consecutively.

Committee Amendment "A" (H-508)

This amendment replaces the bill and clarifies the intent by moving the new sentencing provisions proposed in the bill to the more appropriate sections of the Maine Revised Statutes, Title 17-A, sections 1252 and 1256. The amendment makes the ability to impose consecutive sentences discretionary instead of mandatory. The amendment also makes technical language changes to conform to the Maine Criminal Code.

LD 149 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-647)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-508). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 220 An Act To Clarify and Expand Maine Criminal Laws Related to Sexual Assault

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFKY SHERMAN	OTP-AM	H-648

Joint Standing Committee on Criminal Justice and Public Safety

The bill clarifies and expands criminal laws relating to gross sexual assault, sexual abuse of minors and unlawful sexual contact in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution and the offender either is, or will be, a teacher, employee or other school employee where the victim is enrolled or is a law enforcement officer in the jurisdiction where the student resides or is enrolled.

Committee Amendment "A" (H-93)

This amendment replaces the bill. The amendment clarifies that for purposes of sexual assault in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution, the law recognizes that a teacher or other school employee's instructional, supervisory or disciplinary authority over the student does not disappear during school vacations and summer recess. The teacher or other school employee may not raise as a defense to prosecution that the conduct occurred during a school vacation or summer recess if the teacher or other school employee maintained that status immediately prior to the vacation or recess. The amendment also specifies that the same standards be applied to law enforcement officers who are employees of or are assigned to perform duties at a private or public elementary, secondary or special education school, facility or institution.

LD 220 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-648)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-93). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 239 An Act To Provide a Felony Penalty for Assault on a Firefighter

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE	OTP-AM A ONTP B OTP-AM C	

A person who intentionally, knowingly or recklessly causes bodily injury to a law enforcement officer while that officer is in performance of official duties (Title 17-A §752-A) or to a medical care provider while the provider is providing emergency medical care (Title 17-A §752-C), the person is guilty of a Class C crime of assault. This bill creates a Class C assault for intentionally, knowingly or recklessly causing bodily injury to a firefighter if the assault occurs while the firefighter is performing official duties.

Committee Amendment "A" (H-21)

This amendment is the majority report of the Criminal Justice and Public Safety Committee. The amendment specifies that the Class C assault on a firefighter applies only in situations where the firefighter is performing official duties at the scene of a fire or other emergency.

LD 239 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-657)

This amendment strikes and replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment repeals the law that established the crime of committing assault on emergency medical care providers as a Class C crime. The repeal of this law means that assaults against emergency

Joint Standing Committee on Criminal Justice and Public Safety

medical care providers may be charged under the general assault statute under Title 17-A, section 207. Assault under Title 17-A, section 207 is a Class D crime, unless the victim is under 6 years of age. This amendment makes the penalty for committing an assault on an emergency medical care provider the same as the penalty for committing an assault on a firefighter. The amendment also replaces the title in order to reflect these changes. This amendment was not adopted.

Committee Amendment "C" (H-658)

This amendment is one of two minority reports of the Joint Standing Committee on Criminal Justice and Public Safety. The other minority report is ought not to pass. This amendment specifies that the provision that establishes assault on a firefighter as a Class C crime applies only when the firefighter is performing official duties at the scene of a fire or other emergency. This amendment was not adopted.

LD 280 An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-397

This bill creates a new Class B crime of operating a motor vehicle while under the influence 6 or more times. This new crime is not limited by the 10-year look back period and is subject to penalties including a fine of not less than \$3,000, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$3,500; a period of incarceration of not less than one year, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than one year and 3 months; and a court-ordered suspension of a driver's license for life.

Committee Amendment "A" (S-98)

This amendment specifies that the new Class B crime of operating a motor vehicle while under the influence 6 or more times is limited by a 15-year look back period, which is 5 years more than the current look back period for operating under the influence offenses but less than the lifetime look back proposed in the bill.

LD 280 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (S-397)

This amendment is the same as Committee Amendment "A" (S-98). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 372 An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains to Persons Who Furnish Drugs to Victims

PUBLIC 474

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM	S-398

In order to improve the ability to prosecute certain gross sexual assaults, this bill amends the crime of gross sexual assault by adding the element of furnishing drugs or intoxicants to a victim in order to substantially impair the victim's power to appraise or control the victim's sexual acts. Currently, a prosecutor must meet a higher standard by proving that the actor employed or administered the drugs or intoxicants to the victim. The bill also specifies that an actor cannot raise as a defense to gross sexual assault that the victim voluntarily consumed or allowed the administration of the drugs or intoxicants if the victim was 14 or 15 years of age.

Joint Standing Committee on Criminal Justice and Public Safety

Committee Amendment "A" (S-251)

This amendment clarifies that the definition of "furnish" is the same as that currently in the Maine Criminal Code.

LD 372 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (S-398)

This amendment clarifies that the definition of "furnish" is the same as that currently in the Maine Criminal Code.

Enacted Law Summary

Public Law 2007, chapter 474 improves the ability to prosecute certain gross sexual assaults by amending the crime of gross sexual assault to add the element of furnishing drugs or intoxicants to a victim in order to substantially impair the victim's power to appraise or control the victim's sexual acts. Currently, a prosecutor must meet a higher standard by proving that the actor employed or administered the drugs or intoxicants to the victim. Public Law 2007, chapter 474 also specifies that an actor cannot raise as a defense to gross sexual assault that the victim voluntarily consumed or allowed the administration of the drugs or intoxicants if the victim was 14 or 15 years of age.

LD 423 An Act To Ensure the Safety of the Public and of Victims of Sexual Assault

ONTP

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

This bill is an emergency bill that requires the court to issue a standing criminal restraining order that applies to persons convicted of sex offenses under the Maine Revised Statutes, Title 17-A, chapters 11 and 12. The standing criminal restraining order takes effect when the defendant is released from confinement or at the time of sentencing if no confinement is ordered and continues until modified or revoked by the court for good cause shown. The order must include, but is not limited to, enjoining the defendant from residing within 10 miles of the victim's residence, within 10 miles of where the offense occurred and within 1,000 feet of a school, day care or playground if there are fewer than 30,000 residents in that community. Violation of the order is a Class D crime.

LD 423 was carried over by joint order, H.P. 1369.

LD 424 An Act To Protect Children from Dangerous Drugs, Harmful Chemicals and Drug-related Violence

ONTP

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

This bill includes in the offense of "aggravated trafficking of scheduled drugs," (17-A §1105-A), trafficking in the presence of a child under 18 years. Current law aggravates the offense for trafficking with a person under 18. This bill also includes in the offense of "aggravated trafficking of scheduled drugs" the offense of trafficking at a residence at which a child of under 18 years of age resides and the basis for the offense is the manufacture or attempt to manufacture methamphetamine, 3, 4 - methylenedioxyamphetamine (MDMA), 3, 4 - methylenedioxy amphetamine (MDA), lysergic acid diethylamide (LSD) or fentanyl. Instead of a minimum mandatory sentence of 4

Joint Standing Committee on Criminal Justice and Public Safety

years for an aggravated trafficking offense that the current law provides, a person convicted under this new provision of manufacturing at a residence with children would be subject to a minimum 10 years of imprisonment.

Committee Amendment "A" (H-124)

This amendment establishes as an aggravating factor in the offense of "trafficking or attempting to traffick in a scheduled drug" manufacturing or an attempt to manufacture methamphetamine, 3, 4 - methylenedioxyamphetamine, 3, 4 - methylenedioxy amphetamine, lysergic acid diethylamide or fentanyl. This makes this offense a Class A crime, which is subject to the current minimum mandatory sentencing alternative of 4 years imprisonment for certain Class A drug offenses. Making the manufacturing of these drugs a Class A crime replaces the provision in the bill that would have made trafficking or attempting to traffick in a schedule W drug at a residence at which a child less than 18 years of age resides and the basis of the offense is manufacturing or an attempt to manufacture a Class A crime subject to a mandatory minimum sentence of 10 years imprisonment.

LD 446 An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness

**HELD BY
GOVERNOR**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM MAJ OTP-AM MIN	S-594 S-669 ROTUNDO

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes that the Joint Standing Committee on Criminal Justice do the following:

1. Review compliance and enforcement of sex offender registration laws and identify resources and methods to ensure that all persons required to register do register, verify and update their information as directed;
2. Using other states models for tiered risk assessment and other examples of sex offender classification to learn from, create and adopt a system of classification based on risk to be applied to each person required to register under the Sex Offender Registration and Notification Act of 1999 in order to classify sex offenders based on their risk of reoffending and the degree of likelihood that they pose a danger to the community;
3. Create and adopt processes to apply the risk assessment and evaluate its use so that due process concerns are met and each risk assessment analysis provides useful information to those in the criminal justice system and others who receive that information;
4. Educate and support law enforcement so that they can use the sex offender risk assessment information to best inform the public and better ensure public safety; and
5. Review the current list of registerable sex offenses and determine if changes to the current Maine sex offender registry and to the Maine sex offender registry website should be made.

LD 446 was carried over by joint order, H.P. 1369.

Committee Amendment "A" (S-594)

This amendment replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety.

Part A of the amendment makes the following changes to the Maine Criminal Code.

Joint Standing Committee on Criminal Justice and Public Safety

1. It amends the crime of prohibited contact with a minor by repealing the element that the person has a duty to register under the Sex Offender Registration and Notification Act of 1999 and by making the law applicable only to those persons convicted on or after June 30, 1992.
2. It repeals from the sentencing provisions the directive that a court order a person convicted of a sex offense or a sexually violent offense to satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. This change clarifies that the Legislature determines that a duty to register exists based on the conviction and that the court's duty is only to notify the person of that duty.
3. It repeals from the probation provisions the directive that a court attach as a condition of probation that a person convicted of a sex offense or a sexually violent offense satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. The court has discretion to order any condition of probation reasonably related to the rehabilitation of the convicted person or the public safety or security, including satisfying registration requirements if appropriate.

Part B of the amendment makes the following changes to the Sex Offender Registration and Notification Act of 1999.

1. It repeals and replaces the application section to specify that those persons sentenced in Maine as an adult or as a juvenile sentenced as an adult for a sex offense or sexually violent offense on or after January 1, 1982 but before June 30, 1992 must continue to register if they remained in execution of their sentence on September 1, 1998; if they have more than one conviction for a Class A sex offense or Class A sexually violent offense whether or not the convictions were on the same date; if, at the time of offense, they had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; or if, at the time of offense, they had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense. The application section continues to require all persons sentenced on or after June 30, 1992 for a sex offense or a sexually violent offense to comply with the registration requirements.
2. It repeals and replaces the application section to specify that those persons sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult on or after January 1, 1982 but before June 30, 1992 must register for an offense that contains the essential elements of a sex offense or sexually violent offense if that person remained in execution of that sentence on September 1, 1998; if that person has more than one conviction for a Class A sex offense or sexually violent offense whether or not the conviction was on the same date; if, at the time of offense, they had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; or if, at the time of offense, they had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense. The application section continues to require persons to register for a conviction, regardless of the date, if registration is required in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or would have been required pursuant to those laws had the person remained there. The statute continues to require registration for those convicted on or after June 30, 1992 for an offense that contains the essential elements of a sex offense or sexually violent offense. The amendment also clarifies that a person must register if the person was sentenced for a specified military, tribal or federal offense.
3. It defines the term "offender" as a person to whom the Sex Offender Registration and Notification Act of 1999 applies.
4. For purposes of establishing a standard for residence and for establishing that the name and birth of the person notified of the duty to register are the same as those of a person convicted of an offense requiring registration, it identifies when specified instances of proof give rise to permissible inferences under the Maine Rules of Evidence, Rule 303.

Joint Standing Committee on Criminal Justice and Public Safety

5. It amends the definition of "sex offense" by removing criminal restraint and all forms of kidnapping except kidnapping for which the actor knowingly restrains another person with the intent to inflict bodily injury upon the other person or subject the other person to sexual assaults prohibited pursuant to Title 17-A, chapter 11.
6. It amends the definition of "lifetime registrant" that pertains to persons classified as lifetime registrants because of having multiple convictions for sex offenses to clarify that the changes made by Public Law 2005, chapter 423 operate prospectively. For persons convicted and sentenced on or after September 17, 2005, the definition remains unchanged except for technical drafting changes. As used in that definition, the term "another conviction" includes a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if there is more than one victim or the convictions are for offenses based on different conduct or arising from different criminal episodes. Multiple convictions that result from or are connected with the same act or that result from offenses committed at the same time against one person are considered one conviction. For persons convicted and sentenced before September 17, 2005, the amendment changes the definition of "another conviction" to mean an offense for which sentence was imposed prior to the occurrence of the new offense.
7. It clarifies that a duty to register is not triggered by a court determination, but by and upon notification by a court, the Department of Corrections, the State Bureau of Identification or a law enforcement agency that a person has a duty to register under the Sex Offender Registration and Notification Act of 1999. In response to *State v. Johnson*, 2005 ME 46, the amendment also specifies that the State Bureau of Identification may correct the term of a registration erroneously assigned to an offender or registrant, as registration is not part of a criminal sentence. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.
8. It clarifies that an affirmative defense provided in the Sex Offender Registration and Notification Act of 1999 may be raised for just cause, which may include that the offender was not aware of the duty to register.
9. It clarifies that a certification made by the record custodian also may be made by the record custodian's designee.
10. It makes these proposed changes retroactive to January 1, 1982.

Part C adds a one-time appropriation for technology services.

Committee Amendment "B" (S-595)

This amendment replaces the bill and is the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment makes the same changes to the Maine Criminal Code in Part A as the majority report, except that it also amends the Maine Revised Statutes, Title 17-A, section 261 to specify that the law applies to persons who were convicted on or after January 1, 1982 of a Class B, C, D or E offense and without restriction as to time of conviction for persons convicted of a Class A offense.

Part B of this amendment also makes many of the same changes to the Sex Offender Registration and Notification Act of 1999 as the majority report, except for the following. Instead of removing registrants from the sex offender registry altogether, the amendment removes those persons identified in the majority report who would be eligible for removal from the registry and maintains those registrants' information in a manner that may be accessed only by law enforcement. The amendment prohibits the State Bureau of Identification from posting the names of these registrants on the Internet and from providing specific registration information about these registrants upon receiving a written request from a member of the public. Specifically, this means that notwithstanding Title 34-A, section 11221, subsection 9, paragraph A the State Bureau of Identification may not post a registrant's information on the Internet for public inspection and, notwithstanding subsection 9, paragraph B, the bureau may not provide a registrant's information upon receiving a written request for a registrant unless that registrant is sentenced in this

Joint Standing Committee on Criminal Justice and Public Safety

State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense on or after June 30, 1992; on or after January 1, 1982 and prior to June 30, 1992, if that person remained in execution of that sentence on September 1, 1998 or has more than one conviction in this State for a Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense whether or not the convictions occurred on the same date and at the time of offense, the person had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense and at the time of offense, the person had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense or unless the registrant is sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult at any time for an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there; on or after June 30, 1992 for an offense that contains the essential elements of a sex offense or sexually violent offense; on or after January 1, 1982 and prior to June 30, 1992 for an offense that contains the essential elements of a sex offense or sexually violent offense if that person remained in execution of that sentence on September 1, 1998, has more than one conviction in this State for a Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or Class A sexually violent offense whether or not the convictions occurred on the same date, at the time of offense had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense or at the time of offense had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense; or at any time for a military, tribal or federal offense requiring registration.

Part C of this amendment also adds an appropriations and allocations section.

This amendment was not adopted.

Senate Amendment "A" (S-669)

This amendment removes the appropriations and allocations section.

LD 856 An Act To Reduce Drunk Driving

PUBLIC 531

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROMLEY	OTP-AM	S-446

This bill allows the Secretary of State to reinstate the license of a person convicted of more than one violation of the operating under the influence laws if the person installs an approved ignition interlock device. An ignition interlock device is a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

This bill was carried over by joint order, H.P. 1369.

Committee Amendment "A" (S-446)

This amendment replaces the bill. The amendment increases license suspension periods for OUI offenses. The amendment allows the Secretary of State to reinstate the license of a person with 2 OUI offenses after 9 months of the 3-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 2 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. The amendment also allows the Secretary of State to reinstate the license of a

Joint Standing Committee on Criminal Justice and Public Safety

person with 3 OUI offenses after 3 years of the 6-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 3 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. A person with 4 or more OUI offenses must have an ignition interlock device installed on the motor vehicle the person operates for a period of 4 years after the full period of license suspension has expired and must also satisfy all other requirements for license reinstatement imposed by the Secretary of State in order to have a license reinstated.

As in the bill, the amendment defines an ignition interlock device as a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

The amendment specifies that a person whose license is reinstated contingent upon installation of an ignition interlock device and who operates a motor vehicle without an ignition interlock device or tampers with, disconnects or disables an ignition interlock device or circumvents the operation of an ignition interlock device commits a Class E crime, which is a strict liability crime as defined in the Maine Revised Statutes, Title 17-A, section 34, subsection 4-A. The sentence for this crime must include a period of incarceration of not less than 7 days and a fine of not less than \$500. These penalties may not be suspended. All other violations involving ignition interlock devices are traffic infractions.

The amendment removes from the bill the proposed increased motor vehicle liability insurance requirement for persons seeking early reinstatement of a driver's license by participating in the ignition interlock device program. The amendment increases the license reinstatement fee from \$35 to \$50 for persons whose suspension is for OUI or failure to submit to a test.

The amendment provides that a person may be classified as an habitual offender if the person's license is reinstated contingent on use of an ignition interlock device and that person operates a motor vehicle without an ignition interlock device; tampers with or circumvents the operation of an ignition interlock device; or requests or solicits another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle.

The amendment adds an application section, which specifies that this Act applies only to OUI offenses occurring after August 31, 2008. The amendment also adds an effective date of September 1, 2008, which gives the Secretary of State time to contract with an ignition interlock device vendor and prepare to administer and enforce the new program. The amendment adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2007, chapter 531 allows the Secretary of State to reinstate the license of a person with 2 OUI offenses after 9 months of the 3-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 2 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. Public Law 2007, chapter 531 also allows the Secretary of State to reinstate the license of a person with 3 OUI offenses after 3 years of the 6-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 3 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. A person with 4 or more OUI offenses must have an ignition interlock device installed on the motor vehicle the person operates for a period of 4 years after the full period of license suspension has expired and must also satisfy all other requirements for license reinstatement imposed by the Secretary of State in order to have a license reinstated.

Public Law 2007, chapter 531 specifies that a person whose license is reinstated contingent upon installation of an ignition interlock device and who operates a motor vehicle without an ignition interlock device or tampers with, disconnects or disables an ignition interlock device or circumvents the operation of an ignition interlock device commits a Class E crime, which is a strict liability crime as defined in the Maine Revised Statutes, Title 17-A,

Joint Standing Committee on Criminal Justice and Public Safety

section 34, subsection 4-A. The sentence for this crime must include a period of incarceration of not less than 7 days and a fine of not less than \$500. These penalties may not be suspended. All other violations involving ignition interlock devices are traffic infractions.

Public Law 2007, chapter 531 increases the license reinstatement fee from \$35 to \$50 for persons whose suspension is for OUI or failure to submit to a test.

Public Law 2007, chapter 531 provides that a person may be classified as an habitual offender if the person's license is reinstated contingent on use of an ignition interlock device and that person operates a motor vehicle without an ignition interlock device; tampers with or circumvents the operation of an ignition interlock device; or requests or solicits another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle.

Public Law 2007, chapter 531 applies only to OUI offenses occurring after August 31, 2008.

LD 1240 An Act To Implement the Recommendations of the Criminal Law Advisory Commission

PUBLIC 475

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-651

This bill is proposed by the Criminal Law Advisory Commission and does the following.

Section 1 of the bill repeals Title 14, section 3141, subsection 2 because experience has demonstrated that mandatory notice at the time of the defendant's initial appearance is ineffective in securing fine payment in full at the time of sentence imposition. Section 2 of the bill adds a requirement in section 3141, subsection 4 that the order issued by the court include a clear directive to the defendant that the defendant has a legal duty to move the court for a modification of time or method of payment of the fine to avoid a default.

Section 3 of the bill enacts the Maine Revised Statutes, Title 15, section 103-A, subsection 1, which directs that in the event a person who is found not criminally responsible by reason of insanity or is the recipient of a negotiated insanity plea as to a Maine crime is subject to an undischarged straight term of imprisonment or an unsuspended portion of a split sentence for a different Maine crime, the person must serve the undischarged term of imprisonment or the unsuspended portion of the split sentence before commencing the commitment to the Commissioner of Health and Human Services ordered by the court pursuant to section 103. Once having fully served the term of imprisonment or unsuspended portion of a split sentence, the person must commence the commitment notwithstanding being on conditional release.

Title 15, section 103-A, sub-section 2 also directs that in the event a person who has entered into the custody of the Commissioner of Health and Human Services pursuant to a commitment order either violates a condition of release and new institutional confinement is ordered or commits a Maine crime for which the person is subsequently convicted and the sentence imposed includes a straight term of imprisonment or a split sentence, the person must be placed in execution of that punishment and custody pursuant to the commitment order is automatically interrupted. In the event execution of that punishment is stayed pending appeal, the commitment will be automatically interrupted once that stay terminates and the person is placed in execution of the punishment. The commitment will be resumed when the new institutional confinement ordered or the straight term of imprisonment or the unsuspended portion of the split sentence imposed has been fully served. Title 15, section 103-A, subsection 3 directs that, while a person is imprisoned in execution of the punishment described in section 103-A, the county jail or state facility in which the person is incarcerated must provide the necessary mental health treatment required under law, including, when appropriate, seeking involuntary psychiatric hospitalization.

Joint Standing Committee on Criminal Justice and Public Safety

Section 4 of the bill conditions the present duty of prosecutors to inform law enforcement officers of the details of certain plea agreements reached before submitting that plea to the court on such notice being practicable. The bill adds Title 17-A, chapter 12 crimes (sexual exploitation of minors) to those triggering notice to law enforcement officers and, with respect to victim notification, it removes an incorrect reference to Title 17-A, section 1173 and replaces it with reference to Title 17-A, section 1172, subsection 1, paragraphs A and B (details of plea agreement shared before presented to court and notification of right to comment once plea agreement is submitted).

Section 5 of the bill adds the Class A crimes of aggravated attempted murder and elevated aggravated assault on a pregnant person to the juvenile crimes for which the juvenile has the burden of proof with respect to the finding of appropriateness required by the "bind over" statute.

Sections 6 and 7 of the bill amend Title 15, sections 3304 and 3314-B by replacing an outdated reference to Rule 42 of the Maine Rules of Criminal Procedure with a reference to Rule 66 of the Maine Rules of Civil Procedure.

Section 8 of the bill allows a law enforcement officer to make a warrantless arrest of any person who the officer has probable cause to believe has committed or is committing a violation of a requirement of administrative release when requested to do so by the attorney for the State.

Section 9 of the bill amends Title 17-A, section 32 to indicate that it is the State's burden to prove each element of the crime charged beyond a reasonable doubt.

Section 10 of the bill eliminates the current precondition for a conviction for a crime for which recklessness or criminal negligence suffices that the State, in addition to proving beyond a reasonable doubt that the person's belief is unreasonable, prove beyond a reasonable doubt that the person's holding of that belief "when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, is grossly deviant from what a reasonable and prudent person would believe in the same situation."

Section 11 of the bill adds for purposes of completeness in Title 17-A, section 351 a reference to a "complaint" in the second sentence. (A prosecution is commenced whenever a criminal complaint is filed, an indictment is returned or an information is filed (following waiver of an indictment) per Title 17-A, section 8, subsection 6, paragraph B.)

Sections 12 and 13 of the bill elevate the crime of theft by extortion to a Class B crime if the value of the property stolen is more than \$10,000, which is consistent with other crimes of theft.

Sections 14-23 of the bill add to the 4 basic Class D forms of home repair fraud 2 aggravated forms of each based on the pecuniary loss suffered by the victim as a result of the fraud. If the loss is more than \$10,000, the basic crime is elevated to Class B. If the loss is more than \$1,000 but not more than \$10,000, the basic crime is elevated to Class C. These changes are consistent with current penalties for other forms of theft.

Section 24 of the bill removes the current directive in Title 17-A, section 908, subsection 2 that the trial court rather than the jury determine the materiality question. Since whether a fact relating to the terms of the agreement or contract is material is an element of the crime of home repair fraud, a defendant has the constitutional right to have the jury rather than the trial court determine the question of materiality.

Section 25 of the bill clarifies the requirement that a victim's address be kept confidential. It provides a general rule of confidentiality. It allows victim address information to be disclosed to state, criminal justice, juvenile justice and victim services agencies in limited circumstances and to other persons or agencies upon request of the victim. It allows criminal justice personnel and the court to disclose such information upon victim request as part of a court order restricting contact with the victim, or when the defendant already knows that victim's current address or location. It allows an attorney for the State to withhold such information upon a good faith belief that disclosure may compromise victim safety. It prohibits disclosure of a victim request for notice of the defendant's release except as required to carry out the request. The bill protects the confidentiality of victim information but does not prevent

Joint Standing Committee on Criminal Justice and Public Safety

access to the information required for the administration of the criminal justice system, juvenile justice system or provision of victim services.

Sections 26-28 of the bill allow a person convicted of the Class E crime of nonsupport of dependents to be placed on probation under the supervision of the Department of Health and Human Services for a period extending to the time when the youngest dependent attains 18 years of age.

Committee Amendment "A" (H-479)

This amendment strikes from the bill the language that directs that in the event a person who is found not criminally responsible by reason of insanity or is the recipient of a negotiated insanity plea as to a Maine crime is subject to an undischarged straight term of imprisonment or an unsuspended portion of a split sentence for a different Maine crime, the person must serve the undischarged term of imprisonment or the unsuspended portion of the split sentence before commencing the commitment to the Commissioner of Health and Human Services ordered by the court pursuant to the Maine Revised Statutes, Title 15, section 103. Once having fully served the term of imprisonment or unsuspended portion of a split sentence, the person would have had to commence the commitment notwithstanding being on conditional release.

The amendment also strikes from the bill the language that directs that, while a person is imprisoned in execution of the punishment described in Title 15, section 103-A, the county jail or state facility in which the person is incarcerated must provide the necessary mental health treatment required under law, including, when appropriate, seeking involuntary psychiatric hospitalization.

The amendment repeals the last paragraph of Title 15, section 2115 because its substance, with modification, is best addressed in Title 4, section 51 since it relates to the concurrence required by the Law Court.

LD 1240 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-651)

This amendment strikes from the bill a correction of an outdated reference to Rule 42 of the Maine Rules of Criminal Procedure, as this correction was made in Public Law 2007, chapter 196, section 6. The amendment strikes from the bill language that elevates the crime of theft by extortion to a Class B crime if the value of the property stolen is more than \$10,000. The amendment also strikes from the bill the 2 new aggravated forms of home repair fraud.

The amendment also corrects a conflict created when Public Law 2007, chapter 340 and chapter 344 both affected the same provision of law.

Enacted Law Summary

Public Law 2007, chapter 475 amends provisions dealing with court procedure by repealing Title 14, section 3141, subsection 2, since mandatory notice at the time of a defendant's initial appearance has proven ineffective in securing fine payment in full at the time of sentence imposition and by adding a requirement in section 3141, subsection 4 that the order issued by the court include a clear directive to the defendant that the defendant has a legal duty to move the court for a modification of time or method of payment of the fine to avoid a default.

Public 2007, chapter 475 enacts a provision that directs that in the event a person who has entered into the custody of the Commissioner of Health and Human Services pursuant to a commitment order either violates a condition of release and new institutional confinement is ordered or commits a Maine crime for which the person is subsequently convicted and the sentence imposed includes a straight term of imprisonment or a split sentence, the person must be placed in execution of that punishment and custody pursuant to the commitment order is automatically interrupted. In the event execution of that punishment is stayed pending appeal, the commitment will be automatically interrupted once that stay terminates and the person is placed in execution of the punishment. The commitment will

Joint Standing Committee on Criminal Justice and Public Safety

be resumed when the new institutional confinement ordered or the straight term of imprisonment or the unsuspended portion of the split sentence imposed has been fully served.

Public 2007, chapter 475 conditions the present duty of prosecutors to inform law enforcement officers of the details of certain plea agreements reached before submitting that plea to the court on such notice being practicable. The bill adds crimes involving sexual exploitation of minors to those triggering notice to law enforcement officers and it corrects a reference in the victim notification provision.

Public 2007, chapter 475 allows a law enforcement officer to make a warrantless arrest of any person who the officer has probable cause to believe has committed or is committing a violation of a requirement of administrative release when requested to do so by the attorney for the State and amends Title 17-A, section 32 to indicate that it is the State's burden to prove each element of the crime charged beyond a reasonable doubt.

Public 2007, chapter 475 eliminates the current precondition for a conviction for a crime for which recklessness or criminal negligence suffices that the State, in addition to proving beyond a reasonable doubt that the person's belief is unreasonable, prove beyond a reasonable doubt that the person's holding of that belief "when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, is grossly deviant from what a reasonable and prudent person would believe in the same situation."

Public 2007, chapter 475 removes the current directive in Title 17-A, section 908, subsection 2 that the trial court rather than the jury determine the materiality question. Since whether a fact relating to the terms of the agreement or contract is material is an element of the crime of home repair fraud, a defendant has the constitutional right to have the jury rather than the trial court determine the question of materiality.

Public 2007, chapter 475 clarifies the requirement that a victim's address be kept confidential. It provides a general rule of confidentiality, which allows victim address information to be disclosed to state, criminal justice, juvenile justice and victim services agencies in limited circumstances and to other persons or agencies upon request of the victim. It allows criminal justice personnel and the court to disclose such information upon victim request as part of a court order restricting contact with the victim, or when the defendant already knows that victim's current address or location. It allows an attorney for the State to withhold such information upon a good faith belief that disclosure may compromise victim safety. It prohibits disclosure of a victim request for notice of the defendant's release except as required to carry out the request. Public 2007, chapter 475 protects the confidentiality of victim information but does not prevent access to the information required for the administration of the criminal justice system, juvenile justice system or provision of victim services.

Public 2007, chapter 475 allows a person convicted of the Class E crime of nonsupport of dependents to be placed on probation under the supervision of the Department of Health and Human Services for a period extending to the time when the youngest dependent attains 18 years of age.

Public 2007, chapter 475 also amends the Juvenile Code by adding the Class A crimes of aggravated attempted murder and elevated aggravated assault on a pregnant person to the juvenile crimes for which the juvenile has the burden of proof with respect to the finding of appropriateness required by the "bind over" statute.

LD 1241 An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code

PUBLIC 476

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-649

This bill is proposed by the Criminal Law Advisory Commission.

Joint Standing Committee on Criminal Justice and Public Safety

1. Section 1 adds a definition for "another jurisdiction" in subsection 3-B of section 2 of the Maine Criminal Code, so that this term has consistent meaning throughout the code. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Passamaquoddy Tribe and the Penobscot Nation when a tribe has acted pursuant to the Maine Revised Statutes, Title 30, section 6209-A, subsection 1, paragraph A or B and Title 30, section 6209-B, subsection 1, paragraph A or B, respectively. "Another jurisdiction" does not include any foreign country. The bill also amends various crimes and sentencing provisions by replacing inconsistent terminology with the new term "another jurisdiction."

2. Without modifying either the number of prior convictions currently required or the currently qualifying Maine convictions, the bill amends various crimes and sentencing provisions so that prior convictions uniformly include both the specifically identified Maine convictions as well as convictions for engaging in substantially similar conduct in another jurisdiction.

3. The bill replaces in numerous Title 17-A, chapter 45 drug provisions "convicted of an offense under this chapter punishable by a term of imprisonment of more than one year" with "one or more prior convictions for a Class A, B or C offense under this chapter" to clarify that the qualifying Maine chapter 45 convictions include Class C crimes. The bill also replaces in numerous chapter 45 provisions "convicted of an offense under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined by this chapter, and punishable by a term of imprisonment of more than one year" with "convicted of engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter or another jurisdiction."

LD 1241 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "A" (H-314)

This amendment removes and replaces a bill section to reflect a change to the law already made this session. This amendment was not adopted.

Committee Amendment "B" (H-649)

This amendment removes and replaces a bill section to reflect a change to the law made in the First Regular Session of the 123rd Legislature.

Enacted Law Summary

Public Law 2007, chapter 476 amends the Criminal Code to ensure uniform treatment of prior convictions.

Public Law 2007, chapter 476 adds a definition for "another jurisdiction" in subsection 3-B of section 2 of the Maine Criminal Code, so that this term has consistent meaning throughout the code. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Passamaquoddy Tribe and the Penobscot Nation when a tribe has acted pursuant to the Maine Revised Statutes, Title 30, section 6209-A, subsection 1, paragraph A or B and Title 30, section 6209-B, subsection 1, paragraph A or B, respectively. "Another jurisdiction" does not include any foreign country.

Without modifying either the number of prior convictions currently required or the currently qualifying Maine convictions, Public Law 2007, chapter 476 amends various crimes and sentencing provisions so that prior convictions uniformly include both the specifically identified Maine convictions as well as convictions for engaging in substantially similar conduct in another jurisdiction.

Public Law 2007, chapter 476 replaces in numerous Title 17-A, chapter 45 drug provisions "convicted of an offense under this chapter punishable by a term of imprisonment of more than one year" with "one or more prior convictions for a Class A, B or C offense under this chapter" to clarify that the qualifying Maine chapter 45 convictions include

Joint Standing Committee on Criminal Justice and Public Safety

Class C crimes. Public Law 2007, chapter 476 also replaces in numerous chapter 45 provisions "convicted of an offense under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined by this chapter, and punishable by a term of imprisonment of more than one year" with "convicted of engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter or another jurisdiction."

LD 1512 An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM MAJ ONTP MIN	S-433

Current law provides no statute of limitations for the prosecution of the juvenile crimes of gross sexual assault and unlawful sexual contact if the victim was under 16 years of age and the juvenile accused of the crime was at least 16 years of age, if the State can present DNA evidence regarding the offense. If the accused juvenile is under 16 years of age, the prosecution must be brought within 6 years after it is committed. This bill extends the statute of limitations to 12 years when the victim was under 16, the juvenile crime was unlawful sexual contact or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, even if the State cannot present DNA evidence.

LD 1512 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "A" (S-203)

This amendment is the majority report of the committee. The amendment extends the statute of limitations to 10 instead of 12 years as proposed in the bill when the victim was under 16 years of age, the juvenile crime was unlawful sexual contact or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, regardless if DNA evidence is available.

The amendment also adds an application section to specify that this change in the statute of limitations applies only to juvenile crimes committed on or after the effective date of the bill and to juvenile crimes for which the prosecution has not yet been barred by the previous statute of limitations in force on the effective date of the bill.

House Amendment "A" (H-590)

This amendment changes the statute of limitations to 10 years, as done in Committee Amendment "A," but restricts the application to juvenile crimes of gross sexual assault and unlawful sexual contact, except for Title 17-A, section 255-A, paragraph A.

Committee Amendment "B" (S-433)

This amendment is the majority report of the committee. The amendment extends the statute of limitations to 10 years instead of 12 years as proposed in the bill for crimes in which the victim was under 16 years of age, the juvenile crime was unlawful sexual contact that involved penetration or gross sexual assault and the accused juvenile was under 16 years of age at the time of the crime, regardless of whether DNA evidence is available.

The amendment also adds an application section to specify that this change in the statute of limitations applies only to juvenile crimes committed on or after the effective date of the Act and to juvenile crimes the prosecution of which has not yet been barred by the previous statute of limitations in force on the effective date of the Act.

Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

Joint Standing Committee on Criminal Justice and Public Safety

LD 1674 **An Act To Amend the Habitual Offender and Felony Operating Under the Influence Laws**

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-399

The bill makes several changes in the laws applying to persons driving with suspended or revoked licenses or persons charged with the most serious driving offenses, such as felony operating under the influence (OUI) and manslaughter.

1. It provides that a driver charged with operating after suspension (OAS) will not be authorized to plead guilty to the court clerk without a formal court appearance, and must appear before a judge for sentencing. The judge will then impose a sentence based upon the driver's record and the circumstances of the offense.
2. It amends the Maine Revised Statutes, Title 29-A, section 2411, subsection 1-A, paragraph D in response to a recent court decision. In *State v. Dwayne B. Stevens*, 2007 ME 5, the Maine Supreme Judicial Court determined that Title 29-A, section 2411, subsection 1-A, paragraph D has a 10-year limitation on the use of prior convictions for manslaughter and Class B or C operating under the influence. To address that determination, this bill specifies that Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of the offenses in Title 29-A, section 2411, subsection 1-A, paragraph D, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years. The section also incorporates a reference to the new Class B OUI offense enacted in 2006.
3. It increases the sentencing class in OAS for drivers whose licenses have been suspended as a result of convictions in which a death resulted: Class A manslaughter, Class B OUI and Class B OAS. Under current law the OAS offense is only a Class E crime.
4. It clarifies that a court looks back 10 years in determining whether to impose the mandatory fines applying to ordinary OAS cases.
5. It gives courts authority to revoke the driver's license as part of the sentence for an adult or juvenile manslaughter defendant. Under current law only the Secretary of State may revoke a driver's license upon a manslaughter conviction. The court will be authorized to revoke a license for at least a 5-year period, but must also notify the Secretary of State, who may revoke the license for a longer period under Title 29-A, section 2454, subsection 2.
6. It clarifies a provision that was added by Public Law 2005, chapter 606. The current language in Title 29-A, section 2557-A, subsection 1, paragraph B would subject a driver to prosecution for a Class C habitual offender offense even if the driver's previous record did not include such a conviction and the person's license is currently suspended instead of revoked as a habitual offender. The intent of the Public Law 2005, chapter 606 change was to specify that once a person is a felon, meaning the most serious habitual offender under the driving laws, the person continues to be a significant offender under those laws even when the person's license is suspended rather than revoked. The language in the bill makes this clear.
7. It rewrites the sentencing provisions of the habitual offender statute to make them consistent with the format in the aggravated operating after habitual offender revocation law added by Public Law 2005, chapter 606, while adding references to former Title 29-A, section 2557 that were inadvertently omitted from chapter 606.
8. It amends Title 29-A, sections 2557-A and 2558 to make the treatment of multiple offenses consistent with other prior conviction language. The bill adds language to each section to specify that when more than one offense or

Joint Standing Committee on Criminal Justice and Public Safety

violation arises from the same incident, the offense or violations are treated as one offense.

9. It adds a reference to Title 29-A, section 2411 in 2 portions of the aggravated habitual offender laws enacted in Public Law 2005, chapter 606. A reference to prior OUI conviction was included in one sentencing provision of chapter 606 but inadvertently omitted from other provisions.

Committee Amendment "A" (S-83)

This amendment adds an emergency preamble and emergency clause to the bill to ensure that omissions in changes to the operating after suspension and habitual offender laws enacted pursuant to Public Law 2005, chapter 606 are immediately corrected. The amendment also clarifies that the Secretary of State's authority to impose license revocation is not changed. If the court fails to revoke a license for criminal homicide or attempted criminal homicide, the Secretary of State shall impose a 5-year revocation, unless a longer revocation is imposed under the Maine Revised Statutes, Title 29-A, section 2454, subsection 2.

Committee Amendment "B" (S-399)

This amendment is the same as Committee Amendment "A" (S-83). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 1873 An Act To Amend the Laws Governing Stalking

PUBLIC 685

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	S-400 S-672 ROTUNDO

The bill amends the stalking laws by expanding the prohibited conduct and providing for additional aggravating factors that elevate an offense to a Class C crime. Current law specifies that a person is guilty of stalking if the person intentionally or knowingly engages in a course of conduct directed at another specific person that would in fact cause both a reasonable person and that other specific person to suffer intimidation or serious inconvenience, annoyance or alarm; to fear bodily injury or to fear bodily injury to a member of that person's immediate family; or to fear death or to fear the death of a member of that person's immediate family. The bill expands the course of conduct to include that conduct directed at or concerning a specific person that would cause a reasonable person to suffer serious inconvenience or emotional distress; to fear bodily injury or to fear bodily injury to a close relation; to fear death or to fear the death of a close relation; to fear damage or destruction to or tampering with property; or to fear injury to or the death of an animal owned by or in the possession and control of that specific person. These instances of conduct would remain Class D crimes, and the provision requiring a mandatory sentence of imprisonment in the current law is repealed.

Current law also makes the crime of stalking a Class C offense if the person violates any of the current versions of stalking in 17-A, section 210-A, subsection 1, paragraph A, subparagraphs (1)-(3) (described above) and has 2 or more prior convictions for stalking. The bill expands the aggravated course of conduct for Class C stalking to include a person who violates paragraph A, which includes subparagraphs (1)-(3) as amended and new subparagraphs (4) and (5) and, at the time of the offense: violates a condition of a court order in this State or any other jurisdiction in effect at the time of the crime that prohibits the actor from having contact with the person being stalked; has one or more prior convictions under this section or one or more prior convictions for engaging in substantially similar conduct to that contained in this section in any other jurisdiction; has one or more prior convictions in this State or in any other jurisdiction for a crime involving threats of violence or violence against the person being stalked; or has 2 or more prior convictions for any combination of offenses under the following: Title 5, section 4659 ; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order issued by any other jurisdiction; or a court-approved consent agreement. The bill also repeals the mandatory sentences in current law for Class C stalking

Joint Standing Committee on Criminal Justice and Public Safety

and specifies that for purposes of prior convictions, the convictions may have occurred at any time.

Current law describes "course of conduct" as repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct directed at or toward a person. For purposes of this section, "conveying oral or written threats" includes, but is not limited to, communicating or causing a communication to be initiated by mail or by mechanical or electronic means. For purposes of this section, "course of conduct" also includes, but is not limited to, gaining unauthorized access to personal, medical, financial or other identifying information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute. The bill amends the definition of "course of conduct" to mean 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property. "Course of conduct" also includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information.

Current law defines "immediate family" as a spouse, parent, child, sibling, stepchild, stepparent or any person who regularly resides in the household or who within the prior 6 months regularly resided in the household, and the bill strikes this term and definition and replaces it with "close relation", which means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent or , grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household, coworker or any person with a significant personal relationship to the person being stalked.

The bill strikes the current definition of repeatedly (2 or more times) and adds 2 new definitions: "emotional distress", which means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of emotional distress or a mental health diagnosis; and "serious inconvenience", which means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct. "Serious inconvenience" includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

In addition to making changes to the elements of the crime of stalking, the bill amends Title 17-A section 1252 (imprisonment for crimes other than murder) to require judges to give special weight in sentencing to the fact that a Class C or higher crime was committed by a person while that person was stalking a victim.

The bill also adds an unallocated section describing the legislative intent of capturing all stalking activity, regardless of the method used by the stalker, of better protecting victims and authorizing effective criminal intervention before stalking behavior results in serious physical and emotional harm and increasing penalties for escalating stalking behavior.

Committee Amendment "A" (S-199)

This amendment changes "any other jurisdiction" to "another jurisdiction" to be consistent with the Maine Criminal Code. The amendment removes the term "coworker" from the definition of "close relation," while adding persons with professional relationships. The amendment also strikes the last sentence of the Maine Revised Statutes, Title 17-A, section 1252, subsection 5-D, which would have prohibited courts from suspending that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence in the 3rd step in the sentencing process. The amendment also strikes 2 words in the legislative intent section.

Committee Amendment "B" (S-400)

This amendment is the same as Committee Amendment "A" (S-199).

Joint Standing Committee on Criminal Justice and Public Safety

Senate Amendment "A" (S-672)

This amendment strikes from the bill provisions that expanded the prohibited conduct that could be used as aggravating factors to elevate a stalking offense from a Class D crime to a Class C crime. Specifically, the amendment states that a person is guilty of Class C stalking if that person violates the Maine Revised Statutes, Title 17-A, section 210-A, subsection 1, paragraph A and has 2 or more prior convictions in this State or in another jurisdiction. The amendment also adds convictions for a violation of Title 22, section 4036 to the definition of "prior conviction." The amendment also strikes the appropriations and allocations section.

Enacted Law Summary

Public Law 2007, chapter 685 amends the stalking laws by expanding the course of conduct that defines stalking to include that conduct directed at or concerning a specific person that would cause a reasonable person to suffer serious inconvenience or emotional distress; to fear bodily injury or to fear bodily injury to a close relation; to fear death or to fear the death of a close relation; to fear damage or destruction to or tampering with property; or to fear injury to or the death of an animal owned by or in the possession and control of that specific person. These instances of conduct remain Class D crimes, and the provision requiring a mandatory sentence of imprisonment for these crimes is repealed. Public Law 2007, chapter 685 also expands the stalking laws by specifying that a person is guilty of Class C stalking if that person violates the Maine Revised Statutes, Title 17-A, section 210-A, subsection 1, paragraph A and has 2 or more prior convictions in this State or in another jurisdiction. Public Law 2007, chapter 685 also repeals the provision requiring a mandatory sentence of imprisonment for Class C stalking crimes and adds convictions for a violation of Title 22, section 4036 to the definition of "prior conviction" for purposes of defining Class C stalking.

LD 1897 An Act To Allow Blended Sentencing for Certain Juveniles

PUBLIC 686

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-415

In terms of incarceration as a sentencing alternative for juveniles, the Juvenile Code currently authorizes a juvenile to be adjudicated and committed to Long creek Youth Development Center or Mountain View Youth Development Center until the juvenile is 18-21 years of age. The Juvenile Code also authorizes a juvenile to be committed to an adult correctional facility if the juvenile is bound over and tried and convicted as an adult. Currently, a juvenile may not be sentenced to alternatives of incarceration involving both the juvenile system and the adult system for the same offense. With respect to the finding of appropriateness of whether a juvenile should be bound over and tried as an adult, the State has the burden of proof in all cases, except those involving a juvenile who is charged with one or more juvenile crimes that, if the juvenile were an adult, would constitute murder, attempted murder, felony murder, Class A manslaughter other than the reckless or criminally negligent operation of a motor vehicle, elevated aggravated assault, arson that recklessly endangers any person, causing a catastrophe, Class A robbery or Class A gross sexual assault in which the victim submits as a result of compulsion.

This bill requires blended sentencing for a juvenile bound over and convicted as an adult and sentenced to imprisonment if the juvenile has not attained 16 years of age at the time of sentencing and if the offense for which the juvenile was convicted is listed in the Maine Revised Statutes, Title 15, section 3101, subsection 4, paragraph C-2 as one for which the juvenile had the burden of proving a bind over was not appropriate. Blended sentencing affects only the place where imprisonment is served and means that the term of imprisonment, or, in the case of a split sentence, the unsuspended portion, imposed by the court must first be served in a Department of Corrections juvenile facility until the juvenile reaches 18 years of age or is sooner discharged from the facility and any imprisonment time remaining must then be served in a Department of Corrections adult facility.

Committee Amendment "A" (S-277)

Joint Standing Committee on Criminal Justice and Public Safety

This amendment makes technical changes to account for recently enacted law.

Committee Amendment "B" (S-415)

This amendment is the same as Committee Amendment "A" (S-277).

Enacted Law Summary

Public Law 2007, chapter 686 requires blended sentencing for a juvenile bound over and convicted as an adult and sentenced to imprisonment if the juvenile has not attained 16 years of age at the time of sentencing and if the offense for which the juvenile was convicted is listed in the Maine Revised Statutes, Title 15, section 3101, subsection 4, paragraph C-2 as one for which the juvenile had the burden of proving a bind over was not appropriate. Blended sentencing affects only the place where imprisonment is served and means that the term of imprisonment, or, in the case of a split sentence, the unsuspended portion, imposed by the court must first be served in a Department of Corrections juvenile facility until the juvenile reaches 18 years of age or is sooner discharged from the facility and any imprisonment time remaining must then be served in a Department of Corrections adult facility.

LD 1902 An Act Requiring the State Bureau of Identification To Report Persons Found To Be a Danger to Themselves or to Others to the National Instant Criminal Background Check System

PUBLIC 670

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH NUTTING J	OTP-AM	H-1007 GERZOFKY H-941

This bill establishes a procedure to prevent a person from purchasing or possessing a firearm if that person has been found to be a danger to self or to others.

This bill requires a court that commits a person involuntarily to a state mental health facility or a licensed psychologist or psychiatrist who determines a person to be a danger to self or others to report this commitment or determination to the Department of Public Safety, State Bureau of Identification. The bureau is required to forward the information to the Federal Bureau of Investigation, which operates the National Instant Criminal Background Check System.

This bill requires a person purchasing a firearm from a federally licensed firearms dealer to complete an application. The dealer is required to submit the application to the Federal Bureau of Investigation for a background check. Maine law currently only requires a federally licensed firearm dealer to provide a basic firearm safety brochure and other information to the purchaser of a firearm.

The bill provides a process for restoration of the right to possess a firearm (black powder rifle). A person who has been involuntarily committed to a state mental health facility or determined to be a danger to self or others may obtain a black powder rifle only upon application to the Commissioner of Public Safety and must include with the application a certified court order or notarized statement of a licensed psychologist or psychiatrist that the person is no longer a danger to self or others.

Committee Amendment "A" (H-480)

This amendment replaces the bill and proposes a procedure to prevent possession of a firearm by a person who has been committed involuntarily to a psychiatric hospital after a commitment hearing under the Maine Revised Statutes, Title 34-B, section 3864, subsection 7 because the person was found to present a threat of substantial risk of physical harm to self, was found to present a threat of substantial risk of physical harm to others, was found not criminally responsible by reason of insanity with respect to a criminal charge or was found not competent to stand trial with respect to a criminal charge.

Joint Standing Committee on Criminal Justice and Public Safety

The amendment requires the court to report information about a person adjudicated as being a danger to self or to others to the Department of Public Safety, State Bureau of Identification, which is then required to pass the fact of disqualification on to the Federal Bureau of Investigation for use in the National Instant Criminal Background Check System. The amendment also authorizes a person who has been previously prohibited from possessing a firearm under these new prohibitions to apply to the Commissioner of Public Safety for the restoration of the right to possess a black powder rifle or any other firearm that does not fall within the definition of "firearm" under 18 United States Code, Section 921(3).

Committee Amendment "B" (H-941)

This amendment replaces the bill. Legislative Document 1902 was carried over from the First Regular Session of the 123rd Legislature because the Joint Standing Committee on Criminal Justice and Public Safety learned that the Federal Government was considering legislation that would require states to amend their reporting requirements for persons prohibited from possessing firearms.

Pursuant to Executive Order Number 02 FY 08/09, the Governor created a task force to review and enhance the State's reporting of information to the Federal Bureau of Investigation, National Instant Criminal Background Check System. This amendment includes recommendations of that task force and the committee. Subsequent to the task force report, the federal bill was enacted. Specifically this amendment:

1. Authorizes the development and implementation of a data system to transmit records of involuntary commitment rulings, after a judicial hearing, at which the patient has been represented by counsel;
2. Directs the court both prior to the commencement of a hearing and after a hearing in which a person is committed involuntarily to inform the person that when an order of involuntary commitment is entered, that person is a prohibited person and may not own, possess or have under that person's control a firearm pursuant to the Maine Revised Statutes, Title 15, section 393, subsection 1;
3. Creates a relief from disability procedure that allows persons subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, Section 922(g)(4) as a result of being adjudicated a mental defective or committed to any psychiatric hospital pursuant to Title 34-B, section 3863 and who has not been committed to a psychiatric hospital pursuant to an order of the District Court pursuant to Title 34-B, section 3864, after the expiration of 5 years from the final discharge from commitment, to apply to the Commissioner of Public Safety for relief from the disability. This is intended to provide a mechanism for relief for persons who have been committed pursuant to the emergency so-called "blue-paper" process under Title 34-B, section 3863 but not to those persons committed after a judicial hearing;
4. Permits the court to transmit the final ruling of involuntary commitment, without transmitting the record, mental health records or notes or testimony, to the Department of Public Safety, State Bureau of Identification for the sole purpose of transmitting the finding to the Federal Bureau of Investigation, National Instant Criminal Background Check System and to duly authorized law enforcement agencies pursuant to Title 34-B, section 3864;
5. Permits authorized criminal justice agencies to use the data transmitted for law enforcement purposes, including processing of concealed firearms permit applications, enforcement of bail conditions and protection from abuse orders, and for enforcement of state and federal laws concerning the prohibition against possession of firearms by prohibited persons;
6. Provides accurate and timely information to the Federal Bureau of Investigation, National Instant Criminal Background Check System, which will assist federally licensed firearms dealers in Maine and across the country to properly carry out their duties and obligations under federal firearms laws; and
7. Using the Department of Public Safety's current web services, provides interfacing with the Administrative Office

Joint Standing Committee on Criminal Justice and Public Safety

of the Courts to exchange and share mental health adjudication data.

The amendment also adds an appropriations and allocations section.

House Amendment "A" (H-1007)

This amendment provides an effective date of July 31, 2009 for the provisions that provide a mechanism for relief for persons who have been committed pursuant to the emergency so-called "blue-paper" process under the Maine Revised Statutes, Title 34-B, section 3863. It also provides that notwithstanding the Maine Revised Statutes, Title 25, section 1541, subsection 3, paragraph C and Title 34-B, section 3864, subsection 12, a court is not required to transmit to the Department of Public Safety, State Bureau of Identification an abstract of any order for involuntary commitment issued by the court and the commanding officer of the State Bureau of Identification is not required to report to the Federal Bureau of Investigation, National Instant Criminal Background Check System any court's finding described in Title 25, section 1541, subsection 3, paragraph C until the judicial branch and the Department of Public Safety receive sufficient funding for the implementation of Title 25, section 1541, subsection 3, paragraph C and Title 34-B, section 3864, subsection 12. This amendment also adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2007, chapter 670 enhances the State's reporting of information to the Federal Bureau of Investigation, National Instant Criminal Background Check System. Pursuant to Executive Order Number 02 FY 08/09, the Governor created a task force to review and enhance the State's reporting of information to the Federal Bureau of Investigation, National Instant Criminal Background Check System. Public Law 2007, chapter 670 includes recommendations of that task force and the Joint Standing Committee on Criminal Justice and Public Safety. Specifically Public Law 2007, chapter 670:

1. Authorizes the development and implementation of a data system to transmit records of involuntary commitment rulings, after a judicial hearing, at which the patient has been represented by counsel;
2. Directs the court both prior to the commencement of a hearing and after a hearing in which a person is committed involuntarily to inform the person that when an order of involuntary commitment is entered, that person is a prohibited person and may not own, possess or have under that person's control a firearm pursuant to the Maine Revised Statutes, Title 15, section 393, subsection 1;
3. Creates a relief from disability procedure, effective July 31, 2009, for relief for persons who have been committed pursuant to the emergency so-called "blue-paper" process under the Maine Revised Statutes, Title 34-B, section 3863. A person subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, Section 922(g)(4) as a result of being adjudicated a mental defective or committed to any psychiatric hospital pursuant to Title 34-B, section 3863 and who has not been committed to a psychiatric hospital pursuant to an order of the District Court pursuant to Title 34-B, section 3864, after the expiration of 5 years from the final discharge from commitment, may apply to the Commissioner of Public Safety for relief from the disability. This is intended to provide a mechanism for relief for persons who have been committed pursuant to the emergency so-called "blue-paper" process under Title 34-B, section 3863 but not to those persons committed after a judicial hearing;
4. Permits the court to transmit the final ruling of involuntary commitment, without transmitting the record, mental health records or notes or testimony, to the Department of Public Safety, State Bureau of Identification for the sole purpose of transmitting the finding to the Federal Bureau of Investigation, National Instant Criminal Background Check System and to duly authorized law enforcement agencies pursuant to Title 34-B, section 3864; however, notwithstanding the Maine Revised Statutes, Title 25, section 1541, subsection 3, paragraph C and Title 34-B, section 3864, subsection 12, a court is not required to transmit to the Department of Public Safety, State Bureau of Identification an abstract of any order for involuntary commitment issued by the court and the commanding officer of the State Bureau of Identification is not required to report to the Federal Bureau of Investigation, National Instant Criminal Background Check System any court's finding described in Title 25, section 1541, subsection 3, paragraph C until the judicial branch and the Department of Public Safety receive sufficient funding for the implementation of

Joint Standing Committee on Criminal Justice and Public Safety

Title 25, section 1541, subsection 3, paragraph C and Title 34-B, section 3864, subsection 12;

5. Permits authorized criminal justice agencies to use the data transmitted for law enforcement purposes, including processing of concealed firearms permit applications, enforcement of bail conditions and protection from abuse orders, and for enforcement of state and federal laws concerning the prohibition against possession of firearms by prohibited persons;
6. Provides accurate and timely information to the Federal Bureau of Investigation, National Instant Criminal Background Check System, which will assist federally licensed firearms dealers in Maine and across the country to properly carry out their duties and obligations under federal firearms laws; and
7. Using the Department of Public Safety's current web services, provides interfacing with the Administrative Office of the Courts to exchange and share mental health adjudication data.

LD 1938 An Act To Allow Community Service in Lieu of Fines

PUBLIC 517

Sponsor(s)

CLEARY

Committee Report

OTP-AM

Amendments Adopted

H-736

Current law allows a court to require a defendant who defaults on payment of a fine that was part of a sentence to serve one day in a county jail for each \$5 of the fine, up to a maximum of the unpaid fine or 6 months in jail, whichever is shorter. A court does not have any authority to reduce the amount of the fine even when a defendant petitions the court prior to default. This bill allows the court, in cases when the court finds the default was not excusable, to order:

1. Commitment of the offender to incarceration in a county jail for one day for every \$5 of unpaid fine or 6 months, whichever is shorter;
2. The offender to perform a specified number of hours of community service work; or
3. Submission of the unpaid fine to a collection agency. If the fine is submitted to a collection agency, the court may order an additional amount of no more than 33% of the original fine to be added to the fine. This additional amount may be retained by the collection agency.

If the court finds that the default was excusable, it may provide the defendant with additional time to pay the fine, reduce the amount of each installment or order the defendant to perform community service work. This bill also allows a court, when it reasonably finds that the fine is uncollectible due to the death or disability of the defendant, to reduce or discharge completely the unpaid balance of the fine.

Committee Amendment "A" (H-736)

This amendment strikes provisions in the bill that allow courts to change sentencing alternatives upon a default of a fine payment. Instead the amendment specifies that if the court finds that a default was unexcused, in addition to the option of committing the offender to the custody of the sheriff until all or a specified part of the fine is paid as provided by current law, the court may instead, if the unexcused default relates to a fine imposed for a Class D or Class E crime, order the offender to perform community service work until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every \$25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued in connection with a default, at a

Joint Standing Committee on Criminal Justice and Public Safety

rate specified in the court's order that is not less than \$5 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this provision.

Enacted Law Summary

Public Law 2007, chapter 517 specifies that if the court finds that a default in payment of a fine was unexcused, in addition to the option of committing the offender to the custody of the sheriff until all or a specified part of the fine is paid as provided by current law, the court may instead, if the unexcused default relates to a fine imposed for a Class D or Class E crime, order the offender to perform community service work until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every \$25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued in connection with a default, at a rate specified in the court's order that is not less than \$5 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed.

LD 1953 An Act To Amend the Laws Relating to the Department of Corrections

PUBLIC 536

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLUMMER	OTP-AM	H-769

This bill makes several changes to laws relating to the Department of Corrections. The bill adds assaults on corrections officers and other staff of a correctional institution in which the person is being held in custody as categories of assault that may not be resolved by accord and satisfaction. "Accord and satisfaction" means a method of discharging a claim; parties agree to give and accept something in settlement of the claim and perform the agreement.

The bill specifies the maximum period of confinement if a juvenile is found in contempt of a court when a remedial or punitive sanction is imposed. It clarifies that if a person who has attained 18 years of age is to serve time in confinement in a juvenile facility as a punitive or remedial sanction for contempt under the Maine Juvenile Code, that time is limited to 30 days for each type of sanction, just as it is for a person who has not attained 18 years of age. This clarifies that there is a time limit if a court does not exercise its option under the Maine Revised Statutes, Title 15, section 3205, subsection 2 for a person who has attained 18 years of age but not 21 years of age for ordering time in confinement for contempt to be served at a county jail.

The bill permits the Commissioner of Corrections to waive the work or education requirement for a prisoner who is participating in a full-time treatment program while on supervised community confinement. The bill also repeals the current funeral and deathbed visit provisions and replaces them a simpler process and adds domestic partner to the list of persons to whom a prisoner may make deathbed visits or whose funerals a prisoner may attend. The bill also permits the Commissioner of Corrections to allow attendance at a funeral of or a deathbed visit to a person other than one specifically listed under the definition of family member.

The bill prohibits the incarceration in a juvenile facility of a person who is more appropriately a subject of intensive out-of-home treatment services provided by the Department of Health and Human Services, whether those services are temporary or not. The term "temporary" is removed from the out of home treatment provision, because longer placements for some juveniles may be necessary. The bill also repeals a number of provisions related to juvenile services that are either outdated or repetitive.

Committee Amendment "A" (H-769)

Joint Standing Committee on Criminal Justice and Public Safety

This amendment rewrites the Maine Revised Statutes, Title 15, section 891, which deals with accord and satisfaction, to clarify the purpose of the statute and to repeal archaic language and references. It also clarifies the intent of the bill, which is to preclude the use of the accord and satisfaction provision on corrections employees. The amendment also clarifies the roles of the Commissioner of Corrections, the Commissioner of Health and Human Services and the courts in the placement of juveniles who are more appropriately the subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services, instead of placement in the Department of Corrections.

Enacted Law Summary

Public Law 2007, chapter 536 clarifies the purpose of the accord and satisfaction statute and repeals archaic language and references within that statute. It also precludes the use of the accord and satisfaction provision on corrections employees.

Public Law 2007, chapter 536 specifies the maximum period of confinement if a juvenile is found in contempt of a court when a remedial or punitive sanction is imposed. It clarifies that if a person who has attained 18 years of age is to serve time in confinement in a juvenile facility as a punitive or remedial sanction for contempt under the Maine Juvenile Code, that time is limited to 30 days for each type of sanction, just as it is for a person who has not attained 18 years of age. This clarifies that there is a time limit if a court does not exercise its option under the Maine Revised Statutes, Title 15, section 3205, subsection 2 for a person who has attained 18 years of age but not 21 years of age for ordering time in confinement for contempt to be served at a county jail.

Public Law 2007, chapter 536 permits the Commissioner of Corrections to waive the work or education requirement for a prisoner who is participating in a full-time treatment program while on supervised community confinement. Public Law 2007, chapter 536 also simplifies the funeral and deathbed visit provisions and adds domestic partner to the list of persons to whom a prisoner may make deathbed visits or whose funerals a prisoner may attend.

Public Law 2007, chapter 536 clarifies the roles of the Commissioner of Corrections, the Commissioner of Health and Human Services and the courts in the placement of juveniles who are more appropriately the subject for intensive treatment services that are available and provided by or through the Department of Health and Human Services, instead of placement in the Department of Corrections.

LD 1981 An Act To Ensure Legislative Review of Fire Sprinkler Rules

PUBLIC 632

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN	OTP-AM	S-471 S-592 MARTIN

LD 1981 exempts nonresidential buildings in existence on January 1, 2007 from more stringent fire sprinkler requirements than those in effect on January 1, 2007. It also requires the Commissioner of Public Safety to make copies of the requirements in effect on January 1, 2007 available to the public.

Committee Amendment "A" (S-471)

The amendment replaces the bill. It requires that rules pertaining to the fire safety of certain buildings and of mass gatherings are routine technical rules, but that those relating to fire sprinklers are major substantive rules subject to legislative review.

Senate Amendment "A" (S-592)

This amendment provides that rules and policies pertaining to fire sprinklers that implement the National Fire Protection Association 2006 Life Safety Code adopted by the State Fire Marshal on or after September 1, 2007 are major substantive rules and specifies that this provision applies retroactively to September 1, 2007.

Joint Standing Committee on Criminal Justice and Public Safety

Enacted Law Summary

Public Law 2007, chapter 632 provides that rules and policies pertaining to fire sprinklers that implement the National Fire Protection Association 2006 Life Safety Code adopted by the State Fire Marshal are major substantive rules subject to legislative review. This provision applies retroactively to September 1, 2007.

LD 1990 **Resolve, To Prevent Domestic Violence and Protect Our Citizens**

**RESOLVE 196
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-525

This resolve directs the Domestic Abuse Homicide Review Panel, established in the Maine Revised Statutes, Title 19-A, section 4013, subsection 4, to undertake a comprehensive review of the measures currently in place to support and protect victims and potential victims of domestic violence. In addition, the panel is directed to review the provisions of the criminal code related to domestic violence. The panel is authorized to submit a report of its findings, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Committee Amendment "A" (S-525)

This amendment replaces the resolve with an emergency resolve and directs the Department of Public Safety to undertake a review of the measures currently in place to support and protect victims and potential victims of domestic violence and to determine how to increase and develop strategies for the protection of victims of domestic violence and for improvement of the criminal justice system response and how to find and access services. The Department of Public Safety is also directed to review the effectiveness of provisions of the Maine Criminal Code related to domestic violence.

The Department of Public Safety shall submit a report of its findings, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, which may submit legislation upon receiving the report. The resolve also directs the Department of Public Safety to endeavor to secure outside funding to undertake this review and to limit its work to that which can be accomplished from sources other than appropriations from the General Fund or Highway Fund.

Enacted Law Summary

Resolve 2007, chapter 196 directs the Department of Public Safety to undertake a review of the measures currently in place to support and protect victims and potential victims of domestic violence and to determine how to increase and develop strategies for the protection of victims of domestic violence and for improvement of the criminal justice system response and how to find and access services. The Department of Public Safety is also directed to review the effectiveness of provisions of the Maine Criminal Code related to domestic violence.

The Department of Public Safety shall submit a report of its findings, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, which may submit legislation upon receiving the report. The resolve also directs the Department of Public Safety to endeavor to secure outside funding to undertake this review and to limit its work to that which can be accomplished from sources other than appropriations from the General Fund or Highway Fund.

Resolve 2007, chapter 196 was an emergency measure effective April 11, 2008.

Joint Standing Committee on Criminal Justice and Public Safety

**LD 1999 An Act To Amend Criminal Laws against Domestic Violence To Ensure
Appropriate Recognition of Prior Convictions** **ONTP**

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

Public Law 2007, chapter 436 created the crimes of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking and domestic violence reckless conduct. A violation of one of these domestic violence crimes is a Class D crime, and a person who commits one of these domestic violence crimes more than once is guilty of a Class C crime.

This bill is an emergency bill that clarifies that the enhanced Class C penalty based on prior convictions also applies if the person commits a domestic violence crime after being convicted of any crime of assault, criminal threatening, terrorizing or reckless conduct that is committed against a family or household member, which would include those prior offenses that were committed in Maine.

**LD 2011 An Act To Establish a Bracelet Monitoring Program for Persons Convicted
of Minor Crimes** **ONTP**

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

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to create a state bracelet program similar to the one now in the counties. The state program would also be able to accept qualified inmates from county jails that do not live in the county where incarcerated. This bill would also require that a prisoner participate in the New Horizons Academy program.

**LD 2029 An Act To Reduce Property Taxes, Eliminate Duplication and Streamline
Government by Unifying the State Prisons and County Jails** **ONTP**

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

This bill is a concept draft pursuant to Joint Rule 208. This bill proposes to merge the administration of county jails and state prisons under one unified state agency.

See also LD 2080, now Public Law 2007, chapter 653.

**LD 2030 An Act To Allow Nondangerous Drivers To Obtain a Work-restricted
License** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	ONTP	

LD 2030 is a concept draft pursuant to Joint Rule 208. This bill proposes to expand the availability of a "work-restricted license," which currently allows a person whose driver's license has been revoked due to conviction as a habitual offender to obtain a limited license to operate a motor vehicle between the person's residence and place

Joint Standing Committee on Criminal Justice and Public Safety

of employment. This bill would make work-restricted licenses available to persons who have been convicted of driving to endanger or operating after suspension.

LD 2051 An Act To Prohibit the Sale of Firearms Other than Handguns to Persons 16 or 17 Years of Age without Parental Consent

PUBLIC 512

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	H-695

This bill creates the Class D crime of prohibiting a person from selling a long gun to a person 16 or 17 years of age. It is an affirmative defense that the sale was approved by a parent, foster parent or guardian or that the seller reasonably believed the person was 18 years of age. Current Maine law prohibits federally licensed firearms dealers from transferring long guns to persons under 18. (Federal law does not restrict unlicensed sellers from transferring long guns and sets no minimum age for buyers of long guns.) This bill addresses private sales by unlicensed persons.

The bill also directs the Department of Public Safety, in cooperation with the Department of Health and Human Services, to conduct a study to determine the ownership status of firearms used in firearms-related suicides in the State. The Commissioner of Public Safety shall report the study's findings to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009. Upon receiving the report, the joint standing committee may submit legislation to the First Regular Session of the 124th Legislature.

Committee Amendment "A" (H-695)

This amendment prohibits the sale of a firearm to a person 16 years of age or older and under 18 years of age. For purposes of this prohibition, "firearm" means a firearm other than a handgun as defined in the Maine Revised Statutes, Title 17-A, section 554-B, subsection 1, paragraph A. The amendment provides an exception for a sale by a parent, foster parent or guardian or a sale approved by a parent, foster parent or guardian. The amendment makes the first offense of unlawfully selling a firearm other than a handgun to person 16 years of age or older and under 18 years of age a civil violation for which a fine of no more than \$500 may be imposed. A second or subsequent violation is a Class D crime.

Enacted Law Summary

Public Law 2007, chapter 512 prohibits the sale of a firearm to a person 16 years of age or older and under 18 years of age. For purposes of this prohibition, "firearm" means a firearm other than a handgun as defined in the Maine Revised Statutes, Title 17-A, section 554-B, subsection 1, paragraph A. Public Law 2007, chapter 512 provides an exception for a sale by a parent, foster parent or guardian or a sale approved by a parent, foster parent or guardian. Public Law 2007, chapter 512 makes the first offense of unlawfully selling a firearm other than a handgun to person 16 years of age or older and under 18 years of age a civil violation for which a fine of no more than \$500 may be imposed. A second or subsequent violation is a Class D crime.

LD 2079 An Act To Strengthen the Crime of Visual Sexual Aggression against a Child

PUBLIC 688

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL	OTP-AM	H-690

This bill amends the crime of visual sexual aggression against a child to clarify that the crime applies when the exposure occurs in either a public or private place.

Committee Amendment "A" (H-690)

Joint Standing Committee on Criminal Justice and Public Safety

This amendment replaces the bill. The amendment removes the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place to be a crime. Instead, the amendment specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place.

The amendment also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

Enacted Law Summary

Public Law 2007, chapter 688 removes from the crime visual sexual aggression against a child the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place. Instead, Public Law 2007, chapter 688 specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place. Public Law 2007, chapter 688 also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

LD 2080 An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

**PUBLIC 653
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM MAJ OTP-AM MIN	H-989 S-658 ROTUNDO

This bill is a concept draft pursuant to Joint Rule 208.

This bill seeks to establish the Maine Jail and Community Corrections Authority. The membership of the authority consists of state, county and municipal officials and representatives of those involved in the criminal justice system. A majority of the members of the authority are representatives of county government.

The authority is established for the following purposes:

1. To coordinate and oversee a cost-efficient system within the State for the operation and maintenance of county and regional jails and community corrections facilities, programs and services;
2. To facilitate the implementation and delivery of corrections programs and services for pretrial defendants and convicted offenders, consistent with best correctional and evidence-based practices and the protection of public safety;
3. To develop and implement plans for the renovation, improvement and redevelopment of existing jail facilities and for the design and construction of new jail facilities through a certificate of need process to better serve the incarcerated and detained populations and the citizens of the State. The authority may issue bonds and enter into agreements with the counties and the Department of Corrections for these purposes; and
4. To provide a consolidated body representing county and regional jails and community corrections facilities to coordinate with the Department of Corrections on corrections matters, including but not limited to the coordination of jail bed space.

Joint Standing Committee on Criminal Justice and Public Safety

The authority shall manage the county and regional jails and community correctional facilities and programs and services to efficiently allocate human and financial resources, establish uniform criteria for the construction and expansion of jail facilities and develop and implement methods by which the purposes of the authority are best served. Specifically, the authority shall:

1. Create and implement standards of care and operation reflective of best correctional practice for jail facilities;
2. Approve purpose and rated capacities for each jail facility, which may include specialized units, based upon established standards and system need and demand;
3. Conduct inspections of and accredit jail facilities;
4. Coordinate bed space availability and utilization among jails and between the Department of Corrections and jails as needed, considering established criteria, inmate classification, gender, pre-conviction and post-conviction status and special needs including mental health and substance abuse;
5. Establish per diem board rates using a predetermined formula;
6. Establish and operate an intercounty jail inmate transportation system consistent with security interests in order to reduce the overall cost of jail inmate transportation;
7. Establish data collection requirements necessary to monitor the status of county and regional jail populations, to project future capacity needs and to develop recommendations for new or expanded facilities, programs and services. The authority shall review and approve or deny requests for construction of new, expanded or renovated jail facilities using a certificate of need process;
8. Develop, implement and fund community corrections programs and services reflective of evidence-based practices and make them available to all counties. These services must be coordinated in collaboration with the criminal justice planning committees established pursuant to the Maine Revised Statutes, Title 30-A, section 1671;
9. Evaluate implementation of pretrial services for desired outcomes. Pretrial services must be funded using money formerly provided through the Community Corrections Fund and County Jail Prisoner Support Fund under Title 34-A, section 1210-B;
10. Monitor county and regional criminal justice system operations to identify system practices that adversely affect jail populations or operating costs, propose improvements in efficiency and effectiveness, and evaluate implementation of the improvements; and
11. Provide information and assistance to jail officials regarding best correctional and evidence-based practices and provide a forum for sharing information on best correctional and evidence-based practices in use within the State.

Committee Amendment "A" (H-989)

This amendment replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment adds an emergency preamble and clause and creates the State Board of Corrections whose purpose is to develop and implement a unified correctional system.

The State Board of Corrections is directed to work with the counties, the Department of Corrections, the Legislature and other stakeholders and interested parties in the criminal justice system to coordinate and oversee a cost-efficient correctional system within the State that promotes and supports the use of evidence-based practices. The board is directed to develop benchmarks for performance in recidivism reduction, pretrial diversion and the rate of incarceration. The board is also charged with managing the cost of corrections by developing a plan to achieve systemic cost savings and cost avoidance throughout the unified correctional system with the goal of operating

Joint Standing Committee on Criminal Justice and Public Safety

efficient correctional services, evaluating and determining correctional facility use and purpose, adopting treatment standards and policies and reviewing and approving any future public or private construction projects after establishing a certificate of need process governed by the Legislature's major substantive rule process. In its work, the board shall consult with the existing entities, including the State Sentencing and Corrections Practices Coordinating Council, and use recent research and reports, including those issued by the Corrections Alternative Advisory Committee.

The board shall assist correctional facilities and county jails where appropriate to establish, achieve and maintain professional correctional accreditation standards; administer the County Jail Prisoner Support and Community Corrections Fund established in the Maine Revised Statutes, Title 34-A, section 1806 and the State Board of Corrections Investment Fund established in Title 34-A, section 1805. The board may allocate available funds from the State Board of Corrections Investment Fund to meet any emergency expenses or for maintenance in emergency conditions of any correctional facility or jail. The board may make allocations for these purposes only upon written request of the Commissioner of Corrections or a county.

The board shall prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution. The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment.

The board receives and reviews recommendations submitted by the Commissioner of Corrections, counties, the corrections working group or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services and other recommendations with respect to the delivery of state and county corrections services. The board shall consult with and seek input from prosecutors; defense attorneys; judges; advocates for victims; providers and advocates who work with persons with mental illness; and other interested parties.

The board does not have authority to exercise jurisdiction over inmate grievances, labor negotiations or contracts, including personnel rules negotiated as part of any collective bargaining agreement, or any aspect of the operation of juvenile facilities or the administration of juvenile community corrections services. If a county or the Department of Corrections is aggrieved by a final decision of the board, the county or the department is entitled to judicial review pursuant to Title 5, section 11001, and any review must be limited to errors of law.

The board shall make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the unified correctional system or the board. The joint standing committee shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.

In addition to establishing the State Board of Corrections, the amendment directs the sheriffs, the county commissioners and the Commissioner of Corrections to work together and in support of the State Board of Corrections by communicating to manage jail and prison capacity and offender placement and by recommending uniform policies and procedures. The Commissioner of Corrections is responsible for the daily management of inmate bed space throughout the unified correctional system and shall develop a process for information sharing between the state correctional facilities and the county jails.

The amendment separates noncorrectional services from correctional services for purposes of preparation of the county budgets. The amendment sets a cap on tax assessments for correctional services for each county, so that the

Joint Standing Committee on Criminal Justice and Public Safety

assessment to municipalities within each county may not be greater than the fiscal year 2007-08 county assessment for correctional-related expenditures. The amendment also directs the counties to collect taxes from municipalities for the purpose of retiring the county jail debt in existence as of July 1, 2008 until the debt is finally retired. The counties may not collect taxes from the municipalities for the purpose of retiring any correctional services debt issued after July 1, 2008, nor may the State pay for future correctional services debt or other correctional services with revenue sources dedicated to the municipalities.

At least 6 months before the beginning of each fiscal year, the State Board of Corrections shall set a growth limitation for the correctional services expenditures in the new fiscal year for each county budget. The county commissioners shall submit itemized correctional services budgets to the board in a format and by a date to be determined annually by the board. The board shall review each county correctional services budget and if the county correctional services budget submitted to the board does not exceed the growth limitation established by the board and is consistent with board directives under Title 34-A, section 1803, the board shall accept the county commissioners' approval of the county's correctional services budget. If the county correctional services budget submitted exceeds the growth limitation established by the board or is inconsistent with board directives, the board shall further review, amend and adopt a correctional services budget for the county.

If a county correctional services budget submitted to the board exceeds the growth limitation established or is inconsistent with a directive of the board, the board shall further review the proposed budget together with any supplementary material prepared by the county commissioners, county correctional services administrators, the Department of Corrections or any other person or entity from whom the board chooses to receive supplementary material. The board may hold a hearing and shall hold a hearing if the county requests a hearing. For a county correctional services budget submitted to the board, the board may amend or accept the proposed budget provided that the total estimated revenues, together with the amount of county tax to be levied pursuant to Title 30-A, section 701, subsections 2-A and 2-B, equal the total estimated expenditures. After review of a county correctional services budget submitted to the board, a hearing, if necessary, and the adjustment process, the board shall adopt a final correctional services budget for the county and transmit that budget to the county commissioners.

The property tax assessment for county correctional services expenditures as defined in Title 30-A, section 701, subsection 2-A, and the county jail debt assessment established in Title 30-A, section 701, subsection 2-B, approved by the board processes, are the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized, apportioned and collected.

The amendment also provides counties an opportunity for one-time borrowing, if a county chooses to amend its fiscal year. County commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. The tax anticipation note covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow an amount that does not exceed the taxes anticipated from the transitional budgets and the period of borrowing may not exceed 5 years.

The amendment requires that the County Jail Prisoner Support and Community Corrections Fund pursuant to Title 34-A, section 1210-A be distributed to the counties using the existing process for fiscal year 2008-09. The appropriation may be no less than the appropriation for fiscal year 2007-08. Beginning July 1, 2009, the board shall administer the County Jail Prisoner Support and Community Corrections Fund, using the current distribution schedule and procedures described in Title 34-A, section 1210-A.

The amendment also creates the State Board of Corrections Investment Fund, which is an enterprise fund that may be expended only to compensate county governments and the Department of Corrections for costs approved by the board and the Legislature. The State Controller shall credit to the fund any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives have reduced jail expenses; funds appropriated by the Legislature; money from any other source, whether public or private, designated into or

Joint Standing Committee on Criminal Justice and Public Safety

credited to the fund; and interest earned or other investment income on balances in the fund. Any unencumbered balance remaining at the end of any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.

The amendment establishes a corrections working group consisting of representatives of the department, sheriffs and county commissioners. The commissioner shall name 2 cochairs to convene and lead the working group. One chair must represent the department and one chair must represent county government. The cochairs shall select the remaining members of the working group based on criteria established by the parties in a memorandum of understanding. The working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the unified correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the unified correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

The amendment establishes temporary boarding rates for state prisoners in county jails. The boarding rate charged to the Department of Corrections for housing state prisoners in the following county jails for the fiscal year 2008-09 may not be greater on a daily basis than \$20 in Cumberland County jail; \$21.16 in York County jail; and \$21.16 in Somerset County jail. The Commissioner of Corrections may also negotiate agreements with other counties to board state prisoners at other county jails at marginal rates as agreed upon with those counties. The temporary boarding rates are repealed July 1, 2009.

The amendment specifies that nothing in the legislation may be construed to confer to the State ownership, either now or in the future, of any real or personal property owned by a county. Any correctional facility or county jail downsized or closed pursuant to Title 34-A, section 1803, subsection 2, paragraph C remains the property of the State or county, respectively.

The amendment also establishes an operating reserve account within the State Board of Corrections Investment Fund for county jail budget growth during the counties' 2009-10 fiscal year. The Commissioner of Corrections shall submit a plan to the Governor and Commissioner of Administrative and Financial Services for the inclusion of a \$1,500,000 appropriation to the operating reserve account of the State Board of Corrections Investment Fund in a supplemental or biennial budget bill authorizing appropriations and allocations for the 2009-10 fiscal year.

The amendment also corrects cross-references and adds an appropriations and allocations section.

Committee Amendment "B" (H-990)

This amendment, which is the minority report, is the same as the majority report, except that it includes a provision that ensures that if the Legislature appropriates in any biennial or supplemental budget an amount for the County Jail Prisoner Support and Community Corrections Fund established in the Maine Revised Statutes, Title 34-A, section 1806 that is less than the amount appropriated for the County Jail Prisoner Support and Community Corrections Fund under Title 34-A, section 1210-A in fiscal year 2007-08, then the Legislature shall allocate funds to the State Board of Corrections Investment Fund established in Title 34-A, section 1805 sufficient to make up the difference from the Fund for a Healthy Maine, notwithstanding the provisions of Title 22, section 1511, subsection 6.

This amendment was not adopted.

House Amendment "A" (H-1003)

This amendment requires the State Board of Corrections to determine a proportionate share of annual debt service for those counties that have county jail debt on July 1, 2008.

Joint Standing Committee on Criminal Justice and Public Safety

This amendment was not adopted.

Senate Amendment "A" (S-658)

This amendment funds the provisions in Committee Amendment "A". Specifically, the amendment:

1. Increases from \$1,117,799 to \$1,317,826 the amount transferred from the Accident, Sickness and Health Insurance Internal Service Fund to the unappropriated surplus of the General Fund;
2. Increases from \$185,196 to \$244,944 the amount transferred from the Retiree Health Insurance Internal Service Fund to the unappropriated surplus of the General Fund; and
3. Repeals that Part of Public Law 2007, chapter 539 that requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify positions to be eliminated to achieve a minimum savings of \$1,000,000 in the General Fund and replaces it with similar language that increases from 20 to 25 the positions to be identified.

Enacted Law Summary

Public Law 2007, chapter 653 creates a plan for a unified correctional system that coordinates services and resources of the county jails and the state correctional facilities.

Public Law 2007, chapter 653 establishes the State Board of Corrections whose purpose is to develop and implement a unified correctional system. The State Board of Corrections is directed to work with the counties, the Department of Corrections, the Legislature and other stakeholders and interested parties in the criminal justice system to coordinate and oversee a cost-efficient correctional system within the State that promotes and supports the use of evidence-based practices. The board is directed to develop benchmarks for performance in recidivism reduction, pretrial diversion and the rate of incarceration. The board is also charged with managing the cost of corrections by developing a plan to achieve systemic cost savings and cost avoidance throughout the unified correctional system with the goal of operating efficient correctional services, evaluating and determining correctional facility use and purpose, adopting treatment standards and policies and reviewing and approving any future public or private construction projects after establishing a certificate of need process governed by the Legislature's major substantive rule process.

Public Law 2007, chapter 653 directs the board to identify opportunities for and approve cost-saving agreements and efficiencies and report those opportunities identified to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The board shall assist correctional facilities and county jails where appropriate to establish, achieve and maintain professional correctional accreditation standards; administer the County Jail Prisoner Support and Community Corrections Fund established and the State Board of Corrections Investment Fund. The board may allocate available funds from the State Board of Corrections Investment Fund to meet any emergency expenses or for maintenance in emergency conditions of any correctional facility or jail. The board may make allocations for these purposes only upon written request of the Commissioner of Corrections or a county.

Public Law 2007, chapter 653 directs the board to prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution. The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment.

Pursuant to Public Law 2007, chapter 653, the board receives and reviews recommendations submitted by the Commissioner of Corrections, counties, the corrections working group or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services and other recommendations with respect to the delivery of state and county

Joint Standing Committee on Criminal Justice and Public Safety

corrections services. The board shall consult with and seek input from prosecutors; defense attorneys; judges; advocates for victims; providers and advocates who work with persons with mental illness; and other interested parties.

Public Law 2007, chapter 653 prohibits the board from exercising jurisdiction over inmate grievances, labor negotiations or contracts, including personnel rules negotiated as part of any collective bargaining agreement, or any aspect of the operation of juvenile facilities or the administration of juvenile community corrections services. If a county or the Department of Corrections is aggrieved by a final decision of the board, the county or the department is entitled to judicial review, and any review must be limited to errors of law.

Public Law 2007, chapter 653 requires the board to make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the unified correctional system or the board. The joint standing committee shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.

In addition to establishing the State Board of Corrections, Public Law 2007, chapter 653 directs the sheriffs, the county commissioners and the Commissioner of Corrections to work together and in support of the State Board of Corrections by communicating to manage jail and prison capacity and offender placement and by recommending uniform policies and procedures. The Commissioner of Corrections is responsible for the daily management of inmate bed space throughout the unified correctional system and shall develop a process for information sharing between the state correctional facilities and the county jails.

Public Law 2007, chapter 653 separates noncorrectional services from correctional services for purposes of preparation of the county budgets and sets a cap on tax assessments for correctional services for each county, so that the assessment to municipalities within each county may not be greater than the fiscal year 2007-08 county assessment for correctional-related expenditures. The amendment also directs the counties to collect taxes from municipalities for the purpose of retiring the county jail debt in existence as of July 1, 2008 until the debt is finally retired. The counties may not collect taxes from the municipalities for the purpose of retiring any correctional services debt issued after July 1, 2008, nor may the State pay for future correctional services debt or other correctional services with revenue sources dedicated to the municipalities.

At least 6 months before the beginning of each fiscal year, the State Board of Corrections shall set a growth limitation for the correctional services expenditures in the new fiscal year for each county budget. The county commissioners shall submit itemized correctional services budgets to the board in a format and by a date to be determined annually by the board. The board shall review each county correctional services budget and if the county correctional services budget submitted to the board does not exceed the growth limitation established by the board and is consistent with board directives, the board shall accept the county commissioners' approval of the county's correctional services budget. If the county correctional services budget submitted exceeds the growth limitation established by the board or is inconsistent with board directives, the board shall further review, amend and adopt a correctional services budget for the county.

If a county correctional services budget submitted to the board exceeds the growth limitation established or is inconsistent with a directive of the board, the board shall further review the proposed budget together with any supplementary material prepared by the county commissioners, county correctional services administrators, the Department of Corrections or any other person or entity from whom the board chooses to receive supplementary material. The board may hold a hearing and shall hold a hearing if the county requests a hearing. For a county correctional services budget submitted to the board, the board may amend or accept the proposed budget provided

Joint Standing Committee on Criminal Justice and Public Safety

that the total estimated revenues, together with the amount of county tax to be levied pursuant to Title 30-A, section 701, subsections 2-A and 2-B, equal the total estimated expenditures. After review of a county correctional services budget submitted to the board, a hearing, if necessary, and the adjustment process, the board shall adopt a final correctional services budget for the county and transmit that budget to the county commissioners.

The property tax assessment for county correctional services expenditures as defined in Title 30-A, section 701, subsection 2-A, and the county jail debt assessment established in Title 30-A, section 701, subsection 2-B, approved by the board processes, are the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized, apportioned and collected.

Public Law 2007, chapter 653 also provides counties an opportunity for one-time borrowing, if a county chooses to amend its fiscal year. County commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. The tax anticipation note covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow an amount that does not exceed the taxes anticipated from the transitional budgets and the period of borrowing may not exceed 5 years.

Public Law 2007, chapter 653 requires that the County Jail Prisoner Support and Community Corrections Fund pursuant to Title 34-A, section 1210-A be distributed to the counties using the existing process for fiscal year 2008-09. The appropriation may be no less than the appropriation for fiscal year 2007-08. Beginning July 1, 2009, the board shall administer the County Jail Prisoner Support and Community Corrections Fund, using the current distribution schedule and procedures described in Title 34-A, section 1210-A.

Public Law 2007, chapter 653 also creates the State Board of Corrections Investment Fund, which is an enterprise fund that may be expended only to compensate county governments and the Department of Corrections for costs approved by the board and the Legislature. The State Controller shall credit to the fund any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives have reduced jail expenses; funds appropriated by the Legislature; money from any other source, whether public or private, designated into or credited to the fund; and interest earned or other investment income on balances in the fund. Any unencumbered balance remaining at the end of any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.

Public Law 2007, chapter 653 establishes a corrections working group consisting of representatives of the department, sheriffs and county commissioners. The working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the unified correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the unified correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

Public Law 2007, chapter 653 establishes temporary boarding rates for state prisoners in county jails. The boarding rate charged to the Department of Corrections for housing state prisoners in the following county jails for the fiscal year 2008-09 may not be greater on a daily basis than \$20 in Cumberland County jail; \$21.16 in York County jail; and \$21.16 in Somerset County jail. The Commissioner of Corrections may also negotiate agreements with other counties to board state prisoners at other county jails at marginal rates as agreed upon with those counties. The temporary boarding rates are repealed July 1, 2009.

Public Law 2007, chapter 653 specifies that nothing in the legislation may be construed to confer to the State ownership, either now or in the future, of any real or personal property owned by a county. Any correctional facility

Joint Standing Committee on Criminal Justice and Public Safety

or county jail downsized or closed pursuant to Title 34-A, section 1803, subsection 2, paragraph C remains the property of the State or county, respectively.

Public Law 2007, chapter 653 also establishes an operating reserve account within the State Board of Corrections Investment Fund for county jail budget growth during the counties' 2009-10 fiscal year. The Commissioner of Corrections shall submit a plan to the Governor and Commissioner of Administrative and Financial Services for the inclusion of a \$1,500,000 appropriation to the operating reserve account of the State Board of Corrections Investment Fund in a supplemental or biennial budget bill authorizing appropriations and allocations for the 2009-10 fiscal year.

Public Law 2007, chapter 653 was enacted as an emergency measure effective April 18, 2008.

LD 2081 An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters

**PUBLIC 510
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-704

LD 2081 prohibits a person from selling or distributing for retail sale in Maine novelty lighters, which are lighters that are designed to appear to be a toy, feature a flashing light or make musical sounds. Violation is a civil infraction.

Committee Amendment "A" (H-704)

This amendment clarifies that a novelty lighter does not include a lighter incapable of being fueled. The bill stated that a lighter lacking fuel was not a novelty lighter, which allowed for the possibility that such a lighter and a device to light it could be sold separately. The amendment also clarifies that a novelty lighter does not include a device that is primarily used to light a fireplace or grill. The amendment adds language to prohibit stocking the product on retail shelves and on offering a novelty lighter as a promotion with another retail product.

Enacted Law Summary

Public Law 2007, chapter 510 prohibits a person from selling, stocking or distributing for retail sale in Maine novelty lighters, which are lighters that are designed to appear to be a toy, feature a flashing light or make musical sounds. The prohibition does not apply to a lighter incapable of being fueled or a device that is primarily used to light a fireplace or grill. A novelty lighter may not be offered as a promotion with another retail product. Violation is a civil infraction.

Public Law 2007, chapter 510 was enacted as an emergency measure effective March 24, 2008.

LD 2113 An Act To Implement the Recommendations of the Committee To Study the Prison Industries Program

**PUBLIC 503
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-705

LD 2113 creates the Prison Industries Advisory Council to help the Department of Corrections develop new marketing strategies and more diversified product lines and to identify methods to enhance programs and improve efficiency of operations throughout the prison industries system. It is the recommendation of the Committee To Study the Prison Industries Program pursuant to Joint Order 2007, H.P. 1334.

Committee Amendment "A" (H-705)

Joint Standing Committee on Criminal Justice and Public Safety

This amendment adds to the duties of the Prison Industries Advisory Council the duty to review the cost-benefit ratio of the prison industries programs.

Enacted Law Summary

Public Law 2007, chapter 503 creates the Prison Industries Advisory Council to help the Department of Corrections develop new marketing strategies and more diversified product lines, identify methods to enhance programs and improve efficiency of operations throughout the prison industries system, and review the cost-benefit ratio of the prison industries programs. It is the recommendation of the Committee To Study the Prison Industries Program pursuant to Joint Order 2007, H.P. 1334.

Public Law 2007, chapter 503 was enacted as an emergency measure effective March 19, 2008.

LD 2168 Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections

**RESOLVE 167
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This resolve provides for legislative review of portions of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections. The rule revises the procedures and standards governing the certification and monitoring of Batterer Intervention Programs.

Enacted Law Summary

Resolve 2007, chapter 167 provides for legislative review of portions of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections. The rule revises the procedures and standards governing the certification and monitoring of Batterer Intervention Programs.

Resolve 2007, chapter 167 was enacted as an emergency measure effective March 26, 2008.

LD 2187 An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations

PUBLIC 633

Sponsor(s)

Committee Report

Amendments Adopted

TARDY

OTP-AM

H-949

The current law enforcement solicitation law prohibits law enforcement agencies, law enforcement associations and law enforcement officers from soliciting from the general public when the property or any part of that property in any way tangibly benefits or is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. The most recent substantive change in the solicitation law was made to allow persons who are not law enforcement officers and who have no financial interest at stake to solicit property from the general public for the tangible benefit of law enforcement officers, agencies and associations. Law enforcement officers, agencies and associations, as well as paid solicitors and solicitors who reimburse their expenses from the proceeds of soliciting are prohibited from soliciting for the benefit of law enforcement officers. The change to allow solicitation by private persons was scheduled to sunset in 2004, and the sunset was repealed after the Attorney general reported to the Legislature that there were no reports that this change in the solicitation law impeded the State's ability and compelling interest to prevent inherently coercive solicitations.

This bill repeals the current law enforcement solicitation law that prohibits a law enforcement agency, law

Joint Standing Committee on Criminal Justice and Public Safety

enforcement association, law enforcement officer or a solicitation agent from soliciting property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.

Specifically, the bill proposes to allow a law enforcement association to solicit donations of property from the general public only when the property or any part of the property in any way tangibly benefits or is intended to tangibly benefit or is represented to be for the tangible benefit of a law enforcement officer. In order to solicit as authorized here, all of the following must occur.

1. The law enforcement association may solicit donations only for an officer suffering from a catastrophic illness.
2. The association seeking to solicit donations under this section must obtain the approval of the governing body of the municipality in which the solicitation will occur. (If the solicitation is intended to encompass a county, the approval of the county commissioners of that county is also required. If the solicitation is intended to take place in the unorganized territory, approval of the Land Use Regulation Commission is required. Approval must also be obtained from the manager of the municipality in which the solicitation will occur, if there is such a manager.)
3. The association seeking to solicit donations under this section must also obtain the written and notarized approval of the Attorney General. The Attorney General may grant permission for the solicitation only if the Attorney General is satisfied that the association has obtained the approval from the local governing body, the solicitation is for an officer with a catastrophic illness and the funds solicited and collected are properly held in escrow.
4. Any funds collected pursuant to this section must be held in an escrow account that is separate from accounts of the association and maintained solely for the benefit of the ill officer or the officer's heirs if that officer dies.

The bill also requires the Attorney General to adopt routine technical rules regarding the administration of this section. Any violation of this solicitation process continues to be a violation of the Maine Unfair Trade Practices Act.

Committee Amendment "A" (H-949)

This amendment replaces the bill and creates a narrowly tailored exception to the law enforcement solicitation law by allowing only specific fundraising events and solicitations in which law enforcement is removed from direct contact with the potential donors. Specifically, the amendment does the following.

1. It defines "catastrophic illness," "designated public benefit corporation" and "immediate family member" for purposes of the amendment.
2. It provides that a law enforcement agency or law enforcement association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness in 2 specific ways. First, a law enforcement agency or association may post advertisements in a public setting for a fundraising event, the tickets for which are available for purchase only from a designated public benefit corporation. Second, a law enforcement agency or association may make a public plea for donations through advertisements provided that all donations are sent directly to a designated public benefit corporation. Solicitations may not be sent directly to potential donors. Every solicitation must contain a notice identifying the designated public benefit corporation, its address and the law enforcement officer or the officer's immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.
3. It requires a law enforcement agency or law enforcement association and a designated public benefit corporation to sign a written agreement prior to engaging in any solicitation activity. The Office of the Attorney General shall provide a standardized written agreement that must be used.

Joint Standing Committee on Criminal Justice and Public Safety

4. It specifies that a designated public benefit corporation that engages in solicitation pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the names of any donors to any person, except to the Attorney General.
5. It permits a law enforcement agency or law enforcement association to reimburse a designated public benefit corporation only for its printing costs and prohibits any other payment to the designated public benefit corporation for its services.
6. It requires that the parties to the written agreement comply with all requirements for reporting to, and registration with, the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act. It also requires the parties to comply with all other requirements related to the event or solicitation.
7. It requires that all funds collected by the designated public benefit corporation under this section be held in an escrow account that is separate from any other accounts. Checks, drafts and money orders from donors may be made payable only to the bank or trust company. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary of the solicitations.
8. It specifies that the funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or written solicitation.
9. It requires that, upon request, a designated public benefit corporation provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, only to the Attorney General, who is vested with authority to enforce due application of funds given, or appropriated, to public charities and to prevent breaches of trust in their administration.

Enacted Law Summary

Public Law 2007, chapter 633 creates a narrowly tailored exception to the law enforcement solicitation law by allowing only specific fundraising events and solicitations in which law enforcement is removed from direct contact with the potential donors. Public Law 2007, chapter 633 provides that a law enforcement agency or law enforcement association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness in 2 specific ways. First, a law enforcement agency or association may post advertisements in a public setting for a fundraising event, the tickets for which are available for purchase only from a designated public benefit corporation. Second, a law enforcement agency or association may make a public plea for donations through advertisements provided that all donations are sent directly to a designated public benefit corporation. Solicitations may not be sent directly to potential donors. Every solicitation must contain a notice identifying the designated public benefit corporation, its address and the law enforcement officer or the officer's immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.

Public Law 2007, chapter 633 requires a law enforcement agency or law enforcement association and a designated public benefit corporation to sign a written agreement prior to engaging in any solicitation activity. The Office of the Attorney General shall provide a standardized written agreement that must be used. Public Law 2007, chapter 633 specifies that a designated public benefit corporation that engages in solicitation pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the names of any donors to any person, except to the Attorney General.

Public Law 2007, chapter 633 permits a law enforcement agency or law enforcement association to reimburse a designated public benefit corporation only for its printing costs and prohibits any other payment to the designated

Joint Standing Committee on Criminal Justice and Public Safety

public benefit corporation for its services. It requires that the parties to the written agreement comply with all requirements for reporting to, and registration with, the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act. It also requires the parties to comply with all other requirements related to the event or solicitation.

Public Law 2007, chapter 633 requires that all funds collected by the designated public benefit corporation be held in an escrow account that is separate from any other accounts. Checks, drafts and money orders from donors may be made payable only to the bank or trust company. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary of the solicitations. It also specifies that the funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or written solicitation.

Finally, Public Law 2007, chapter 633 requires that, upon request, a designated public benefit corporation provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, only to the Attorney General, who is vested with authority to enforce due application of funds given, or appropriated, to public charities and to prevent breaches of trust in their administration.

LD 2240 An Act Containing the Recommendations of the Criminal Law Advisory Commission

PUBLIC 518

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-735

This bill is proposed by the Criminal Law Advisory Commission and does the following.

The bill amends the Maine Revised Statutes, Title 4, section 51 to conform the language with Rule 12(a) of the Maine Rules of Appellate Procedure.

The bill deletes the first sentence of Title 15, section 1026, subsection 3 as amended by Public Law 2007, chapter 377, corrects a conflict created when Public Law 2007, chapter 374 amended the same section of law and adds a new introductory sentence that more accurately identifies the purpose of subsection 3.

The bill adds to subparagraph 12 of Title 15, section 1026, subsection 3, paragraph A language that was unintentionally omitted when that paragraph was amended by Public Law 2007, chapter 374, section 6.

The bill modifies Title 17-A, section 15, subsection 1, paragraph A by adding a new subparagraph 5-B to reflect the new domestic violence crimes recently added to chapter 9 of the Maine Criminal Code and by adding subparagraphs 15, 16 and 17, allowing a law enforcement officer to make a warrantless arrest of any person who the officer has probable cause to believe has committed or is committing a violation of a requirement of administrative release when requested by the attorney for the State, of a condition of supervised release for sex offenders when requested by a probation officer and of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State.

The bill strikes the current references in Title 17-A, section 16, subsection 2 to section 255 and section 501, subsection 2, as each has been repealed. It also adds in Title 17-A, section 16, subsection 2 a reference to current section 255-A, the section that replaced former section 255.

The bill deletes the word "any" in Title 17-A, section 261, subsection 2, paragraph C, which is unnecessary and

Joint Standing Committee on Criminal Justice and Public Safety

inconsistent with the parallel paragraph C of section 261, subsection 1.

The bill amends Title 17-A, section 1205, subsection 4, paragraph A by changing the current directive as to where a probable cause hearing should take place. Current law provides that the hearing must be held as near to the place where the new violation is alleged to have taken place as is reasonable. This change would create the general rule that the hearing be held in the court where the person was placed on probation, thus facilitating participation at the hearing by the prosecutorial office that prosecuted the underlying criminal case in the first instance rather than an office wholly unfamiliar with the case. A court would be free to order that the hearing be held elsewhere, on request of the State, the defendant or the court, if it is reasonable under the circumstances to hold the hearing in a court other than the court that sentenced the person, based on the availability of resources and familiarity with the defendant, the underlying case, the alleged violation and the person's conduct while under supervision.

The bill eliminates in Title 17-A, section 1304, subsection 3 the necessity of a court bringing a motion to enforce payment of a fine and providing notification to the offender if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the offender comply with Title 14, section 3141, subsection 3 or 4. In that event, if the offender fails to appear as directed by the court's fine order, the court may issue a bench warrant.

The bill amends the definition of "family or household members" in Title 19-A, section 4002, subsection 4 by adding Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C and 211-A to the current list of Maine Criminal Code sections for which the definition includes "individuals presently or formerly living together and individuals who are or were sexual partners."

Committee Amendment "A" (H-735)

This amendment makes technical changes to the bill to incorporate changes made by Public Law 2007, chapter 475, section 8. The amendment also strikes from the bill the provision that changed the current directive as to where a probable cause hearing should take place for a probation violation by creating the general rule that the hearing be held in the court where the person was placed on probation. Striking this provision from the bill means that the current law is retained, which provides that the hearing must be held as near to the place where the new violation is alleged to have taken place as is reasonable.

Enacted Law Summary

Public Law 2007, chapter 518 makes a number of technical changes to the statutes regarding criminal procedure, bail and criminal law to reflect enactment of recent laws, to conform language with certain rules and to correct conflicts and omissions.

A substantive change in Public Law 2007, chapter 518 modifies Title 17-A, section 15, subsection 1, paragraph A by adding a new subparagraph 5-B to reflect the new domestic violence crimes recently added to chapter 9 of the Maine Criminal Code and by adding provisions allowing a law enforcement officer to make a warrantless arrest of any person who the officer has probable cause to believe has committed or is committing a violation of a requirement of administrative release when requested by the attorney for the State, of a condition of supervised release for sex offenders when requested by a probation officer and of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State.

Public Law 2007, chapter 518 also eliminates in Title 17-A, section 1304, subsection 3 the necessity of a court bringing a motion to enforce payment of a fine and providing notification to the offender if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the offender comply with Title 14, section 3141, subsection 3 or 4. In that event, if the offender fails to appear as directed by the court's fine order, the court may issue a bench warrant.

Public Law 2007, chapter 518 also amends the definition of "family or household members" in Title 19-A, section 4002, subsection 4 by adding Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C and 211-A to the current list of Maine Criminal Code sections for which the definition includes "individuals presently or formerly living together

Joint Standing Committee on Criminal Justice and Public Safety

and individuals who are or were sexual partners."

LD 2267 An Act To Increase the Number of Concealed Firearms Permit Reciprocity Agreements That Maine May Enter into with Other Eligible States

PUBLIC 555

Sponsor(s)

Committee Report

Amendments Adopted

OTP MAJ
ONTP MIN

This bill is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. This bill repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. The bill authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

This bill is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. This bill repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. The bill authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

Enacted Law Summary

Public Law 2007, chapter 555 was submitted as LD 2267 by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Resolve 2007, chapter 84. That resolve directed the Commissioner of Public Safety and the Attorney General to review other states' concealed firearms laws to determine if any satisfy Maine's statutory standards for reciprocity. After review of all other states' concealed firearms laws, the reviewers identified several states that meet or exceed Maine's standards and could be approached as candidates for reciprocity. Public Law 2007, chapter 555 repeals the limitation that the Chief of the State Police may enter into reciprocity with no more than 2 states. Public Law 2007, chapter 555 authorizes the Chief of the State Police to enter into reciprocity agreements with any other states that meet or exceed the requirements of this State.

LD 2312 Resolve, To Extend the Pilot Project at the Juvenile Correctional Facilities

RESOLVE 225
EMERGENCY

Sponsor(s)

Committee Report

Amendments Adopted

OTP MAJ
ONTP MIN

S-660 ROTUNDO

This resolve is submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Joint Order 2008, S.P. 890.

Resolve 2005, chapter 101 established a guardian ad litem and advocate pilot project for juveniles committed to the Long Creek Youth Development Center and the Mountain View Youth Development Center. The pilot project is scheduled to terminate on April 1, 2008. This resolve extends the termination date for the pilot project to April 1, 2010. It also requires the Commissioner of Corrections to submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a summary of the pilot project no later than January 15, 2010.

Joint Standing Committee on Criminal Justice and Public Safety

Senate Amendment "A" (S-660)

This amendment repeals from Resolve 2005, chapter 101 the language requiring that the chief advocate of the Department of Corrections select an advocate for the Mountain View Youth Development Center and instead requires the Commissioner of Corrections to appoint a selection committee to recommend an appropriate guardian ad litem for each juvenile committed to the Mountain View Youth Development Center. This amendment also strikes the appropriations and allocations section.

Enacted Law Summary

Resolve 2007, chapter 225 was submitted by the Joint Standing Committee on Criminal Justice and Public Safety pursuant to Joint Order 2008, S.P. 890. Resolve 2005, chapter 101 established a guardian ad litem and advocate pilot project for juveniles committed to the Long Creek Youth Development Center and the Mountain View Youth Development Center. The pilot project was scheduled to terminate on April 1, 2008. Resolve 2007, chapter 225 extends the termination date for the pilot project to April 1, 2010 and modifies the pilot by specifying that instead of requiring that the chief advocate of the Department of Corrections select an advocate for the Mountain View Youth Development Center, the Commissioner of Corrections must, within existing resources, appoint a selection committee to recommend an appropriate guardian ad litem for each juvenile committed to the Mountain View Youth Development Center who is chosen to participate in the pilot. It also requires the Commissioner of Corrections to submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a summary of the pilot project no later than January 15, 2010.

Resolve 2007, chapter 225 was enacted as an emergency measure effective April 24, 2008.

Joint Standing Committee on Criminal Justice and Public Safety

SUBJECT INDEX

Corrections

Enacted

LD 1953	An Act To Amend the Laws Relating to the Department of Corrections	PUBLIC 536
LD 2080	An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services	PUBLIC 653 EMERGENCY
LD 2113	An Act To Implement the Recommendations of the Committee To Study the Prison Industries Program	PUBLIC 503 EMERGENCY

Not Enacted

LD 2029	An Act To Reduce Property Taxes, Eliminate Duplication and Streamline Government by Unifying the State Prisons and County Jails	ONTP
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Criminal Law

Enacted

LD 1873	An Act To Amend the Laws Governing Stalking	PUBLIC 685
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Criminal Procedure/Bail/Sentencing

Enacted

LD 1240	An Act To Implement the Recommendations of the Criminal Law Advisory Commission	PUBLIC 475
LD 1241	An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code	PUBLIC 476
LD 1938	An Act To Allow Community Service in Lieu of Fines	PUBLIC 517
LD 2240	An Act Containing the Recommendations of the Criminal Law Advisory Commission	PUBLIC 518

Not Enacted

LD 2011	An Act To Establish a Bracelet Monitoring Program for Persons Convicted of Minor Crimes	ONTP
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Domestic Violence

Enacted

LD 1990	Resolve, To Prevent Domestic Violence and Protect Our Citizens	RESOLVE 196 EMERGENCY
LD 2168	Resolve, Regarding Legislative Review of Portions of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections	RESOLVE 167 EMERGENCY

Not Enacted

LD 1999	An Act To Amend Criminal Laws against Domestic Violence To Ensure Appropriate Recognition of Prior Convictions	ONTP
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Drugs

Not Enacted

LD 424	An Act To Protect Children from Dangerous Drugs, Harmful Chemicals and Drug-related Violence	ONTP
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Juveniles

Enacted

LD 1897	An Act To Allow Blended Sentencing for Certain Juveniles	PUBLIC 686
LD 2312	Resolve, To Extend the Pilot Project at the Juvenile Correctional Facilities	RESOLVE 225 EMERGENCY

Not Enacted

LD 71	An Act To Amend the Laws Governing the Plea of Not Criminally Responsible by Reason of Insanity in Juvenile Cases	DIED ON ADJOURNMENT
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LD 1512	An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile	DIED ON ADJOURNMENT
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Law Enforcement

Enacted

LD 2187	An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations	PUBLIC 633
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Not Enacted

LD 68	An Act To Provide a Reward for Information Regarding the Murder of a Law Enforcement Officer	DIED ON ADJOURNMENT
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OUI/OAS/Other MV Violations

Enacted

LD 856 An Act To Reduce Drunk Driving PUBLIC 531

Not Enacted

LD 280 An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime DIED ON ADJOURNMENT

LD 1674 An Act To Amend the Habitual Offender and Felony Operating Under the Influence Laws DIED ON ADJOURNMENT

LD 2030 An Act To Allow Nondangerous Drivers To Obtain a Work-restricted License ONTP

Public Safety/Fire Safety/EMS

Enacted

LD 1981 An Act To Ensure Legislative Review of Fire Sprinkler Rules PUBLIC 632

LD 2081 An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters PUBLIC 510 EMERGENCY

Not Enacted

LD 239 An Act To Provide a Felony Penalty for Assault on a Firefighter DIED BETWEEN HOUSES

Sex Offender Registration and Notification

Not Enacted

LD 446 An Act To Improve the Use of Information Regarding Sex Offenders to Better Ensure Public Safety and Awareness HELD BY GOVERNOR

Sex Offenses -- Criminal

Enacted

LD 372 An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains to Persons Who Furnish Drugs to Victims PUBLIC 474

LD 2079 An Act To Strengthen the Crime of Visual Sexual Aggression against a Child PUBLIC 688

Not Enacted

LD 3 An Act To Strengthen "Permissible Inference" in the Law Concerning Dissemination of Sexually Explicit Material DIED ON ADJOURNMENT

LD 149	An Act To Take into Account the Crime Committed That Facilitated a Sexual Assault	DIED ON ADJOURNMENT
LD 220	An Act To Clarify and Expand Maine Criminal Laws Related to Sexual Assault	DIED ON ADJOURNMENT
LD 423	An Act To Ensure the Safety of the Public and of Victims of Sexual Assault	ONTP

Weapons/Firearms/CWPs

Enacted

LD 1902	An Act Requiring the State Bureau of Identification To Report Persons Found To Be a Danger to Themselves or to Others to the National Instant Criminal Background Check System	PUBLIC 670
LD 2051	An Act To Prohibit the Sale of Firearms Other than Handguns to Persons 16 or 17 Years of Age without Parental Consent	PUBLIC 512
LD 2267	An Act To Increase the Number of Concealed Firearms Permit Reciprocity Agreements That Maine May Enter into with Other Eligible States	PUBLIC 555

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

Summary of Committee Actions

I. BILLS AND PAPERS CONSIDERED	<u>Number</u>	<u>% of Comm Activity</u>	<u>% of All Bills/Papers</u>
A. Bills referred to Committee			
<i>Bills referred and voted out</i>	17	45.9%	3.0%
<u><i>Bills Carried Over from previous session</i></u>	<u>19</u>	<u>51.4%</u>	<u>3.4%</u>
Total Bills referred	36	97.3%	6.4%
B. Bills reported out by law or joint order	1	2.7%	0.2%
Total Bills considered by Committee	37	100.0%	6.6%
Orders and Resolutions referred to Committee			
<i>Joint Study Orders referred and voted out</i>	2	100.0%	0.0%
<i>Joint Resolutions referred and voted out</i>	0	0.0%	0.0%
<i>Orders and Resolutions Carried Over</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Orders and Resolutions Referred	2	100.0%	0.0%
		% of this Committee's Reports	% of All Committee Reports
II. COMMITTEE REPORTS	<u>Number</u>		
A. Unanimous committee reports			
<i>Ought to Pass</i>	1	2.6%	0.2%
<i>Ought to Pass as Amended</i>	24	61.5%	4.5%
<i>Ought to Pass as New Draft</i>	0	0.0%	0.0%
<u><i>Ought Not to Pass</i></u>	<u>8</u>	<u>20.5%</u>	<u>1.5%</u>
Total unanimous reports	33	84.6%	6.2%
B. Divided committee reports			
<i>Two-way reports</i>	5	12.8%	0.9%
<i>Three-way reports</i>	1	2.6%	0.2%
<u><i>Four-way reports</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total divided reports	6	15.4%	1.1%
Total committee reports	39	100.0%	7.3%
III. CONFIRMATION HEARINGS	0	N/A	N/A
		% of Comm Bills/Papers	% of All Bills/Papers
IV. FINAL DISPOSITION	<u>Number</u>		
A. Bills and Papers enacted or finally passed			
<i>Joint Study Orders</i>	0	0.0%	0.0%
<i>Public laws</i>	18	48.6%	3.2%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	3	8.1%	0.5%
<u><i>Constitutional Resolutions</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	21	56.8%	3.7%
B. Resolves to authorize major substantive rules			
Rules authorized without legislative changes	1	100.0%	4.5%
Rules authorized with legislative changes	0	0.0%	0.0%
<u>Rules not authorized by the Legislature</u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total number of rules reviewed	1	100.0%	4.5%
C. Bills vetoed or held by Governor			
<i>Vetoed over-ridden</i>	0	0.0%	0.0%
<i>Vetoed sustained</i>	0	0.0%	0.0%
<u><i>Held by the Governor</i></u>	<u>1</u>	<u>2.7%</u>	<u>0.2%</u>
Total	1	2.7%	0.2%

Note: A committee vote on a bill is not included here if the bill was subsequently re-referred to another committee or recommitted and carried over.