

Joint Standing Committee on Criminal Justice

LD 5

An Act to Correct a Reference in the Maine Juvenile Code

PUBLIC 4

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 5 proposed to replace the outdated reference to the Maine District Court Criminal Rules with that of the Maine Rules of Criminal Procedure. In 1989, the Maine District Court Criminal Rules were abrogated and the substance of the Maine District Court Criminal Rule 4 was carried forward into the Maine Rules of Criminal Procedure, Rule 4.

Enacted law summary

Public Law 2001, chapter 4 replaces the outdated reference to the Maine District Court Criminal Rules with that of the Maine Rules of Criminal Procedure. In 1989, the Maine District Court Criminal Rules were abrogated and the substance of the Maine District Court Criminal Rule 4 was carried forward into the Maine Rules of Criminal Procedure, Rule 4. This law was proposed by the Criminal Law Advisory Commission.

LD 93

An Act to Implement the Recommendations that Relate to Juvenile and Criminal Law of the Joint Study Committee to Study Bomb Threats in Maine Schools

ONTP

<u>Sponsor(s)</u>		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 93, which was part of the majority report of the Joint Study Committee to Study Bomb Threats in Maine Schools, proposed to amend both the Maine Juvenile Code and the Maine Criminal Code for juveniles or adults who are 18 or 19 years of age and who are involved in making a bomb threat to a school. The bill proposed to:

1. Amend the Maine Juvenile Code to require the juvenile court to give scheduling priority to juvenile criminal cases involving making a bomb threat to a school;
2. Amend the Maine Juvenile Code to require the date of initial court appearance for a juvenile involved in making a bomb threat to a school to occur no later than 30 days after a juvenile community corrections officer receives the law enforcement officer's report on that case;
3. Require that the court suspend, revoke or deny issuance of driver's, occupational and recreational licenses to persons up to 20 years of age who are adjudicated or convicted of crimes involving making a bomb threat to a school. As proposed, licenses suspended, revoked or denied issuance under this subsection could not be issued or reissued until the person attained 20 years of age;
4. Require the Secretary of State to suspend the license or permit of any person determined to have made a bomb threat to a school pending final disposition of the case by the court;

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5. Require that the parent, guardian or legal custodian of a juvenile charged with committing a juvenile crime involving making a bomb threat to a school attend all juvenile court proceedings; and
6. Amend the restitution law to allow a court to order the parent, guardian or legal custodian of a juvenile adjudicated of a crime involving making a bomb threat to a school to make restitution of up to \$10,000 to the school departments, municipal governments, county governments or state agencies that incur costs in responding to the bomb threat.

LD 94 **An Act to Implement the Minority Recommendations Relating to** **ONTP**
Criminal and Juvenile Law of the Joint Study Committee to Study
Bomb Threats in Maine Schools

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

LD 94 was the minority report of the Joint Study Committee to Study Bomb Threats in Maine Schools. It proposed to amend both the Maine Juvenile Code and the Maine Criminal Code. The bill would have allowed the court to suspend, revoke or deny issuance of driver's licenses and permits and occupational and recreational licenses to persons up to and including 19 years of age who were adjudicated or convicted of crimes involving making a bomb threat to a school. Licenses suspended, revoked or denied issuance would have been suspended, revoked or denied for a period not to exceed 3 years.

LD 125 **An Act to Specify That Possession of Sexually Explicit Materials by** **PUBLIC 412**
Way of the Internet is Criminal

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-17

LD 125 proposed to amend the Maine Revised Statutes, Title 17, section 2924, which establishes the crime of possession of sexually explicit materials, to expressly criminalize possession of sexually explicit materials that have come into a person's possession by way of the Internet. The bill proposed to bring Title 17, section 2924 into conformity with changes previously made by Public Law 1999, chapter 444 to Title 17, section 2921, subsections 2 and 4 and Title 17, section 2923, subsections 1 and 2.

Committee Amendment "A" (H-17) proposed to make all provisions regarding sexually explicit materials consistent by including computer data files to the types of material regulated under the bill. This amendment also proposed to add a fiscal note.

Enacted law summary

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Public Law 2001, chapter 412 amends the Maine Revised Statutes, Title 17, section 2924, which establishes the crime of possession of sexually explicit materials, to expressly criminalize possession of sexually explicit materials that have come into a person's possession by way of the Internet and makes all provisions regarding sexually explicit materials consistent by including computer data files in the types of material regulated under the law. This law was proposed by the Criminal Law Advisory Commission.

LD 130 **An Act to Amend the Law Pertaining to the Maine Community Policing Institute Surcharge Fund** **PUBLIC 51**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY MAYO	OTP-AM	S-21

LD 130 proposed to eliminate the repeal in order to allow the continuation of the Maine Community Policing Institute Surcharge Fund. Under current law, the Maine Community Policing Institute Surcharge Fund would be repealed September 30, 2001.

Enacted law summary

Public Law 2001, chapter 51 extends the repeal date for the Maine Community Policing Institute Surcharge Fund from September 30, 2001 to September 30, 2003.

LD 132 **Resolve, to Establish a Cold Case Homicide Squad within the Department of Public Safety** **ONTP**

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

LD 132 proposed to direct the Department of Public Safety to form a cold case homicide squad for the purpose of working on unsolved murders. (See committee bill LD 1743.)

LD 170 **An Act to Amend the Laws Regarding Sex Offender Registration** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J MCALEVEY	ONTP	

LD 170 proposed to provide that a person sentenced as a sex offender or a sexually violent predator on or after September 1, 1985 would be subject to the Sex Offender Registration and Notification Act of 1999.

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Current law provides that a person sentenced as a sex offender or a sexually violent predator on or after September 18, 1999 is subject to the Sex Offender Registration and Notification Act of 1999.

LD 186 **An Act to Exempt from Concealed Firearms Permit Requirements
Residents of Other States Allowed to Carry Concealed Firearms** **ONTP**

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

LD 186 proposed to allow persons who are allowed to carry concealed firearms in other states to carry concealed firearms in this State without having to get a permit to do so.

LD 233 **An Act to Criminalize the Possession of Theft Tools** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P CARR	ONTP	

LD 233 proposed to prohibit the possession or transfer of tools used to commit theft.

LD 259 **An Act to Offer Reciprocity Concerning Concealed Firearms
Permits** **PUBLIC 459**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERKINS DAVIS P	OTP-AM MAJ ONTP MIN	H-213 S-324 MILLS

LD 259 proposed to allow a person to carry a concealed firearm in the State if that person has a concealed firearms permit from another state or country and the permit to carry a concealed firearm from that state or country is granted reciprocity. Reciprocity could be granted to a permit to carry a concealed firearm from another state or country if:

1. The other state or country that issued the permit to carry a concealed firearm has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed firearm; and
2. The other state or country that issued the permit to carry a concealed firearm observes the same rules of reciprocity in regards to a person issued a permit to carry a concealed firearm under Maine law.

Committee Amendment "A" (H-213) was the majority report of the Joint Standing Committee on Criminal Justice and proposed to strike language that would allow reciprocity agreements with other countries and clarify

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that the Chief of the State Police may enter into reciprocity agreements with other states. The amendment also proposed to add an appropriation and a fiscal note to the bill.

Committee Amendment "A" to Committee Amendment "A" (S-324) proposed to limit to 2 the number of states with which the Chief of the State Police may enter into reciprocity agreements for the recognition of permits to carry concealed weapons. This amendment also proposed to require the Chief of the State Police by January 15, 2003 to report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the cost, in money and other resources, of entering into these reciprocity agreements.

Enacted law summary

Public Law 2001, chapter 459 allows a person to carry a concealed firearm in the State if that person has a concealed firearms permit from another state and the permit to carry a concealed firearm from that state is granted reciprocity. The Chief of the State Police may enter into reciprocity agreements with no more than 2 states. Reciprocity may be granted if:

1. The other state or country that issued the permit to carry a concealed firearm has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed firearm; and
2. The other state or country that issued the permit to carry a concealed firearm observes the same rules of reciprocity in regards to a person issued a permit to carry a concealed firearm under Maine law.

Public Law 2001, chapter 459 also requires the Chief of the State Police to report to the Criminal Justice Committee by January 15, 2003 regarding the cost of entering into reciprocity agreements.

LD 260

An Act to Provide Funds to Purchase Thermal Imaging Cameras

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN KILKELLY	OTP-AM	H-34

LD 260 proposed to direct the State Fire Marshal to negotiate a bulk purchase price for thermal imaging cameras to be purchased by local fire-fighting units and law enforcement agencies. The bill proposed that the purchase may be furthered by means of a low-interest loan administered by the Commissioner of Public Safety from the Thermal Imaging Camera Fund, to which this bill would have appropriated \$500,000.

Committee Amendment "A" (H-34) replaced the bill. The amendment proposed to:

1. Remove references in the bill to law enforcement agencies. Under this amendment, only fire-fighting units would be eligible to participate in the bulk purchasing and loan program for thermal imaging cameras;

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2. Reduce the appropriation for the Thermal Imaging Camera Program to \$50,000. The program could receive funds from private sources. Under this amendment, loans would only be made to the extent funds are available; and
3. Add a fiscal note to the bill.

LD 260 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment. However, Public Law 2001, chapter 439 enacted part of LD 260 that provides funds to establish the fund. (See Part BBBB.)

LD 267 **An Act to Repeal the Requirement That a Person Have a Permit for Concealed Firearms** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRACY DAVIS P	ONTP	

LD 267 proposed to repeal the requirement that a person obtain a permit prior to carrying a concealed firearm. It would have required a person who wanted to carry a concealed firearm to complete a handgun safety course and to carry proof of the successful completion of that course. As proposed, failure to obtain and carry such proof while carrying a concealed firearm would have been a Class D crime. A person who had a concealed firearms permit could have applied to the Commissioner of Public Safety for a waiver of the safety course requirement.

LD 272 **An Act to Seize the Cars of Habitual Offenders** **ONTP**

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

LD 272 proposed to allow the seizure of a motor vehicle operated by an habitual offender.

LD 274 **An Act Concerning the Requirements for Exits for Boardinghouses and Lodging Houses** **PUBLIC 31**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCNEIL LEMONT	OTP-AM	H-28

LD 274 proposed to allow a boardinghouse or lodging house of 3 stories or less to have a single exit from each story if it has a sprinkler system, meets the requirements of the applicable chapter of the National Fire Protection Association Life Safety Code 101 and every sleeping room has a 2nd means of escape. Current law requires that

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each story above the first story of a boardinghouse or lodging house accommodating more than 6 persons have more than one exit, either by stairways on the inside or fire escapes on the outside of the building.

Committee Amendment "A" (H-28) replaced the bill and proposed to eliminate references to boardinghouses and lodging houses in the provision of law regarding more than one means of egress. The effect of this change for lodging houses, also known as bed and breakfasts, would be to permit them to follow less stringent standards contained in the new National Fire Protection Association Life Safety Code 101 if they have a sprinkler system. Boardinghouses are regulated by a different provision of law and are subject to more stringent requirements than contained in this section of law.

Enacted law summary

Public Law 2001, chapter 31 allows lodging houses, also known as bed and breakfasts, to follow minimum egress standards contained in the new National Fire Protection Association Life Safety Code 101 if they have a sprinkler system.

LD 277 **An Act to Amend the Standards Regarding the Endangerment of the Welfare of a Dependent Person** **PUBLIC 111**

<u>Sponsor(s)</u> MCALEVEY POVICH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-75
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LD 277 proposed to amend the law governing when a person is guilty of endangering the welfare of a dependent person by changing the standard to reckless endangerment rather than intentional endangerment. This change proposed to make the standard applied to culpability for endangerment of the welfare of a dependent person parallel to that applied in the law regarding child endangerment.

Committee Amendment "A" (S-75) proposed to specify that the culpable state of mind required for a person to endanger the welfare of a dependent person may be "intentionally," "knowingly" or "recklessly." The amendment also proposed to clarify that, for purposes of endangerment of a dependent person, a legal duty may be inferred if the defendant had assumed responsibility for the care of the dependent person.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 111 amends the law governing when a person is guilty of endangering the welfare of a dependent person by changing the standard to reckless endangerment rather than intentional endangerment. This change would make the standard applied to culpability for endangerment of the welfare of a dependent person parallel to that applied in the law regarding child endangerment.

Public Law 2001, chapter 111 specifies that the culpable state of mind required for a person to endanger the welfare of a dependent person may be "intentionally," "knowingly" or "recklessly," and clarifies that, for purposes

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of endangerment of a dependent person, a legal duty may be inferred if the defendant has assumed responsibility for the care of the dependent person.

LD 292 **An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties and to Include Burglary of a Motor Vehicle in the Presumption Provision for Theft** **PUBLIC 426**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-16

LD 292 proposed to add to the provision in the Maine Criminal Code that provides for the enhancement of theft penalties a prior conviction for burglary of a motor vehicle, in violation of the Maine Revised Statutes, Title 17-A, section 405.

Committee Amendment "A" (H-16) proposed to clarify the bill by establishing that burglary committed inside a motor vehicle may be used as a prior conviction for purposes of the enhancement of theft penalties. The amendment also proposed to create the presumption that a defendant is guilty of burglary of a motor vehicle if a defendant is in exclusive possession of property recently taken under circumstances constituting a theft or robbery and burglary of a motor vehicle. A similar presumption currently exists for burglary involving a structure.

This amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 426 establishes that burglary committed inside a motor vehicle may be used as a prior conviction for purposes of the enhancement of theft penalties and creates the presumption that a defendant is guilty of burglary of a motor vehicle if a defendant is in exclusive possession of property recently taken under circumstances constituting a theft or robbery and burglary of a motor vehicle. A similar presumption currently exists for burglary involving a structure. This law was proposed by the Criminal Law Advisory Commission.

LD 313 **An Act Regarding Prisoner Participation in Public Work Projects or Improvements to Charitable Organizations' Property** **PUBLIC 171**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
LESSARD DAVIS P		OTP-AM		H-262

LD 313 proposed to allow county sheriffs to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. It also proposed to provide that a prisoner could qualify for a reduced sentence through performing public service work, whether that work is performed on the property of a charitable organization or on property of the county.

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Committee Amendment "A" (H-262) proposed to make the following substantive changes to the bill:

1. To remove those portions of the bill that repeal provisions of law providing rights of appeal for an inmate whose privilege of release from jail has been revoked; under this amendment, the rights of appeal provided in current law are maintained;
2. To change the law governing the disbursement of an inmate's employment wages; under current law, the court determines the disbursement according to certain guidelines established in law; under this amendment the sheriff would make the determination according to the same guidelines;
3. To change the law governing the prorating of an inmate's sentence for participation in public-works related projects; under current law an inmate's sentence must be reduced one day for each 16 hours worked; under this amendment, the sentence could be reduced up to one day for each 16 hours worked;
4. To modify that portion of the bill that repeals the authority of a court to withdraw an inmate's privilege to participate in a home-release monitoring program; under this amendment, the court could withdraw the privilege but must first provide an opportunity for the sheriff to comment;
5. To modify that portion of the bill that repeals the authority of a court to determine whether the inmate is responsible for the cost of participating in the home-release program, based on the inmate's ability to pay; under this amendment, the sheriff would be granted the authority to make this determination;
6. To change the law that directs the court to require the inmate under a home-release program to pay certain fees related to the costs of the program unless the inmate does not have the financial resources to pay these fees; under this amendment, the sheriff would be directed to undertake this responsibility;
7. To add a requirement that the Commissioner of Corrections submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters concerning the management by sheriffs of inmate releases; and
8. To repeal the provisions transferring the decision-making authority with respect to releases of prisoners from the county jails from the courts to the sheriffs 90 days after the adjournment of the First Regular Session of the 121st Legislature; at this time the authority would revert back to the courts.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 171 allows county sheriffs instead of a court to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. It requires the Commissioner of Corrections to submit an annual report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters concerning the management by sheriffs of inmate releases under these new provisions. It repeals this transfer from the court to the sheriffs of the decision-making authority with respect to releases of prisoners from the county jails 90 days after the adjournment of the First Regular Session of the 121st Legislature. On that date the authority reverts back to the courts. It also

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makes clear that a prisoner can qualify for a reduced sentence through performing public service work, whether that work is performed on the property of a charitable organization or on property of the county.

LD 349 **An Act Concerning the Transportation of Juvenile Offenders** **DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u> PEAVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-455
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LD 349 proposed to relieve the county of the cost of transporting juveniles other than to a courthouse. The cost of other court-ordered transportation would be the responsibility of the State.

Committee Amendment "A" (H-455) replaced the bill and proposed to repeal juvenile transportation provisions in the Maine Revised Statutes, Title 34-A and create one transportation provision in the Maine Juvenile Code. The new provision proposed to direct county sheriffs to provide court-ordered and court-related transportation of juvenile detainees and require the Department of Corrections to reimburse the transporting county for those costs. The amendment also proposed to add a fiscal note and an appropriation.

LD 349 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

LD 385 **An Act to Amend the Laws Governing Bail** **ONTP**

<u>Sponsor(s)</u> SKOGLUND PENDLETON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 385 proposed to allow sheriffs to appoint county jail employees to act as bail commissioners. The bill proposed that a fee received by a sheriff serving as a bail commissioner would have to be paid to the county.

LD 407 **An Act Relating to Out-of-state Travel for Work Purposes for
Persons on Probation or on Supervised Release** **ONTP**

<u>Sponsor(s)</u> NORBERT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 407 proposed to allow a convicted person who is placed on probation or on supervised release out-of-state travel for work purposes only.

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LD 464

An Act to Require a License to Sell Firearms

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS SULLIVAN	ONTP MAJ OTP-AM MIN	

LD 464 proposed to require sellers of firearms at gun shows or other so-called private sales to be licensed to sell firearms by the federal Bureau of Alcohol, Tobacco and Firearms and to perform background checks on the purchasers as required by federal law. The bill proposed to create exceptions for transfers to a federally licensed dealer; transfers to members of the seller's immediate family; transfers in accordance with a will; and transfers of antique firearms.

Committee Amendment "A" (S-97) was the minority report of the Joint Standing Committee on Criminal Justice and proposed to replace the bill. This amendment proposed to do the following:

1. Require a person that sells or transfers firearms at a gun show to conduct or have conducted on the person's behalf a national instant criminal background check of the purchaser or transferee;
2. Require gun show operators to post notices of this requirement at the gun show;
3. Require gun show operators to designate at least one federally licensed firearms dealer at the show to conduct background checks on behalf of unlicensed sellers at cost and to maintain a record of the transfer;
4. Establish civil penalties for violations of the law; and
5. Establish a definition of a gun show.

Committee Amendment "A" was not adopted.

LD 476

An Act to Require Lifetime Probation for Dangerous Sexual Offenders

DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	ONTP MAJ OTP-AM MIN	

LD 476 proposed to require lifetime probation for a person sentenced as a dangerous sexual offender.

Committee Amendment "A" (H-350) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to require lifetime probation for a person sentenced as a dangerous sexual offender who has been sentenced as a dangerous sexual offender 2 prior times. The amendment also would have required the court to order sexual offender treatment as a condition of the dangerous sexual offender's probation. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

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LD 508 **An Act to Repeal the Maine Criminal Justice Academy Certification Requirements for Sheriffs** **ONTP**

<u>Sponsor(s)</u> GOODWIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 508 proposed to remove the requirement that a sheriff or candidate for sheriff submit certification from the Maine Criminal Justice Academy showing that the sheriff or candidate has met the basic law enforcement training standards and basic corrections training standards and has 5 years of supervisory employment experience.

LD 579 **An Act to Allow Sheriffs to Use Modern Record-keeping Technologies in the Maintenance of Jail Records** **PUBLIC 33**

<u>Sponsor(s)</u> PEAVEY		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 579 proposed to remove the requirement that a sheriff keep certain information about prisoners committed to the jail under the sheriff's charge in a bound book and replace it with a requirement that this information be kept in a suitable, permanent record at the office of the sheriff.

Enacted law summary

Public Law 2001, chapter 33 removes the requirement that a sheriff keep certain information about prisoners committed to the jail under the sheriff's charge in a bound book and replaces it with a requirement that this information be kept in a suitable, permanent record at the office of the sheriff.

LD 601 **An Act to Provide for Relief from Mandatory Minimum Sentences in Certain Cases** **CARRIED OVER**

<u>Sponsor(s)</u> MILLS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 601 proposed to grant the judge authority to deviate from a mandatory minimum sentence and a mandatory minimum fine in certain circumstances. Section 1 of the bill proposed to repeal the mandatory minimum sentences for aggravated trafficking, furnishing or cultivation of scheduled drugs. Section 2 of the bill proposed to give courts the authority to deviate from statutory mandatory minimum sentences if the gravity of the offense is not diminished or if the public's safety is not adversely affected and if imposing the mandatory sentence would be a substantial injustice and would frustrate the general purposes of sentencing. In making the decision the court shall

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consider a number of factors (i.e., offense, victim's wishes, prospects for rehabilitation, age, physical and mental condition) in deviating from imposing a minimum sentence. LD 611 was carried over to the Second Regular Session of the 120th Legislature.

LD 602 **An Act to Allow for the Taking of Palm Prints, Footprints and Photographs of a Person Charged with the Commission of a Juvenile Crime** **DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY POVICH	OTP MAJ ONTP MIN	

LD 602 proposed to allow the taking of palm prints, footprints and photographs whenever a law enforcement agency is exercising its statutory duty to take the fingerprints of a juvenile charged with the commission of a juvenile crime.

LD 611 **An Act to Create a Pilot Project to Fully Implement the Maine Medical Marijuana Act of 1998** **CARRIED OVER**

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

LD 611 was a concept draft pursuant to Joint Rule 208.

This bill proposed to create a pilot program allowing one medical marijuana distribution center in the State. The center would be incorporated as a nonprofit entity managed and overseen by a diverse community group. In particular, this bill proposed the following.

1. A single nonprofit center, referred to herein as the "center," would be incorporated for the purpose of cultivating and distributing medical marijuana to individuals qualified under the Maine Medical Marijuana Act of 1998. The center would also be authorized to distribute or lend, or both, cultivation equipment, supplies and seeds to qualified individuals for cultivation for personal use.
2. The center would be overseen and managed by a community board made up of a wide range of individuals drawn from the community area of the center's site. Members of the community board might include members drawn from the following groups: law enforcement, current and former patients, patient advocates, hospice facilities, education professionals, legal community, business, pharmacists, clergy, medicine and other groups involved in the community.
3. The framework for the operation of the community board would be included in the enabling legislation. Among other things, the framework would provide for term length of board members, qualifying members as described above, civil and criminal immunity protection for board members and employees acting within the scope of the

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center's mission and the authorization to use Maine's nonprofit business statute as a basis for organizational structure.

4. The center would be able to charge patients for the product to help cover the cost of the center. The center would also be prohibited from securing medical marijuana from outside the State.
5. A mandatory registry system for patients using the center would be created to ensure that only qualified individuals access the center's services. The system would be maintained by the center with oversight and input from the sheriff of the county within which the center is located. Other law enforcement personnel could confirm the participation of individuals in the center's services, if necessary, through that particular sheriff's office or the center. Among other things, the registry system would consist of a photo identification card, and the center would be authorized by the patient to check with the individual's physician that the individual falls within the provisions of the Maine Medical Marijuana Act of 1998. The center would also check with the appropriate state medical board or with the statewide medical association to determine that the physician is duly licensed to practice in the State.
6. The center would be required to keep records of patients' usage from the center in order to monitor compliance with statutory limits.
7. The center would be required to report to the Legislature within 18 months of commencement of operation concerning the center's operations, an evaluation in meeting patients' needs and the unmet needs of patients. The report may also contain suggestions for additional legislation to meet needs of patients. The Legislature could then take additional action, including the authorization of additional sites with the State.
8. A person qualified under the Maine Medical Marijuana Act of 1998 who possessed appropriate documentation under the current law of that person's qualification at the time of a stop or encounter with law enforcement would not be subject to seizure of a lawful amount of marijuana or the equipment necessary to maintain, grow or consume medical marijuana.

Following the United States Supreme Court decision in United States v. Oakland Cannabis Buyers' Cooperative, in which the court held that there is no defense to federal criminal drug charges based on medical necessity of the recipient and that the federal government can obtain a civil injunction against a coop to prohibit growing and distribution, LD 611 was carried over to the Second Regular Session of the 120th Legislature.

LD 626

An Act to Amend the Laws Governing Sex Offender Registration

ONTP

Sponsor(s)
TRAHAN

Committee Report
ONTP

Amendments Adopted

LD 626 proposed to amend the Sex Offender Registration and Notification Act of 1999 to include in the sex offender registry the following information: the sex offender's social security number; the sex and age of the victim; the terms, conditions and duration of any probation or parole in the offense history of the offender; the sex offender's driver's license number; and a description of any motor vehicle owned and operated by the offender, including vehicle identification number and license plate number

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LD 642

An Act Concerning the Administration of Medications in County Jails

PUBLIC 153

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E DAVIS P	OTP-AM	H-161

LD 642 proposed to allow the administration of medications that have been prescribed by a nurse practitioner and approved by the jail's health care provider. In the case of a prisoner who has been incarcerated for less than 24 hours, permission to administer medication could be given by a physician, nurse practitioner or dentist or the facility health care provider.

Committee Amendment "A" (H-161) proposed to allow the administration of medications that have been prescribed by a physician assistant and approved by the jail's health care provider.

Enacted law summary

Public Law 2001, chapter 153 allows the administration of medications that have been prescribed by a nurse practitioner or a physician assistant and approved by the jail's health care provider. In the case of a prisoner who has been incarcerated for less than 24 hours, permission to administer medication may be given by a physician, nurse practitioner or dentist or the facility health care provider. Current law allows the sheriff of a county to administer to a prisoner in that county's jail medication that has been prescribed by a physician or dentist.

LD 649

An Act Concerning the Obligation of County Taxpayers to Pay for Medical Care for County Jail Inmates

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E DAVIS P	ONTP	

LD 649 proposed to limit the obligation of a county to provide county jail inmates with medical and dental services at taxpayer expense to illnesses and injuries that arise during incarceration.

LD 677

An Act to Change the Deadline for the Reporting of a Pilot Project Regarding Ambulance Drivers

**PUBLIC 45
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL	OTP-AM	H-53

Joint Standing Committee on Criminal Justice

LD 677 was an emergency bill that proposed to extend the reporting date for the Department of Public Safety, Maine Emergency Medical Services ambulance operator training pilot project by one year.

Committee Amendment "A" (H-53) proposed to extend the date by which a person whose job description includes operating an ambulance in an emergency mode or transporting a patient must possess certification of successful completion of a basic ambulance vehicle operator course, or a course that has been provided as an equivalent. The current date is January 1, 2003 and this amendment proposed to extend the date one year to 2004.

Enacted law summary

Public Law 2001, chapter 45 extends the reporting date for the Department of Public Safety, Maine Emergency Medical Services ambulance operator training pilot project by one year.

It also extends the date by which a person whose job description includes operating an ambulance in an emergency mode or transporting a patient must possess certification of successful completion of a basic ambulance vehicle operator course, or a course that has been provided as an equivalent. The current date is January 1, 2003 and this law extends the date one year to 2004.

Public Law 2001, chapter 45 was enacted as an emergency measure effective April 11, 2001.

LD 680

An Act to Bring the Crime of Refusing to Submit to Arrest or Detention into Conformity with the Maine Criminal Code

PUBLIC 128

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 680 proposed to remove the defense to a prosecution for refusing to submit to an arrest or detention that the person knew that the law enforcement officer knew that the arrest or detention was illegal. The defense is contradictory to the general law on physical force in defense of a person as provided in the Maine Revised Statutes, Title 17-A, section 108, subsection 1-A. (See State v. Day, 724 A.2d 1245, 1247.)

Enacted law summary

Public Law 2001, chapter 128 removes the defense to a prosecution for refusing to submit to an arrest or detention that the person knew that the law enforcement officer knew that the arrest or detention was illegal. The defense is contradictory to the general law on physical force in defense of a person as provided in the Maine Revised Statutes, Title 17-A, section 108, subsection 1-A. (See State v. Day, 724 A. 2d 1245, 1247.) This law was proposed by the Criminal Law Advisory Commission.

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LD 681 **An Act to Amend the Law Concerning Possession of Firearms by Persons Convicted in Other States** **CARRIED OVER**

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

LD 681 proposed to specify that the prohibition against carrying a firearm applies to a person convicted of a crime in another state that is punishable in this State as murder or a Class A, B, or C crime.

Current law prohibits persons convicted of a crime punishable by a term of imprisonment for one year or more from carrying a firearm (consistent with prior history provisions used for private investigators' and occupational licenses). Under federal law, a crime punishable by more than a year in prison is considered a felony. In this State, crimes are not classified as a felony or misdemeanor; instead, crimes are classified by the severity of the punishment that may be imposed. For example, conviction of a Class D or Class E crime is punishable by a definite term of imprisonment less than one year. In some other states, however, a crime is considered a misdemeanor but carries a possible punishment of more than a year in prison. Under the current law, a person convicted of a crime in another state that is punishable by a year or more is prohibited from carrying a firearm in this State, even if the same crime in this State is a Class D or E crime.

LD 681 was carried over to the Second Regular Session of the 120th Legislature.

LD 700 **An Act to Amend the Physical Force Justification Laws** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEMOINE DAGGETT	ONTP MAJ OTP MIN	

LD 700 proposed to specifically exclude the use of a stick, a belt or any other hard or solid object from the permissible and justifiable use of reasonable degree of force by a parent or other responsible person when disciplining a dependent person if the use of the stick, belt or other hard or solid object causes a bruise on the dependent person.

LD 749 **An Act to Prohibit Cyberstalking** **PUBLIC 411**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEMOINE MCALEVEY	OTP-AM	H-160

LD 749 proposed to amend the crime of stalking by specifying that, for purposes of stalking, "course of conduct" means, with intent to harass, annoy or alarm another, communicating or causing a communication to be initiated by

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mechanical or electronic means or otherwise with that person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication.

Committee Amendment "A" (H-160) replaced the bill and proposed to clarify that for purposes of stalking "conveying oral or written threats" includes communicating or causing a communication to be initiated by mail or mechanical or electronic means. Mechanical or electronic means include telephones, cellular telephones, telegraphs, computers, video recorders, fax machines, pagers or similar devices. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 411 clarifies that for purposes of stalking "conveying oral or written threats" includes communicating or causing a communication to be initiated by mail or mechanical or electronic means. Mechanical or electronic means include telephones, cellular telephones, telegraphs, computers, video recorders, fax machines, pagers or similar devices.

LD 752 **An Act to Amend the Standards for Release for Crime Bailable as of Right Preconviction** **ONTP**

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

LD 752 proposed to amend the standards for release for a crime bailable as of right preconviction by indicating that a random search condition may not be imposed except by the court upon the State's proof by a preponderance of the evidence that the condition is necessary to ensure the presence of the defendant in court.

LD 768 **An Act to Require a Life Sentence for Murder Unless There Are Mitigating Circumstances** **DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY WATERHOUSE	ONTP MAJ OTP-AM MIN	

LD 768 proposed to specify that a person sentenced for the crime of murder must be sentenced to imprisonment for life. Only if mitigating circumstances exist could the court adjust the sentence downward, and if mitigating circumstances exist, the court would have had to specify those circumstances. If a sentence for murder were adjusted downward, it could not be adjusted below 25 years, which is the current minimum term of imprisonment for murder.

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Committee Amendment "A" (S-95) replaced the bill and was the minority report. The amendment proposed to change the mandatory minimum sentence for murder from 25 years to 35 years. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

LD 774 **An Act to Require the Destruction of Certain Confiscated and Forfeited Handguns** **PUBLIC 348**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAND BAKER	ONTP MAJ OTP-AM MIN	H-486 WHEELER E S-149 O'GARA S-96

LD 774 proposed to require the destruction of all handguns confiscated by or forfeited to the State. The bill proposed that handguns be defined using the definition under federal law.

Committee Amendment "A" (S-96) was the minority report of the Joint Standing Committee on Criminal Justice and proposed to add a fiscal note to the bill.

House Amendment "A" to Senate Amendment "A" (H-486) proposed to require the destruction of a handgun used in the commission of a homicide unless the handgun was stolen and the rightful owner could be ascertained, in which case the handgun would have to be returned to the rightful owner.

Senate Amendment "A" (S-149) proposed to narrow the scope of the bill by limiting its application to handguns that were confiscated or forfeited because they were used in the commission of a homicide. It also proposed to correct a clerical error.

Enacted law summary

Public Law 2001, chapter 348 requires the destruction of a handgun used in the commission of a homicide unless the handgun was stolen and the rightful owner can be ascertained, in which case the handgun must be returned to the rightful owner.

LD 790 **An Act to Make Assault with a Dangerous Dog a Crime and to Allow a Court to Impose Restitution to the Victim** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P LESSARD	ONTP	

LD 790 proposed to create the criminal offense of assault with a dangerous dog and proposed to require the court to impose restitution during the sentencing of a person convicted of the offense if the victim suffered any financial damage.

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(See Public Law 2001, chapter 220, which was LD 661, An Act to Make An Owner Responsible for Injuries Caused by a Dog.)

LD 797

An Act to Amend the Laws Pertaining to Domestic Violence

PUBLIC 420

<u>Sponsor(s)</u> BENNETT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-172
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LD 797 proposed to amend current law to make it a Class C crime, punishable by up to 5 years' imprisonment, if a person:

1. Assaults a family or household member and the person has 2 or more prior convictions for assault on a family or household member;
2. Violates a protective order through reckless conduct that creates a substantial risk of death or serious bodily injury to another person or assaults the plaintiff named in the protective order; or
3. Violates a protective order and has 2 or more prior convictions of violating a protective order.

Committee Amendment "A" (S-172) replaced the bill and proposed to remove language regarding increased classifications for prior convictions. The amendment also proposed to clarify that a person commits a Class C crime by violating a protective order through conduct that is reckless and that creates a substantial risk of death or bodily injury to the plaintiff named in the protective order, instead of to any person. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 420 specifies that a person commits a Class C crime by violating a protective order through conduct that is reckless and that creates a substantial risk of death or bodily injury to the plaintiff named in a protective order or by assaulting the plaintiff named in the protective order.

LD 806

An Act to Amend the Concealed Firearms Laws

ONTP

<u>Sponsor(s)</u> MCALEVEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 806 proposed to allow a resident of a municipality to apply for a concealed firearms permit to either the municipal officers, if the municipal officers issue concealed firearms permits, or the Chief of the State Police, at the preference of the resident. Current law allows a resident of a municipality to apply for a concealed firearms permit to the Chief of the State Police only if the chief has been designated by the municipality as the issuing authority.

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LD 817

An Act to Protect Maine Children

ONTP

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

LD 817 proposed to revise the most recent sex offender registration and notification act to apply to all sex offenders and sexually violent predators, regardless of when they were convicted and sentenced. It would have required sex offenders to register for the rest of their lives, as sexually violent predators are currently required to do.

This bill proposed to repeal the 2 earlier laws covering sex offender registration and notification that applied before 1999, but would have retained the notification procedures and applied them to sex offenders and sexually violent predators.

This bill had a nonseverability clause that would have provided that the whole Act was invalid if a court ruled that any provision of the Act was unconstitutional. This would have been necessary to ensure that current law requiring registration and notification was retained for sex offenders convicted and sentenced before September 18, 1999, if a court ruled that the Sex Offender Registration and Notification Act of 1999 could not be modified to apply retroactively to earlier convictions.

LD 823

An Act to Discourage Environmental Terrorism

DIED IN
CONCURRENCE

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

LD 823 proposed to establish the Class C crime of environmental terrorizing. A person would have been guilty of environmental terrorizing if that person commits a crime of violence dangerous to human life or destructive to property or business practices, for the primary purpose of protesting the practices of a person or business with respect to an environmental or natural resource issue, and the result was to cause injury in fact to persons or damage to property or business or to purposefully cause a significant interruption in business or loss of products that results in loss of revenues or in compensable damages.

Committee Amendment "A" (H-273) was the minority report of the Joint Standing Committee on Criminal Justice and proposed to add a fiscal note to the bill. This amendment was not adopted.

House Amendment "A" (H-312) proposed to provide that the provisions of the bill do not apply to a person who was protesting the practices of a business during a labor dispute, strike or lockout at that business. This amendment was not adopted.

House Amendment "B" (H-401) proposed to clarify that the crime of environmental terrorizing only applies to the destruction of property or business practices if the act was a violent crime. This amendment was not adopted.

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House Amendment "C" (H-424) proposed to require that the damage to property or business practices as a result of the protest must create a threat to public health or safety in order to be considered environmental terrorizing. This amendment was not adopted.

Senate Amendment "A" (S-293) proposed to provide that the provisions of the bill do not apply to a person who was protesting the practices of a business during a labor dispute, strike or lockout at that business. This amendment proposed to require that the damage to property or business practices as a result of a crime that was destructive to property or business practices must create a threat to public health or safety in order to be considered ecoterrorism. This amendment also would have included knowingly exposing an animal to a contagious or infectious disease as a crime of ecoterrorism. This amendment was not adopted.

LD 827 **An Act Requiring a Mandatory Jail Sentence for a Person Convicted Twice of Sexual Abuse or Unlawful Sexual Contact** **ONTP**

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

LD 827 proposed to require a court to impose a mandatory jail sentence and order counseling for a person convicted of sexual abuse of a minor if that person has one or more prior convictions for sexual abuse of a minor. The bill also would have required a court to impose a mandatory jail sentence and order counseling for a person convicted of unlawful sexual contact with a person who suffers from a mental disability if the person convicted has one or more prior convictions of that crime. The bill also would have raised the sentencing class by one class if the State plead and proved that the person has been convicted twice or more for the same crime.

LD 833 **An Act to Amend the Sex Offender Registration and Notification Act of 1999 and Sentencing Provisions for Sex Offenders** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN	OTP-AM	H-531

LD 833 proposed to revise the most recent sex offender registration and notification laws to apply to all sex offenders and sexually violent predators who were sentenced on or after June 30, 1992. It proposed to repeal the two earlier laws covering sex offender registration and notification that applied before 1999. LD 833 contained a nonseverability clause that would have provided that this whole Act has no force and effect if a court rules that the amendment to the Maine Revised Statutes, Title 34-A, section 11202 is unconstitutional. This would be necessary to ensure that current law requiring registration and notification is retained for sex offenders convicted and sentenced before September 18, 1999, if a court rules that the Sex Offender Registration and Notification Act of 1999 cannot be modified to apply retroactively to earlier convictions.

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Committee Amendment "A" (H-531) proposed to do the following.

1. It amends the title.
2. It deletes language made unnecessary due to the repeal of the Maine Revised Statutes, Title 34-A, chapters 11 and 13 and the new application of Title 34-A, chapter 15.
3. It amends the sentencing provisions of the Maine Criminal Code by specifying that for purposes of enhancement of the classification of a crime due to prior convictions, the prior convictions for sex offenses could have occurred at any time, instead of within a 10-year window.
4. It specifies that the purpose of the Maine Revised Statutes, Title 34-A, chapter 15 is not punishment but to protect the public from potentially dangerous sex offenders and sexually violent predators by enhancing access to information concerning sex offenders and sexually violent predators.
5. It adds the new crime of solicitation of a child by computer to commit a prohibited act to the definition of "sex offense" for purposes of registration and notification.
6. It clarifies the definition of "sexually violent predator."
7. It specifies that sex offenders or sexually violent predators convicted from June 30, 1992 to September 17, 1999 shall register with the Department of Public Safety, State Bureau of Identification by September 1, 2002, unless sooner notified of a duty to register by the bureau, the Department of Corrections or a law enforcement officer, in which case the sex offender or sexually violent predator shall register with the bureau within 10 days.
8. It specifies that a sex offender or sexually violent predator convicted from June 30, 1992 to September 17, 1999 shall register for 10 years from the date of conviction if the sex offender or sexually violent predator was not sentenced to a period of institutional confinement, or for 10 years from the date of discharge or conditional release if the sex offender or sexually violent predator was sentenced to a period of institutional confinement.
9. It specifies that sex offenders and sexually violent predators convicted from June 30, 1992 to September 17, 1999 may not raise a defense under "just cause" that they were not aware of the registration requirement.
10. It amends the nonseverability clause to conform to drafting standards.
11. It adds an appropriation and allocation section and a fiscal note to the bill.

LD 833 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment. However, Public Law 2001, chapter 349 incorporated and enacted the text of LD 833 as amended. (See Part 000.)

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LD 870 **Resolve, Establishing a Commission to Study the Laws Governing the Sentencing of a Person Convicted of a Crime Involving a Child** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u> TRAHAN KILKELLY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-263
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LD 870 proposed to establish the Commission to Study the Laws Governing the Sentencing of a Person Convicted of a Crime Involving a Child.

Committee Amendment "A" (H-263) replaced the resolve and proposed to establish the Commission to Study the Laws Governing the Sentencing of a Person Convicted of a Crime Involving a Child, the duties of which include: conducting a comprehensive review of Maine's laws and other states' laws pertaining to penalties imposed for crimes against children; reviewing sentencing practices and patterns for crimes against children in this State, paying particular attention to sex offenses and murder and manslaughter cases; and evaluating the effectiveness and proportionality of those penalties and sentences and the need, if any, for the State to modify its current sentencing guidelines for crimes committed against children. The amendment proposed that the commission shall deliver its report and any proposed legislation to the Second Regular Session of the 120th Legislature. It also proposed to add an appropriation section and a fiscal note to the resolve.

LD 870 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

LD 885 **An Act to Prohibit Issuance of a Concealed Firearms Permit to the Subject of a Permanent Protection from Abuse Order** **ONTP**

<u>Sponsor(s)</u> DOUGLASS	<u>Committee Report</u> ONTP MAJ OTP MIN	<u>Amendments Adopted</u>
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LD 885 proposed to prohibit the issuance of concealed firearms permits to those who have been the subject of permanent protection from abuse order within 2 years of the date of the application.

LD 903 **An Act Concerning the Cost of Training County Corrections Officers** **ONTP**

<u>Sponsor(s)</u> PEAVEY DAVIS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 903 proposed to expand upon the present law by allowing a county sheriff to recoup from another agency the cost of training a corrections officer when the other agency hires the officer within 5 years of the officer's graduation from the academy. Current law allows law enforcement agencies to recoup from another law enforcement agency the cost of training a law enforcement officer at the Maine Criminal Justice Academy, when that other agency hires the officer within 5 years of the officer's graduation from the academy.

LD 908 **Resolve, to Establish Clear Guidelines for Protecting the Safety of Victims of Domestic Violence** **ONTP**

<u>Sponsor(s)</u> DOUGLASS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 908 proposed to direct the Commissioner of Public Safety to develop a protocol for dealing with domestic violence cases. As proposed, once the protocol is complete, the commissioner would have been directed to distribute copies of the protocol to municipal police departments and county sheriff departments. The Maine Criminal Justice Academy would have been required to incorporate the protocol into its training program.

LD 929 **An Act to Amend the Supervised Community Confinement Law** **PUBLIC 141**

<u>Sponsor(s)</u> PEAVEY DAVIS P		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-163
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LD 929 proposed to amend the supervised community confinement law by requiring that a prisoner who has a term of imprisonment of more than 5 years may be transferred to supervised community confinement after serving 2/3 of that time, and a prisoner who has a term of imprisonment of 5 years or less may be transferred after serving 1/2 of the term of imprisonment. Currently, a prisoner may not be transferred to supervised community confinement unless the prisoner has less than 12 months left on the term of imprisonment. This bill proposed to change that time to 18 months. The bill also proposed to allow a terminally ill prisoner to serve out the rest of the prisoner's term of confinement in a hospital or hospice.

Committee Amendment "A" (H-163) proposed to maintain a provision of the supervised community confinement law that prohibits any prisoner from being eligible for supervised community confinement unless the prisoner has no more than one year remaining on the term of imprisonment. The amendment also proposed to clarify the language of the bill concerning release of terminally ill inmates for end-of-life care. The amendment proposed to provide that the prisoner must live in a hospital or other appropriate care facility, such as a nursing facility or residential care facility, approved by the Commissioner of Corrections. The amendment also proposed to allow a prisoner to receive hospice services.

Enacted law summary

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Public Law 2001, chapter 141 amends the supervised community confinement law by requiring that a prisoner who has a term of imprisonment of more than 5 years may be transferred to supervised community confinement after serving 2/3 of that time, and a prisoner who has a term of imprisonment of 5 years or less may be transferred after serving 1/2 of the term of imprisonment. Public Law 2001, chapter 141 also allows a terminally ill prisoner to serve out the rest of the prisoner's term of confinement in a hospital or other appropriate care facility and to receive hospice services.

LD 935 **An Act to Enhance Sentences for Individuals Convicted of Sexually Abusing Children** **ONTP**

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

LD 935 proposed to specify that the court shall sentence persons convicted of gross sexual assault to the following minimum periods of imprisonment: if the victim was less than 7 years of age at the time of the offense, a minimum of 20 years; if the victim was more than 7 years of age but less than 14 years of age at the time of the offense, a minimum of 15 years; or if the victim was more than 14 years of age but less than 18 years of age at the time of the offense, a minimum of 10 years. The bill also would have specified that an offense of gross sexual assault in which the victim was less than 18 years of age at the time of the offense could not be charged as a lesser crime, but must be charged as a violation of the Maine Revised Statutes, Title 17-A, section 253. The court could not suspend any part of the term of imprisonment sentenced for a person convicted of gross sexual assault against a person who was under 18 years of age at the time of the offense.

LD 936 **Resolve, Directing a Study of the Creation of a Fire and Emergency Services Academy** **RESOLVE 22 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY MCNEIL	OTP-AM	H-295 POVICH S-74

LD 936, an emergency resolve, proposed to direct the Department of Public Safety to develop a plan to create and implement the State Fire and Emergency Medical Services Academy as part of the Maine Criminal Justice Academy.

Committee Amendment "A" (S-74) proposed to replace the resolve. This amendment proposed to:

1. Direct the Maine Fire Protection Services Commission to study the need and feasibility of creating a central fire fighting training facility in the State and to report its recommendations to the Joint Standing Committee on Criminal Justice by January 1, 2002;

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2. Authorize the Joint Standing Committee on Criminal Justice to report out legislation to the Second Regular Session of the 120th Legislature in response to the report;
3. Provide that unexpended funds appropriated to the Maine Fire Protection Services Commission in fiscal year 2000-01 are carried forward to fiscal year 2001-02; and
4. Add an emergency preamble and clause to the resolve.

House Amendment "A" to Committee Amendment "A" (H-295) proposed to require that the Maine Fire Protection Services Commission shall submit a report to the Joint Standing Committee on Criminal Justice before January 1, 2002.

Enacted law summary

Resolve 2001, chapter 22 does the following.

1. It directs the Maine Fire Protection Services Commission to study the need and feasibility of creating a central fire fighting training facility in the State and to report its recommendations to the Joint Standing Committee on Criminal Justice by January 1, 2002;
2. It authorizes the Joint Standing Committee on Criminal Justice to report out legislation to the Second Regular Session of the 120th Legislature in response to the report; and
3. It provides that unexpended funds appropriated to the Maine Fire Protection Services Commission in fiscal year 2000-01 are carried forward to fiscal year 2001-02.

Resolve 2001, chapter 22 was passed as an emergency measure effective May 16, 2001.

LD 941

**An Act to Create a Uniform Standard for Disposal of Property
Seized by Law Enforcement Agencies**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
USHER O'GARA	ONTP	

LD 941, a concept draft pursuant to Joint Rule 208, proposed to consolidate current Maine laws regarding the disposal of contraband materials seized by the police to ensure uniformity of treatment and proposed to enact standards for the disposal of contraband material that is not currently covered by Maine law, such as illegal drugs.

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LD 956

An Act to End Internet Crime

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KASPRZAK DAVIS P	ONTP	

LD 956 proposed to create a civil remedy for a person who suffers any loss of money or property, real or personal, as a result of another person intentionally allowing or introducing a computer virus into any computer resource in violation of the Maine Revised Statutes, Title 17-A, section 433, subsection 1, paragraph C. The bill proposed to allow a person who suffers damage because of the virus to bring an action either in the Superior Court or District Court for actual treble damages, restitution and for such other equitable relief. As proposed, a successful plaintiff in an action also would have been entitled to reasonable attorney's fees and costs incurred in connection with that action.

LD 993

An Act to Expand the Number of Persons Who May Be Appointed Sheriff or Become a Candidate for Sheriff

ONTP

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

LD 993 proposed to allow a person elected or appointed to the position of sheriff to meet the Maine Criminal Justice Academy training standards for that office within one year of election or appointment. As proposed, all other qualifications for the position of sheriff would remain unchanged. The bill also proposed to ensure that sheriffs have the same time allowances to achieve academy certification as other law enforcement officers and municipal police chiefs.

LD 1017

An Act to Allow Compassionate Leave to State Prisoners

ONTP

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

LD 1017 proposed to allow a prisoner compassionate leave to visit a dying relative, attend the funeral of a relative, obtain medical services not otherwise available or contact a prospective employer. The bill also proposed that if a prisoner did not return from the leave the prisoner would be guilty of escape.

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LD 1019 **An Act to Impose Community Service on a Person Convicted of Assaulting a Sports Official** **ONTP**

<u>Sponsor(s)</u> MACDOUGALL LEMONT	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1019 proposed to require a person who assaults a sports official to perform 100 hours of community service in addition to any other penalty imposed by the court.

LD 1030 **An Act to Strengthen the Sex Offender Laws** **ONTP**

<u>Sponsor(s)</u> MICHAEL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1030 proposed to classify all Maine Revised Statutes, Title 17-A, chapter 11 crimes as Class A, B or C crimes if the victim was less than 14 years of age at the time of the offense. The bill would have specified that these crimes must be charged and sentenced only as Class A, B or C crimes and that no part of any term of imprisonment that was ordered could be suspended. The bill would have added the crimes of solicitation of a child by computer to commit a prohibited act and sexual exploitation of a minor to the list of those crimes for which an offender must submit to a blood test for DNA testing, and the bill would have prohibited sex offenders from residing within one mile of a school or day-care center.

LD 1048 **An Act to Establish the Maine Firefighter Training Fund** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u> PEAVEY GAGNON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-159 S-207 MCALEVEY
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LD 1048 proposed to establish the Maine Firefighter Training Fund, which annually would provide \$100 per qualified firefighter for training. The bill proposed that the Maine Firefighter Training Fund be administered by the Office of the State Fire Marshal under rules adopted by the Maine Fire Protection Services Commission.

Committee Amendment "A" (H-159) proposed to allow, but not require, fire chiefs to submit rosters of names of qualified firefighters in order to receive funding under this bill. This amendment also proposed to add an allocation section to the bill to allow spending from the Maine Firefighter Training Fund established by this bill. This amendment also proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-207) proposed to add to Committee Amendment "A" an appropriation of \$1,220,000 in each fiscal year of the biennium to fund firefighter training and the necessary appropriation and allocation sections.

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LD 1048 as amended by Committee Amendment "A" and Senate Amendment "A" to Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

LD 1050 **An Act to Allow Victims of Crimes More Access to Inmate Records** **PUBLIC 208**

<u>Sponsor(s)</u> MCALEVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-73
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LD 1050 proposed to require the Department of Corrections to provide information about an inmate's incarceration, such as information concerning offenses committed while incarcerated and release information, to a victim upon the victim's request.

Committee Amendment "A" (S-73) replaced the bill. Under this amendment a victim of a crime could obtain, upon request, the following information about the inmate who committed the crime: whether the inmate had been charged with committing any crime while incarcerated and, if so, the crime with which the inmate has been charged; and whether the inmate had been disciplined while incarcerated and, if so, the offense for which the disciplinary action was taken and the type of disciplinary action taken.

Enacted law summary

Public Law 2001, chapter 208 allows a victim of a crime to obtain, upon request, the following information about the inmate who committed the crime: whether the inmate has been charged with committing any crime while incarcerated and, if so, the crime with which the inmate has been charged; and whether the inmate has been disciplined while incarcerated and, if so, the offense for which the disciplinary action was taken and the type of disciplinary action taken.

LD 1060 **An Act to Relieve Counties from the Expense and Responsibility of Transporting Certain Prisoners Between Correctional Facilities and Courts** **PUBLIC 228**

<u>Sponsor(s)</u> SKOGLUND SAVAGE C		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-352
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LD 1060 proposed to relieve the counties of the responsibility of transporting prisoners between a correctional facility and a court when the transportation is in connection with the prosecution of the prisoner for a crime committed within a correctional facility. The bill would have required the Department of Corrections to transport such prisoners.

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Committee Amendment "A" (H-352) proposed to authorize the Department of Corrections to reimburse counties whose sheriffs undertake the responsibility of transporting prisoners between correctional facilities and courts in connection with the prosecution of a crime committed within the correctional facility.

Enacted law summary

Public Law 2001, chapter 228 relieves the counties of the responsibility of transporting prisoners between a correctional facility and a court when the transportation is in connection with the prosecution of the prisoner for a crime committed within a correctional facility. Public Law 2001, chapter 228 requires the Department of Corrections to transport such prisoners or authorizes the Department of Corrections to reimburse counties whose sheriffs undertake the responsibility of transporting prisoners between correctional facilities and courts in connection with the prosecution of a crime committed within the correctional facility.

LD 1069 **An Act to Amend the Laws Pertaining to Juvenile Offenders** **ONTP**

<u>Sponsor(s)</u> POVICH		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1069 proposed to do the following:

1. Include in the definition of "juvenile crime" a willful refusal to pay a fine imposed under the Maine Revised Statutes, Title 15, section 3314;
2. Allow a juvenile community corrections officer to impose different or additional conditions of release from those listed in Title 15, section 3203-A, subsection 4, paragraph B, if the officer determined the conditions were necessary to ensure the juvenile's appearance or to ensure the protection of the community; and
3. Specify that if a Juvenile Court made any disposition of a case as provided under Title 15, section 3314, the court could not decrease the period of commitment to a Department of Corrections juvenile correctional facility.

LD 1075 **An Act to Prohibit Plea Bargaining for Cases of Murder and Felony Sex Offenses Against Children** **ONTP**

<u>Sponsor(s)</u> O'BRIEN J MCALEVEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1075 proposed to prohibit plea bargaining in cases involving murder or a Class A, B or C sex offense in which the victim was under 18 years of age.

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LD 1077 **An Act to Protect Maine's Elderly from Theft and Fraud** **ONTP**

<u>Sponsor(s)</u> DUNLAP KILKELLY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1077 proposed to allow a court to order the forfeiture of a defendant's assets for a defendant who is convicted of theft or fraud against a person 60 years of age or older.

LD 1081 **An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole** **CARRIED OVER**

<u>Sponsor(s)</u> O'BRIEN J MCALEVEY	<u>Committee Report</u>	<u>Amendments Adopted</u> H-162 H-482 POVICH
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LD 1081 proposed to create the Interstate Compact for Adult Offender Supervision. The bill was carried over to the Second Regular Session of the 120th Legislature.

LD 1084 **An Act to Clarify the State's Burden of Proof in Cases of Criminal Homicide or Serious Bodily Injury Caused by a Person Operating a Motor Vehicle** **PUBLIC 332**

<u>Sponsor(s)</u> PENDLETON	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> S-242
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LD 1084 proposed to create a separate crime for a person who, while intoxicated, caused the death of another person and proposed to increase the offense to a Class B crime, punishable by at least one year in prison.

Committee Amendment "A" (S-242) was the majority report and replaced the bill. The amendment proposed to specify that in cases of criminal homicide or bodily injury caused by a person operating a motor vehicle while under the influence, the State must prove only that the defendant's operation caused the serious bodily injury or death. The amendment would have required the court to apply the standard of causation defined in the Maine Revised Statutes, Title 17-A, section 33 in such cases.

Enacted law summary

Public Law 2001, chapter 332 specifies that in cases of criminal homicide or bodily injury caused by a person operating a motor vehicle while under the influence, the State must prove only that the defendant's operation caused

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the serious bodily injury or death. The court shall apply the standard of causation defined in the Maine Revised Statutes, Title 17-A, section 33 in such cases.

LD 1087 **An Act to Create the Crime of Fleeing from a Motor Vehicle Stopped by Police** **ONTP**

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

LD 1087 proposed to create the Class E crime of fleeing a motor vehicle in order to prohibit a driver of a motor vehicle signaled to stop by a law enforcement officer from attempting to elude arrest by leaving the motor vehicle.

LD 1098 **An Act to Increase the Crime Classification of the Crime of Misuse of Identification** **ONTP**

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

LD 1098 proposed to increase the classification of the crime of misuse of identification from a Class D crime to a Class C crime.

LD 1099 **An Act Regarding the Care and Treatment of Persons with Mental Illness Who Are Incarcerated** **PUBLIC 458
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WHEELER E	OTP-AM	S-239 S-382 GOLDTHWAIT

LD 1099 sets out the criteria and procedures for involuntary medication of mentally ill persons and persons suffering from the effects of the use of drugs or other substances residing in Department of Corrections facilities. It conforms with the requirements set out by the United States Supreme Court in Washington v. Harper, 494 U.S. 210 (1990).

Committee Amendment "A" (S-239) replaced the bill and proposed to make statutory changes and create a commission. Part A of the amendment proposed to do the following.

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1. It directs the Commissioner of Corrections or the commissioner's designee to consider all relevant information, including available mental health information, prior to making a placement decision for a person committed or transferred to the custody of the Department of Corrections.
2. It requires all adult correctional facilities and juvenile facilities operated by the Department of Corrections to be accredited by a nationally recognized correctional accrediting body by January 1, 2005 and annually thereafter.
3. It clarifies that persons committed to the custody of the Department of Corrections have a right to adequate mental health treatment.

Part B of the amendment proposed to create the Commission to Study the Needs of Persons with Mental Illness Who Are Incarcerated. The commission would consist of the 13 members of the Joint Standing Committee on Criminal Justice who are directed to invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

1. Evaluate the availability and appropriateness of current mental health services for persons incarcerated in Department of Corrections facilities and in county jails, including but not limited to: access to forensic beds for prisoners in need of that level of mental health intervention; the provision of mental health services within the institutions provided by or in partnership with the Department of Mental Health, Mental Retardation and Substance Abuse Services and involuntary medication of prisoners with mental illness;
2. Identify what additional mental health services are needed for incarcerated persons and how those services may best be implemented, provided and funded;
3. Identify what mental health training is required for law enforcement and corrections officers who work in corrections facilities and jails and how that training may best be implemented, provided and funded; and
4. Identify steps necessary for county jails to seek and achieve accreditation.

The commission would be required to submit its report, together with any necessary implementing legislation, to the Legislature no later than December 14, 2001. The amendment also proposed to add an appropriation and fiscal note.

Senate Amendment "A" to Committee Amendment "A" (S-382) proposed to remove Part B, relating to establishing a commission to study the needs of persons with mental illness who are incarcerated.

Enacted law summary

Public Law 2001, chapter 458 does the following.

1. It directs the Commissioner of Corrections or the commissioner's designee to consider all relevant information, including available mental health information, prior to making a placement decision for a person committed or transferred to the custody of the Department of Corrections.
2. It requires all adult correctional facilities and juvenile facilities operated by the Department of Corrections to be accredited by a nationally recognized correctional accrediting body by January 1, 2005 and annually thereafter.

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3. It clarifies that persons committed to the custody of the Department of Corrections have a right to adequate mental health treatment.

Public Law 2001, chapter 458 was enacted as an emergency measure effective June 28, 2001. (See HP 1383, a Joint Study Order that incorporated Part B of Committee Amendment "A" to LD 1099 and established the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated.)

LD 1119 **An Act to Limit Access to Firearms by Those Subject to Protection from Abuse Orders** **DIED ON CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL C EDMONDS	OTP-AM MAJ ONTP MIN	

LD 1119 proposed to give judges discretion to remove firearms from a person's possession when the person was the subject of a temporary protection from abuse order. The bill also would have prohibited the issuance of a concealed firearms permit to a person who was the subject of a protective order and specified that the person could not apply to receive a concealed firearms permit until at least 2 years after the person was no longer the subject of the protective order. If a concealed firearms permit holder became the subject of a protective order, that person's permit would be revoked. That person could not reapply for a permit for at least 2 years after the person was no longer the subject of the protective order.

Committee Amendment "A" (H-469) replaced the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to give the court authority to prohibit a person who was the subject of a temporary protection from abuse order from possessing a firearm or other dangerous weapon for the duration of the order, if the court determined that the defendant had a history of violence. The amendment also proposed to add a fiscal note. This amendment was not adopted.

Senate Amendment "A" to Committee Amendment "A" (S-243) proposed to give the court authority to prohibit a person who was the subject of a temporary protection from abuse order from possessing a firearm or other dangerous weapon for the duration of the order if the defendant had a record of violent behavior or had threatened to use a dangerous weapon against the plaintiff or a member of the plaintiff's household. This amendment was not adopted.

LD 1123 **An Act Concerning Runaways** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY YOUNGBLOOD	ONTP MAJ OTP-AM MIN	

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LD 1123 proposed to change the time that a juvenile may be taken into interim care by a law enforcement officer to 18 hours. The bill was intended to more reasonably facilitate identification of the juvenile and reunification of the juvenile with the juvenile's family.

Committee Amendment "A" (H-271) proposed to change the time that a juvenile may be taken into interim care to 12 hours. This amendment was not adopted.

LD 1128 **Resolve, Directing the Department of Corrections to Include in its Plan for a Long-term Care or Hospice Facility Administered by the Department of Corrections Resources and Costs Necessary to Provide Long-term or Hospice Care to County Jail Inmates and Presentence Detainees** **RESOLVE 62**

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

LD 1128 proposed to require that when the Department of Corrections develops its plan for building and administering a long-term care or hospice facility for the treatment of prisoners, the department also shall include a break out in that plan of the resources and costs of providing long-term and hospice care to county jail inmates and presentence detainees held in county jails.

Enacted law summary

Resolve 2001, chapter 62 requires that when the Department of Corrections develops its plan for building and administering a long-term care or hospice facility for the treatment of prisoners, the department also shall include a break out in that plan of the resources and costs of providing long-term and hospice care to county jail inmates and presentence detainees held in county jails.

LD 1130 **An Act to Provide for a Minimum Sentence and Limit the Use of Plea Bargaining in the Death of a Child 6 Years of Age or Younger** **ONTP**

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

LD 1130 proposed to specify that for the crime of manslaughter, if the victim of the crime was a child who had not in fact attained 6 years of age at the time the crime was committed, the court would have had to impose a sentencing alternative involving a term of imprisonment of at least 25 years, none of which could have been suspended. Current law provides a minimum term of imprisonment of 25 years for a person convicted of murder. This bill proposed that a person convicted of manslaughter of a victim less than 6 years of age would have also received a term of imprisonment of at least 25 years.

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LD 1147

An Act Creating the New Crime of Aggravated Attempted Murder

PUBLIC 413

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-260

LD 1147 proposed to repeal the current special sentencing scheme for the Class A crime of attempted murder and create a new Class A crime of aggravated attempted murder, the authorized punishment for which would be imprisonment for life or for any term of years. Imposition of a life sentence for aggravated attempted murder would be governed by the law applicable to the imposition of a life sentence for murder under the Maine Revised Statutes, Title 17-A, section 1251. The existence of an aggravating circumstance allows the court to consider whether to impose a life sentence. Unlike the punishment authorized for murder, there is no mandatory minimum term of imprisonment if the court chooses to impose a definite period of years. Further, unlike murder under Title 17-A, section 1201, the person guilty of aggravated attempted murder is eligible for a sentence alternative that includes a period of probation.

By creating the new crime of aggravated attempted murder the bill proposed to return sentencing for the crime of attempted murder to that authorized for Class A crimes generally and to respond to the fact that the current special penalty provision for attempted murder allowing for the imposition of a life sentence "with proper findings" appears to be unconstitutional in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000)(the aggravating circumstances not being alleged, submitted to a jury or proved beyond a reasonable doubt).

Committee Amendment "A" (H-260) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 413 repeals the current special sentencing scheme for the Class A crime of attempted murder and creates a new Class A crime of aggravated attempted murder, the authorized punishment for which is imprisonment for life or for any term of years. Imposition of a life sentence for aggravated attempted murder is governed by the law applicable to the imposition of a life sentence for murder under the Maine Revised Statutes, Title 17-A, section 1251. The existence of an aggravating circumstance allows the court to consider whether to impose a life sentence. Unlike the punishment authorized for murder, there is no mandatory minimum term of imprisonment if the court chooses to impose a definite period of years. Further, unlike murder under Title 17-A, section 1201, the person guilty of aggravated attempted murder is eligible for a sentence alternative that includes a period of probation.

The purpose of Public Law 2001, chapter 413 is to return sentencing for the crime of attempted murder to that authorized for Class A crimes generally and to respond to the fact that the current special penalty provision for attempted murder allowing for the imposition of a life sentence "with proper findings" appears to be unconstitutional in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000)(the aggravating circumstances not being alleged, submitted to a jury or proved beyond a reasonable doubt). This law was proposed by the Criminal Law Advisory Commission.

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LD 1159 **An Act to Increase Effectiveness within the Department of Corrections when Serving Warrants of Arrest for Persons Charged with Probation and Parole Violations** **ONTP**

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

LD 1159 proposed to include General Fund appropriations totaling \$30,000 in fiscal year 2001-02 and \$40,000 in fiscal year 2002-03 for the Department of Corrections to lease one vehicle for each regional probation office to assist in transporting persons involved with probation violations.

LD 1168 **An Act Concerning the Sentencing of Persons to County Jails** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY	ONTP MAJ	H-693 BLANCHETTE
WATERHOUSE	OTP-AM MIN	S-277

LD 1168 proposed that a person who commits a Class D or Class E crime must be imprisoned in the county jail in the county where the crime was committed. A person who commits a Class A, Class B or Class C crime must be imprisoned in the county jail in the county where the crime was committed if that person's sentence is 9 months or less. It also proposed to require that a person whose suspended sentence has been revoked be sent back to prison based upon the original, underlying sentence for purposes of determining what corrections facility is appropriate.

Finally, this bill proposed to preclude the sentencing of a person to the county jail for consecutive sentences that exceed a total of 9 months. Currently, a person may be sentenced to serve consecutive 9-month sentences for a total of 18 months at the county jail. This bill would have required that a person sentenced to a term longer than 9 months be sentenced to the custody of the Department of Corrections.

Committee Amendment "A" (S-277) was the minority report of the Joint Standing Committee on Criminal Justice and replaced the bill. The amendment proposed to require that a person who is sentenced to serve a term of imprisonment in a county jail must serve that term in the jail in the county in which the crime was committed. If the county in which the crime was committed does not have a jail, the sheriff of that county would have to make arrangements for the imprisonment of that person in the jail of another county for the length of time ordered by the court having jurisdiction. The sending county would have to pay the receiving county for the costs of boarding that prisoner. The amendment also proposed to require that if a sentence to a term of imprisonment in a county jail was consecutive to or was to be followed by a sentence of a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence would have to order that both be served in the custody of the Department of Corrections. The amendment also proposed to add a fiscal note.

House Amendment "A" to Committee Amendment "A" (H-693) proposed to require the consent of both the sheriff of the county in which the crime was committed and the sheriff of the county where the term of

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imprisonment was to be served if a defendant was sentenced to be incarcerated in a jail in a county other than the county where the crime was committed.

LD 1168 as amended by Committee Amendment "A" and Senate Amendment "A" to Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

LD 1190 **An Act to Criminalize the Unauthorized Use of Food Stamp Devices** **ONTP**

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

LD 1190 proposed to create the crime of unlawful trafficking in food stamp devices that could be enforced by state and local enforcement agencies whenever a person intentionally or knowingly furnished food stamp access devices, coupons or authorization cards to an entity not approved by the United States Secretary of Agriculture.

LD 1221 **An Act to Prevent Theft of Motor Fuels** **DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WINSOR FERGUSON	ONTP MAJ OTP-AM MIN	

LD 1221 proposed to create a new Class E crime of theft of motor fuel in Title 29-A. The bill proposed that a person commits theft of motor fuel if that person puts motor fuel into the person's vehicle and then leaves the retail fuel outlet without paying for the fuel. In addition to the penalties imposed as a Class E crime, the court would have been required to suspend the person's driver's license for at least 30 days but not more than 180 days.

Committee Amendment "A" (H-272) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to give the court discretion to order a license suspension for a person convicted of theft of motor fuels, instead of making the suspension mandatory. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

LD 1236 **An Act to Strengthen the Bail Laws for Repeat Offenders** **PUBLIC 252**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TOBIN J MITCHELL B	OTP-AM	H-405

LD 1236 proposed to change the bail law by requiring a bail commissioner or a court to consider the possibility of the commission of new criminal conduct while on bail in deciding whether to release a defendant on personal

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recognizance or unsecured bail. Current law allows the judicial officer to only consider the possibility of a failure to appear or harm to a narrow list of persons; therefore, defendants with significant criminal history, including repeated criminal violations of past bail orders, are eligible for release on personal recognizance or unsecured bail without conditions, unless there is a demonstrated risk of nonappearance. The bill would have required the judicial officer to consider the defendant's history in making the initial decision to release the defendant on personal recognizance or unsecured bail. The defendant whose history demonstrates a likelihood of new criminal conduct while on bail generally would have been required to be released only with conditions set under the Maine Revised Statutes, Title 15, section 1026, subsection 3.

Committee Amendment "A" (H-405) replaced the bill and proposed to clarify that judges and bail commissioners must consider the factors in the Maine Revised Statutes, Title 15, section 1026, subsection 4 when determining whether to set preconviction bail.

Enacted law summary

Public Law 2001, chapter 252 clarifies that judges and bail commissioners must consider the factors in the Maine Revised Statutes, Title 15, section 1026, subsection 4 when determining whether to set preconviction bail.

LD 1254

An Act to Amend the Supervised Community Confinement Program

ONTP

<u>Sponsor(s)</u> SKOGLUND		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1254 proposed to amend the supervised community confinement program to do the following:

1. Exclude a prisoner who has been sentenced to life imprisonment from participation in the program;
2. Repeal the provision restricting participation in the program to a prisoner who has one year or less remaining on the term of imprisonment, thus allowing a prisoner who has served at least 2/3 of the prisoner's sentence to be eligible for the program; and
3. Repeal the provision prohibiting a prisoner who has a security classification higher than minimum from participating in the program. Instead, if a prisoner has a classification higher than minimum, the prisoner could participate in the program if the Commissioner of Corrections evaluated the prisoner and determined that the prisoner was a suitable candidate for the program.

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LD 1265

An Act to Clarify the Criminal Extradition Laws

CARRIED OVER

<u>Sponsor(s)</u> SAVAGE W		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1265 proposed to amend the criminal extradition laws by requiring a judge to inform the person arrested of the person's right to waive extradition. The bill proposed to specify that once the person is arrested that the person must be taken before a judge in accordance with Maine Rules of Criminal Procedure, Rule 5. Rule 5 requires that once the person is arrested, the person must be brought before a judge within 48 hours after arrest.

LD 1265 was carried over to the Second Regular Session of the 120th Legislature.

LD 1283

An Act to Amend the Criminal Laws with Regard to Animal Welfare

PUBLIC 414

<u>Sponsor(s)</u> LAFOUNTAIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-170
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LD 1283 proposed to amend the criminal terrorizing statutes to make it a Class D crime to unlawfully elicit fear in a person by threatening to abuse an animal, except if the person to whom the threat was communicated was a minor, in which case the crime would be a Class C crime. This bill also proposed to create the Class B or C crime of bestiality. In addition to the penalties authorized for Class B and C crimes, a person convicted of bestiality would have been ordered to pay a fine up to \$10,000, to seek counseling and to not own or work with animals for a specified time or permanently.

Committee Amendment "A" (S-170) replaced the bill. The amendment proposed to amend criminal animal cruelty laws to include the act of committing bestiality. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 414 amends criminal animal cruelty laws to include the act of committing bestiality.

LD 1288

An Act to Make Refusing a Blood-alcohol Test a Crime

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u> DAVIS P DUNLAP		<u>Committee Report</u> ONTP MAJ OTP-AM MIN		<u>Amendments Adopted</u>
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LD 1288 proposed to subject a person who fails to submit to mandatory testing to determine whether the person is under the influence of intoxicants to the same penalties as if the person were convicted of operating under the

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influence. This bill proposed to make a conviction for failure to submit to mandatory testing equivalent to a conviction for operating under the influence of intoxicants. This bill also proposed to remove the enhanced penalties for refusing to submit to testing since such refusal would now be a separate offense.

Committee Amendment "A" (S-147) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to specify that a person who has no previous OUI offenses and fails to submit to a test at the request of a law enforcement officer must be sentenced to at least 48 hours of incarceration, which is the same mandatory penalty that is imposed for a person convicted of a first OUI offense. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

Senate Amendment "A" (S-164) proposed to add a fiscal note to the bill.

LD 1288 was sent to a Committee of Conference that did not act upon the bill; therefore LD 1288 died on adjournment.

LD 1292 **An Act for Voluntary Testing for Hepatitis-C of Adult Prisoners in the Maine Correctional System** **P & S 17**

<u>Sponsor(s)</u> SHIELDS KNEELAND	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-164
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LD 1292 proposed to require the Department of Corrections to perform testing for hepatitis-C on high-risk adult clients of the department who volunteer to participate in the testing. The bill proposed to require that medical treatment for hepatitis-C, information on support groups, drug treatment services, immunization for hepatitis-A and hepatitis-B and case management services that connect clients with community resources upon discharge all be a part of the program.

Committee Amendment "A" (H-164) replaced the bill. This amendment proposed to require the Department of Corrections, to the extent federal funding is available, to undertake a hepatitis testing and treatment program.

Enacted law summary

Private and Special Law 2001, chapter 17 requires the Department of Corrections, to the extent federal funding is available, to undertake a hepatitis testing and treatment program.

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LD 1315 **An Act to Expand the Crime of Assault on a Law Enforcement Officer** **ONTP**

<u>Sponsor(s)</u> MCALEVEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1315 proposed to require that all offenses of assault on a law enforcement officer for which the law enforcement officer requires medical treatment must be charged as the Class C crime of assault on an officer and may not be charged as a lesser offense.

LD 1330 **Resolve, Establishing the Commission to Examine the Maine Correctional Institute** **CARRIED OVER**

<u>Sponsor(s)</u> SKOGLUND MICHAUD MH		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1330, a resolve, proposed to establish the Commission to Examine the Maine Correctional Institute. The resolve proposed that the Commission examine the reasons and periods for which prisoners have been assigned to the Supermax, conditions for prisoner release from the facility, and the efficiency of the Supermax in rehabilitating inmates.

LD 1330 was carried over to the Second Regular Session of the 120th Legislature.

LD 1343 **An Act to Increase the Penalties for Criminal Speeding and Operating After Suspension** **ONTP**

<u>Sponsor(s)</u> BAKER LEMONT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1343 proposed to specify that a person commits manslaughter if the person operated a motor vehicle 20 miles per hour or more above the speed limit and causes the death of another person. This bill also proposed to change the crime of criminal speeding to reduce the threshold to 20 miles per hour or more above the speed limit, instead of the current 30 miles per hour or more above the speed limit.

The bill also proposed to enact a new crime of reckless conduct with a motor vehicle, a Class D crime, if someone causes serious bodily injury to another while operating a motor vehicle at 20 miles per hour or more above the speed limit.

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Finally, this bill proposed to require that a person operating a motor vehicle after that person's license has been suspended or revoked, currently a Class E crime, must be sentenced to a minimum of 45 days in jail.

LD 1362

**An Act to Provide Funding for the Office of the State Fire Marshal
and to Increase Certain Fire Inspection Fees**

**PUBLIC 343
EMERGENCY**

<u>Sponsor(s)</u> MCALEVEY	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> S-241
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LD 1362 proposed to increase from 1.4% to 1.9% the fire investigation and prevention tax to support increased operations expenses in the Office of the State Fire Marshal within the Office of Public Safety and to fund the increased operational expenses to carry out the goals and objectives of the 1999 strategic plan of Maine Fire Training and Education Program within the Maine Technical College System. The bill proposed to remove provisions of law that establish the fees for certain inspections conducted by the Office of State Fire Marshal within the Department of Public Safety. The bill proposed to direct the Commissioner of Public Safety to set these fees by rulemaking and to designate the rules as routine technical rules. The bill proposed to prohibit the department from setting the fees higher than the actual cost of conducting the inspections.

Committee Amendment "A" (S-241) was the majority report of the Joint Standing Committee on Criminal Justice and proposed to replace the bill. The amendment proposed to:

1. Change the title to reflect the content of the amendment;
2. Add an emergency preamble and emergency clause to the bill;
3. Establish a one-year special assessment to be collected from policyholders of insured fire risks located in the State. This special assessment would be designed to provide operating revenues for the Office of the State Fire Marshal for fiscal year 2002;
4. Increase certain inspection and permit fees collected by the Office of the State Fire Marshal to more accurately reflect the costs associated with those inspections and permits; and
5. Add an allocation section and a fiscal note to the bill.

Senate Amendment "A" (S-272) proposed to:

1. Change the title to reflect the content of the amendment;
2. Add an emergency to the bill;
3. Establish a one-year special assessment to be collected from policyholders of insured fire risks located in the State. This special assessment would be designed to provide operating revenues for the Office of the State Fire Marshal for fiscal year 2001-02;

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4. Leave in place those portions of the bill that allow the State Fire Marshal to set certain inspection fees by rule to cover the actual cost of the inspections and insert a provision allowing the Fire Marshal to set the firework technician license fee by rule; and
5. Add an allocation section.

This amendment was not adopted.

Enacted law summary

Public Law 2001, chapter 343 establishes a one-year special assessment to be collected from policyholders of insured fire risks located in the State. This special assessment is designed to provide operating revenues for the Office of the State Fire Marshal for fiscal year 2002. The law also increases certain inspection and permit fees collected by the Office of the State Fire Marshal to more accurately reflect the costs associated with those inspections and permits.

Public Law 2001, chapter 343 was enacted as an emergency measure effective June 1, 2001.

Public Law 2001, chapter 343 creates a new tax but originated incorrectly in the Senate as LD 1362. Public Law 2001, chapter 437, which was LD 1825, An Act Providing Funding for the Office of State Fire Marshal and to Increase Certain Fire Inspection Fees, repealed and replaced Public Law 2001, chapter 343.

LD 1368

An Act to Reduce the Risks Posed by Intoxicated Persons Under Arrest

ONTP

<u>Sponsor(s)</u> DUDLEY ABROMSON	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1368 proposed to allow a law enforcement officer who arrests a person for operating a motor vehicle while under the influence of alcohol or drugs to detain that operator for a period of time until the operator is no longer a danger to that operator or to others. The bill proposed that the operator could be released if there was a passenger in the vehicle who was licensed to drive and not intoxicated or if another person who was licensed to drive and not intoxicated picked the operator up from the jail.

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LD 1397 **An Act to Require the State to Post the Name, Picture and Location of an Individual who is Convicted of a Child Sex Crime** **ONTP**

<u>Sponsor(s)</u> MATTHEWS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1397 proposed to amend the Sex Offender Registration and Notification Act of 1999 by adding requirements to the public notification provisions. The bill would have required that the Department of Corrections post the name and addresses where a sex offender or sexually violent predator would reside and work upon release if the victim was under 18 years of age at the time of the offense.

LD 1423 **An Act to Amend the Law Regarding the Release of the Identity of Certain Juveniles Accused of Crimes** **ONTP**

<u>Sponsor(s)</u> BUMPS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1423 proposed to allow the release of the identity of 16-year-olds and 17-year-olds charged with juvenile crimes.

LD 1432 **An Act to Encourage Greater Acquisition, Deployment and Use of Automated External Defibrillators** **PUBLIC 364**

<u>Sponsor(s)</u> BUMPS	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-569 S-294 MARTIN
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LD 1432 proposed to require certain training for designated uses of a defibrillator; to require notification of the use of a defibrillator to the emergency medical services system; to require activation of the emergency medical services system in an emergency situation where a defibrillator is used; and to provide immunity from liability for persons who use a defibrillator.

Committee Amendment "A" (H-569) was the majority report of the Joint Standing Committee on Criminal Justice and proposed to replace the bill. This amendment proposed:

1. To prohibit a person other than a health care provider from using an automated external defibrillator without proper training;
2. To prohibit a person other than a health care provider from using an AED unless the person had called the appropriate emergency services number;

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3. To require a person who owns or leases an AED to consult with a licensed physician for technical assistance in the selection and storage location of an AED, training of potential operators, protocols for use and use review; notify the Department of Public Safety, Maine Emergency Medical Services of the existence, location and type of AED the person possesses and the clinical use made of the AED; and maintain and test the AED in accordance with the applicable standards of the manufacturer and any standards prescribed by the Department of Human Services;
4. To clarify that the current immunity provided for a person who renders emergency treatment to another person in need of assistance is not affected by the establishment of the new requirements for the use of an AED; and
5. To add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-282) proposed to strike the provision of Committee Amendment "A" that would have prohibited a person from using an automated external defibrillator, or AED, unless that person placed a call to the appropriate emergency services personnel. Instead, this amendment proposed to prohibit the use of an AED unless the person was able to communicate with emergency personnel and those emergency personnel were able to reach the scene of the emergency in a reasonable period of time. This amendment was not adopted.

Senate Amendment "B" to Committee Amendment "A" (S-294) proposed to allow a person to use an automated external defibrillator, or AED, if the person was certified in the use of an AED and, if communication was possible, the person had attempted to contact emergency services personnel.

Enacted law summary

Public Law 2001, chapter 364 does the following.

1. It prohibits a person other than a health care provider from using an automated external defibrillator (AED) unless that person is certified in the use of an AED, and, if communication is possible, the person has attempted to contact emergency services personnel.
2. It requires a person who owns or leases an AED to consult with a licensed physician for technical assistance in the selection and storage location of an AED, training of potential operators, protocols for use and use review; to notify the Department of Public Safety, Maine Emergency Medical Services of the existence, location and type of AED the person possesses and the clinical use made of the AED; and to maintain and test the AED in accordance with the applicable standards of the manufacturer and any standards prescribed by the Department of Human Services.
3. It clarifies that the current immunity provided for a person who renders emergency treatment to another person in need of assistance is not affected by the establishment of the new requirements for the use of an AED.

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LD 1434 **An Act to Amend the Maine Criminal Code to Reduce the Incentive to Commit Theft** **PUBLIC 389**

<u>Sponsor(s)</u> MURPHY T		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-202
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LD 1434 proposed to lower the monetary threshold for the classification of theft crimes. This bill proposed to bring the monetary threshold in line with those of other New England states. This bill also would have treated theft and burglary thresholds in a more equal manner.

Committee Amendment "A" (H-202) replaced the bill. The amendment proposed to lower the monetary threshold for the classification of theft crimes to previous standards for Class C, D and E crimes. These standards were amended by the First Regular Session of the 117th Legislature. This amendment proposed to bring the monetary threshold in line with those of other New England states and to treat the theft and burglary thresholds in a more equal manner. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 389 lowers the monetary threshold for the classification of theft crimes to previous standards for Class C, D and E crimes. These standards were amended by the First Regular Session of the 117th Legislature. Public Law 2001, chapter 389 brings the monetary threshold in line with those of other New England states and treats the theft and burglary thresholds in a more equal manner.

LD 1443 **An Act to Make Adultery Illegal** **ONTP**

<u>Sponsor(s)</u> KASPRZAK		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1443 proposed to make adultery a Class D crime. Adultery is defined as engaging in a sexual act with a person not the actor's spouse when either the actor is married, or the actor is not married and knows the other person is married.

LD 1462 **Resolve, Establishing a Criminal Code Revision Commission** **DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u> POVICH MCALEVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-261
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LD 1462 proposed to create the Criminal Code Revision Commission, the duties of which include reviewing all provisions of the Maine Criminal Code, Juvenile Code and Maine Bail Code and drafting proposed legislation that repeals or amends archaic language and repeals crimes that are redundant or covered by existing general provisions. The resolve proposed that the commission shall deliver its report and any proposed legislation to the First Regular Session of the 121st Legislature.

Committee Amendment "A" (H-261) proposed to add language specifying the authority of the commission chairs to manage the commission's budget. In addition, this amendment proposed to add an appropriation section and a fiscal note to the resolve.

LD 1462 as amended by Committee Amendment "A" was not removed by the Senate from the Special Appropriations Table and died on adjournment.

LD 1470 An Act to Enhance Enforcement and Prosecution of Computer-related Crimes ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PEAVEY DAVIS P	ONTP	

LD 1470 proposed to direct that 1/6 of the Government Operations Surcharge Fund, which consists of a surcharge added to every court-imposed fine, forfeiture or penalty in this State, be paid to the Attorney General for use by the Maine Computer Crimes Task Force.

Instead of enacting LD 1470 (or LD 1508, An Act to Place a 2% Surcharge on all Criminal and Traffic Fines to Fund the Efforts of the Maine Computer Crimes Task Force), the committee voted out a committee bill, LD 1800, An Act to Enhance the Enforcement and Prosecution of Computer Crimes Through Support of the Maine Computer Crimes Task Force.

LD 1491 An Act to Protect Minors from Sexual Exploitation ONTP

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

LD 1491 proposed to increase to 18 years of age the threshold before which certain specified actions are crimes and impose mandatory minimum sentences of incarceration and probation. The bill also proposed to require a person convicted of: possession of sexually explicit materials; gross sexual assault; sexual abuse of a minor; unlawful sexual contact; visual sexual aggression against a child; sexual misconduct with a child under 14 years of age; and solicitation of a child by computer to commit a prohibited act to register under the Sex Offender Registration and Notification Act and pay restitution to the victim, if the victim could be determined. This bill also would have required the court to suspend the driver's license of a person who failed to make restitution and would have imposed

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a late fee penalty on that person. The person's license would be restored once the order for restitution had been complied with for 12 consecutive months.

LD 1492 **An Act to Improve Treatment of Persons with Mental Illness in
Maine's Jails and Prisons** **CARRIED OVER**

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

LD 1492 proposed to require that all law enforcement and corrections officers receive training in mental illness and substance abuse issues and requires psychiatric evaluation of all inmates incarcerated in county jails and state correctional facilities. The bill proposed to establish standards for the care, treatment and transfer of inmates with a psychiatric disorder. The bill also proposed to require that all county jails and state correctional facilities be nationally accredited by January 1, 2005 and annually thereafter.

LD 1492 was carried over to the Second Regular Session of the 120th Legislature.

LD 1493 **An Act to Reinstate the Death Penalty for the Murder of Children** **ONTP**

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

LD 1493 proposed to reinstate the death penalty for the murder of a child under 6 years of age subject to a referendum on whether the people of the State want to reinstate a death penalty for the murder of young children. The bill also would have eliminated the minimum term of 25 years of imprisonment for murder and required that all persons convicted of murder serve a life sentence if they are not sentenced to death.

Committee Amendment "A" (H-270) was the minority report of the Joint Standing Committee on Criminal Justice and proposed to add a fiscal note to the bill. The amendment was not adopted.

LD 1508 **An Act to Place a 2% Surcharge on all Criminal and Traffic Fines
to Fund the Efforts of the Maine Computer Crimes Task Force** **ONTP**

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

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LD 1508 proposed to create the Maine Computer Crimes Task Force Surcharge Fund. The bill proposed that the fund be established by collecting an additional 2% surcharge on every fine, forfeiture and penalty imposed by any court in the State. As proposed, funds collected through the additional surcharge would have been paid to the Department of the Public Safety, Bureau of State Police to fund the Maine Computer Crimes Task Force.

Instead of enacting LD 1508 (or LD 1470, An Act to Enhance Enforcement and Prosecution of Computer-related Crimes), the committee voted out a committee bill, LD 1800, An Act to Enhance the Enforcement and Prosecution of Computer Crimes Through Support of the Maine Computer Crimes Task Force.

LD 1521 **An Act to Broaden the Crime of Abuse of a Corpse** **ONTP**

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

LD 1521 proposed to amend the laws governing the crime of abuse of corpse. The bill proposed to criminalize conduct relative to a corpse that would outrage reasonable family sensibilities if the actor were aware that the actor's conduct would outrage any reasonable family member of the deceased. It also would have criminalized conduct relative to a corpse that would outrage reasonable community sensibilities if the actor were aware that the actor's conduct would outrage any reasonable community member despite the lack of a personal relationship with the deceased.

The bill also would have replaced the current defense provision with a more generalized provision for a person who is acting as authorized by law.

LD 1521 was proposed by the Criminal Law Advisory Commission.

LD 1528 **An Act to Improve the Delivery of Religious Services to Prisoners
in the Maine Correctional System** **ONTP**

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

LD 1528 proposed to create the position of director of religious services to oversee religious activities in the Department of Corrections and the position of chaplain at the Maine Correctional Center.

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LD 1561 **An Act to Require Sprinkler Protection in all Secondary and Postsecondary Dormitories** **ONTP**

<u>Sponsor(s)</u> DUPLESSIE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-595
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LD 1561 proposed that all dormitories of public and private secondary and postsecondary educational institutions be equipped with automatic sprinkler systems within 5 years and established a fund to provide 10-year, low-interest loans to help the educational institutions meet this requirement.

Committee Amendment "A" (H-595) replaced the bill. This amendment proposed to:

1. Require public educational institutions to install automatic sprinkler systems in their dormitories;
2. Provide a 10-year phase-in schedule for installation of automatic sprinkler systems in existing dormitories in public educational institutions;
3. Authorize a \$10,000,000 bond to provide low interest loans, administered by the Finance Authority of Maine, to public and private educational institutions.
4. Make the previously described provisions conditional upon approval in a statewide referendum of the bond funding; and
5. Add a fiscal note to the bill.

LD 1561 was enacted as amended by Committee Amendment "A" but was not removed by the Senate from the Appropriations Table. This bill has been carried over to the Second Regular Session of the 120th Legislature by the Appropriations Committee.

LD 1565 **An Act to Expand the Collection of DNA Samples from Convicted Offenders** **PUBLIC 325**

<u>Sponsor(s)</u> CARR MCALEVEY		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> H-468
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LD 1565 proposed to expand the list of offenses that require DNA sample collection from a convicted offender for inclusion in the DNA database at the Maine State Police Crime Laboratory to include all Class A, B and C crimes beginning October 1, 2001.

Committee Amendment "A" (H-468) was the majority report of the Joint Standing Committee on Criminal Justice and proposed to add to the list of offenses that require DNA sample collection from a convicted offender for

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inclusion in the DNA database at the Maine State Police Crime Laboratory solicitation of a child by a computer to commit a prohibited act beginning October 1, 2001.

The amendment also proposed to repeal the provision that subjects a juvenile adjudicated of committing a juvenile crime that, if committed by an adult, would constitute an offense listed in the DNA Data Base and Data Bank Act from the testing requirements of that Act. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 325 expands the list of offenses that require DNA sample collection from a convicted offender for inclusion in the DNA database at the Maine State Police Crime Laboratory to include all Class A, B and C crimes and solicitation of a child by a computer to commit a prohibited act beginning October 1, 2001.

Public Law 2001, chapter 325 also repeals the provision that subjects a juvenile adjudicated of committing a juvenile crime that, if committed by an adult, would constitute an offense listed in the DNA Data Base and Data Bank Act from the testing requirements of that Act.

LD 1596 **An Act to Amend the Maine Emergency Medical Services Act of 1982** **PUBLIC 229**

<u>Sponsor(s)</u> MCALEVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-145
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LD 1596 proposed to amend the Maine Emergency Medical Services Act of 1982 to:

1. Provide that advanced medical treatment protocols established by the board apply in all regions of the state (removes authority for regional protocols to be more strict);
2. Amend the requirements governing ambulance transport to require that all patients must be accompanied either by a physician, a person licensed to provide emergency care or a specialized medical team approved by the Emergency Medical Services' Board;
3. Authorize the board to issue warnings, suspend licenses or impose conditions on probation and impose civil penalties up to \$1,500 for violations of the Maine Emergency Medical Services Act, board rules or license terms; it also allows the board to delegate this authority to a subcommittee or to staff and provides that a decision by a subcommittee or staff may be appealed to the board; a decision of the board may be appealed to the Superior Court (currently an appeal from the board must first be made to the commissioner of DPS and then to court);
4. Provide that investigative records of the board become public upon conclusion of the investigation (unless they are confidential by operation of other applicable law);
5. Allow investigative records to be disclosed to certain people under certain conditions; and

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6. Provide that reports, information and records provided to an EMS quality assurance committee are confidential and exempt from discovery.

Committee Amendment "A" (S-145) proposed to make a variety of technical changes to the bill. The amendment proposed to add a new section clarifying that the Emergency Medical Services' Board, its committees or staff may issue letters of guidance or concern to applicants or licensees. The amendment also proposed to clarify provisions relating to confidentiality, release and discoverability of certain information and records and to provide that all reports, information and records provided to an emergency medical services quality assurance committee approved by the board are confidential and may not be obtained by discovery from the committee, the board or its staff.

Enacted law summary

Public Law 2001, chapter 229 amends the Maine Emergency Medical Services Act of 1982 to:

1. Allow the Emergency Medical Services Board to issue warnings, suspend licenses and impose civil penalties for violations of the Maine Emergency Medical Services Act of 1982;
2. Allow a decision of the board to be appealed to the Superior Court;
3. Clarify that the board, its committees or staff may issue letters of guidance or concern to applicants or licensees; and
4. Provide that all reports, information and records provided to an emergency medical services quality assurance committee approved by the board are confidential and may not be obtained by discovery from the committee, the board or its staff.

LD 1620

An Act to Enact Mandatory Minimum Sentences for Firearms Offenses to Make the State Eligible for Firearms Sentencing Incentive Grants

CARRIED OVER

Sponsor(s)
MUSE C

Committee Report

Amendments Adopted

LD 1620 proposed to create the offenses of criminal possession of a firearm and criminal use of a firearm, both of which are Class C crimes that carry mandatory minimum 5-year sentences. The bill proposed that a person is guilty of criminal possession of a firearm if the person has been convicted of a crime of violence and is in possession of a firearm and that a person is guilty of criminal use of a firearm if the person uses or carries a firearm while committing a crime of violence or a Class A, B or C drug offense. This bill also proposed to require the Commissioner of Public Safety to implement a public awareness and community support program that builds support for and warns potential violators of the provisions of the new law. The purpose of these proposed changes is to make the state eligible for firearms sentencing incentive grants.

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LD 1620 was carried over to the Second Regular Session of the 120th Legislature.

LD 1623 **An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center** **PUBLIC 290**

<u>Sponsor(s)</u> O'BRIEN J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-389
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LD 1623 proposed to amend the Central Maine Regional Public Safety Communication Center by designating the center as a governmental entity. The bill also proposed to direct the board of directors to nominate one candidate to serve as executive director who must be approved and appointed by the Commissioner of Public Safety. The bill also proposed to change the effective date of the original Act.

Committee Amendment "A" (H-389) This amendment proposed to repeal Private and Special Law 1999, Chapter 85 that enables the establishment of the Central Maine Regional Public Safety Communication Center and to place that enabling language in a new chapter of the Maine Revised Statutes, Title 25, permitting the establishment of the center within the Department of Public Safety. Creation of the center is contingent upon participation by the Maine State Police. This amendment proposed to make the director of the center subject to appointment and dismissal by the Commissioner of Public Safety. The amendment proposed to provide that the enabling chapter is effective only if the Maine State Police and at least one eligible local government agree to participate.

Enacted law summary

Public Law 2001, chapter 290 repeals Private and Special Law 1999, Chapter 85 that enables the establishment of the Central Maine Regional Public Safety Communication Center and places that enabling language in a new chapter of the Maine Revised Statutes, Title 25, permitting the establishment of the center within the Department of Public Safety. Creation of the center is contingent upon participation by the Maine State Police. The director of the center is subject to appointment and dismissal by the Commissioner of Public Safety. The enabling chapter is effective only if the Maine State Police and at least one eligible local government agree to participate.

LD 1657 **An Act to Improve Emergency Medical Services by Expanding the Pool of Qualified Emergency Medical Services Personnel** **CARRIED OVER**

<u>Sponsor(s)</u> POVICH		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1657 proposed to repeal the requirement that, prior to being licensed as an emergency medical services person, a person must be sponsored by a Maine licensed ambulance service or nontransporting emergency medical service.

LD 1657 was carried over to the Second Regular Session of the 120th Legislature.

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LD 1662 **Resolve, to Study the Emergency Medical Services System** **ONTP**

<u>Sponsor(s)</u> BULL MCALEVEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1662 proposed to establish the Commission to Study the Emergency Medical Services System.

LD 1691 **An Act Adopting and Implementing the National Crime Prevention and Privacy Compact** **PUBLIC 372**

<u>Sponsor(s)</u> MCALEVEY POVICH		<u>Committee Report</u> OTP		<u>Amendments Adopted</u> H-649 POVICH
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LD 1691 proposed to allow the Maine State Police to enter into a compact with the Federal Bureau of Investigation and other party states for the purpose of organizing an electronic information sharing system among the Federal Government and the states to exchange criminal history records for noncriminal justice purposes for dissemination as authorized by federal and state laws.

House Amendment "A" (H-649) proposed to direct the commanding officer to ensure that fingerprints and information obtained for conducting a criminal history record check for noncriminal justice purposes through the interstate identification index system are not retained and are used solely for the purpose of providing a response to the record check. House Amendment "A" proposed to require the commanding officer to report any retention or dissemination of the fingerprints and information to the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to direct that committee to consider renunciation of the compact.

The amendment would have clarified that the submission of fingerprints and descriptive information for criminal history record checks for noncriminal justice purposes would not constitute a criminal history record or the administration of criminal justice.

The amendment proposed to remove the emergency preamble and clause.

Enacted law summary

Public Law 2001, chapter 372 allows the Maine State Police to enter into a compact with the Federal Bureau of Investigation and other party states for the purpose of organizing an electronic information sharing system among the Federal Government and the states to exchange criminal history records for noncriminal justice purposes for dissemination as authorized by federal and state laws.

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Public Law 2001, chapter 372 directs the commanding officer to ensure that fingerprints and information obtained for conducting a criminal history record check for noncriminal justice purposes through the interstate identification index system are not retained and are used solely for the purpose of providing a response to the record check. It requires the commanding officer to report any retention or dissemination of the fingerprints and information to the joint standing committee of the Legislature having jurisdiction over criminal justice matters and directs that committee to consider renunciation of the compact.

Public Law 2001, chapter 372 clarifies that the submission of fingerprints and descriptive information for criminal history record checks for noncriminal justice purposes does not constitute a criminal history record or the administration of criminal justice.

LD 1698

An Act to Amend the Laws Governing DNA Testing

PUBLIC 469

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

LD 1698 proposed to permit persons who are convicted of crimes but are not required to submit to having a DNA sample drawn or persons charged with criminal offenses but not yet tried to request that a DNA sample be drawn. The bill proposed to allow persons who are incarcerated to request that a DNA sample be drawn at any time during incarceration. The bill would have permitted those persons requesting DNA samples to be given access to their records relating to the samples. The bill also proposed to require prosecutors to use all DNA evidence available in a case, regardless of what the evidence indicates. Finally, the bill proposed to specify that if a person has been sentenced and after sentencing has a DNA test that indicates that the person did not commit the offense, the prosecutor must reopen the case.

Committee Amendment "A" (H-647) replaced the bill. The amendment proposed to create a new chapter that sets up the process for postjudgment of conviction DNA analysis. A person convicted of a crime under the laws of this State that carries the potential punishment of imprisonment of at least 20 years and for which the person is currently in actual execution of a sentence of imprisonment or is subject to a sentence of imprisonment that is to be served in the future because another sentence must be served first may file a written postjudgment of conviction motion in the underlying criminal proceeding, moving the court to order DNA analysis of evidence in the control or possession of the State that is related to the underlying investigation or prosecution that led to the person's conviction and a new trial based on the results of that analysis. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 2001, chapter 469 creates a new chapter that sets up the process for postjudgment of conviction DNA analysis. A person convicted of a crime under the laws of this State that carries the potential punishment of imprisonment of at least 20 years and for which the person is currently in actual execution of a sentence of imprisonment or is subject to a sentence of imprisonment that is to be served in the future because another sentence must be served first may file a written postjudgment of conviction motion in the underlying criminal proceeding,

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moving the court to order DNA analysis of evidence in the control or possession of the State that is related to the underlying investigation or prosecution that led to the person's conviction and a new trial based on the results of that analysis.

LD 1701 **An Act to Clarify Parental Rights and Responsibilities When Children are Placed in the Custody of the Department of Human Services as a Result of Court Proceedings Governed by the Maine Juvenile Code** **ONTP**

<u>Sponsor(s)</u> BROOKS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1701 proposed to allow the court to order parents to participate in services when a child has come into Department of Human Services custody as a result of court proceedings governed by the Juvenile Code. The bill also proposed to bring the department into compliance with federal law, so that it could draw down federal funds for children who have come into DHS custody through the Juvenile Court. Current law exists to allow the state to access federal funds for children who come into the care of DHS through Title 22 actions.

LD 1725 **An Act to Prevent Interstate and International Smuggling of Illegal Drugs Into the State by Creating the Crime of Illegal Importation of Scheduled Drugs** **PUBLIC 428**

<u>Sponsor(s)</u> SHOREY POVICH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-146
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LD 1725 proposed to create a new crime of "illegal importation of scheduled drugs" with penalties that are the same as those for unlawfully furnishing scheduled drugs under the Maine Revised Statutes, Title 17-A, section 1106. Marijuana was not included under the new crime. The bill would not have applied to any person with a lawful prescription for the drug.

Committee Amendment "A" (S-146) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 428 creates a new crime of "illegal importation of scheduled drugs" with penalties that are the same as for unlawfully furnishing scheduled drugs under the Maine Revised Statutes, Title 17-A, section 1106. Marijuana is not included under the new crime. The law does not apply to any person with a lawful prescription for the drug.

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LD 1727

An Act to Control the Abuse of Designer Club Drugs by Adding Certain Drugs to the List of Schedule W and Schedule X Drugs

ONTP

<u>Sponsor(s)</u> SCHNEIDER MCALEVEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1727 proposed to:

1. Add the newly popular hallucinogenic "club" or "rave" drug ecstasy, 3, 4 - methylenedioxymethamphetamine, MDMA, and its close chemical relatives for the purposes of criminal enforcement: 4 - bromo - 2, 5 - dimethoxyphenethylamine, NEXUS; 3, 4 - methylenedioxy-N-ethylamphetamine, MDE; paramethoxymethamphetamine, PMMA; paramethoxyamphetamine, PMA; and paramethoxyethylamphetamine, PME A to the list of schedule W drugs. None of these drugs have been previously scheduled in the State, but all are schedule I drugs under the federal Controlled Substances Act;
2. Move other close chemical relatives of MDMA, which have been listed as schedule X drugs under state law since 1989, to schedule W, whereby increasing potential penalties for trafficking or furnishing the drugs;
3. Add 3 other newly popular drugs to the list of schedule X drugs: gamma hydroxybutyrate, GHB; Ketamine; and alpha-ethyltryptamine, AET;
4. Set the number of pills containing MDMA and related drugs that results in a permissible inference at trial of intent to furnish and traffick;
5. Create a charge of aggravated trafficking and furnishing MDMA and similar drugs based on trafficking or furnishing 300 or more pills;
6. Result in possession of MDMA, GHB or Ketamine is a Class D crime; trafficking in MDMA being a Class B crime; trafficking in GHB or Ketamine being a Class C crime; aggravated furnishing MDMA being a Class B felony crime with a mandatory minimum 2-year sentence; and aggravated trafficking in MDMA being a Class A felony with a mandatory minimum 4-year sentence.

LD 1727 was not passed but was incorporated into LD 1728, An Act to Control the Illegal Diversion and Abuse of Prescription Narcotic Drugs.

LD 1728

An Act to Control the Illegal Diversion and Abuse of Prescription Narcotic Drugs and Abuse of Designer Club Drugs

PUBLIC 419

<u>Sponsor(s)</u> POVICH MCALEVEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-353
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LD 1728 proposed to:

1. Clarify the definition of "narcotic drugs" under the Maine Revised Statutes, Title 17-A, chapter 45 by specifically listing the most commonly encountered prescription narcotic drugs by chemical name;
2. Remove archaic references to drug preparations that are inaccurately described or no longer commonly encountered in modern medical treatment;
3. Set the number of illicit prescription pills or other units that would result in a presumption of trafficking or furnishing at trial: 90 pills or units for trafficking, and 45 for furnishing. Oxycodone, Oxycontin, and hydromorphone, Dilaudid, were singled out for separate treatment based on the aggregate amount of the drug in milligrams due to their availability in very powerful single pill dosage formulations;
4. Create a charge of aggravated trafficking and furnishing based on trafficking and furnishing 300 or more pills or other units of narcotic drugs other than heroin. Again, the compounds contained in Oxycontin and Dilaudid were singled out for special treatment based on aggregate amounts of the drugs in milligrams. A charge of aggravated trafficking or furnishing would be a Class A felony, with a mandatory minimum sentence of 4 years in prison;
5. Prevent the use of altered, forged or counterfeit prescriptions by having the Department of Public Safety, after consultation with the Board of Osteopathic Licensure, the Board of Licensure in Medicine and the Board of Pharmacy, adopt rules establishing security requirements for written prescriptions for schedule II drugs, primarily through requiring the use of tamper-proof prescription forms;
6. Amend the crime of acquiring drugs by deception to clarify that failure to disclose recent narcotic prescriptions from other doctors, or use of a false name or address, is within the definition of "deception." It also proposed to address the issue of having to prove causation between obtaining drugs and the deceptive act if the patient deceived the physician in these ways;
7. Increase the penalties for stealing schedule W, X or Y drugs by making it a Class C felony offense. Stealing schedule Z drugs would remain a Class D crime. This would equalize the penalties for the crimes of acquiring drugs by deception and stealing drugs;
8. Clarify that a medical drug prescription form is a "written instrument" for purposes of the forgery law; and
9. Clarify that the analysis of a scheduled drug could be by a method designed to accurately determine the composition of the drug, and could include a visual examination. This was intended to approve the already common practice of proving the composition of a commercially manufactured pharmaceutical drug by visual observation of the unique markings on the pill by a chemist or pharmacist.

Committee Amendment "A" (H-353) proposed to incorporate the text of LD 1727, "An Act to Control the Abuse of Designer Club Drugs by Adding Certain Drugs to the List of Schedule W and Schedule X Drugs," which proposed to do the following:

1. Add the newly popular hallucinogenic "club" or "rave" drug ecstasy, 3, 4 - methylenedioxymethamphetamine, MDMA, and its close chemical relatives for the purposes of criminal enforcement: 4 - bromo - 2, 5 - dimethoxyphenethylamine, NEXUS; 3, 4 - methylenedioxy-N-ethylamphetamine, MDE;

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paramethoxymethamphetamine, PMMA; paramethoxyamphetamine, PMA; and paramethoxythylamphetamine, PMEA to the list of schedule W drugs. None of these drugs have been previously scheduled in the State, but all are schedule I drugs under the federal Controlled Substances Act;

2. Move other close chemical relatives of MDMA that have been listed as schedule X drugs under the state law since 1989, to schedule W, increasing potential penalties for trafficking or furnishing the drugs;
3. Add 3 other newly popular drugs to the list of schedule X drugs: gamma hydroxybutyrate, GHB; Ketamine; and alpha-ethyltryptamine, AET;
4. Set the number of pills containing MDMA and related drugs that results in a permissible inference at trial of intent to furnish and traffick;
5. Create a charge of aggravated trafficking and furnishing MDMA and similar drugs based on trafficking or furnishing 300 or more pills;
6. Result in possession of MDMA, GHB or Ketamine being a Class D crime; trafficking in MDMA would be a Class B crime; trafficking in GHB or Ketamine would be a Class C crime; aggravated furnishing MDMA would be a Class B crime with a mandatory minimum 2-year sentence; and aggravated trafficking in MDMA would be a Class A crime with a mandatory minimum 4-year sentence.

The amendment also proposed to change the rule-making provisions to require major substantive rules, instead of routine technical rules, for establishing security requirements for written prescriptions for narcotics. This change was made to ensure that the rulemaking results from the cooperation of the Department of Public Safety and the medical profession. The amendment proposed to require the Department of Public Safety to bring its proposed rules before the Joint Standing Committee on Criminal Justice in the Second Regular Session of the 120th Legislature.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 419 does the following.

1. It clarifies the definition of "narcotic drugs" under the Maine Revised Statutes, Title 17-A, chapter 45 by specifically listing the most commonly encountered prescription narcotic drugs by chemical name.
2. It removes archaic references to drug preparations that are inaccurately described or no longer commonly encountered in modern medical treatment.
3. It sets the number of illicit prescription pills or other units that would result in a presumption of trafficking or furnishing at trial: 90 pills or units for trafficking, and 45 for furnishing. Oxycodone, Oxycontin, and hydromorphone, Dilaudid, are singled out for separate treatment based on the aggregate amount of the drug in milligram due to the availability in very powerful single pill dosage formulations.

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4. It creates a charge of aggravated trafficking and furnishing based on trafficking and furnishing 300 or more pills or other units of narcotic drugs other than heroin. The compounds contained in Oxycontin and Dilaudid are singled out for special treatment based on aggregate amounts of the drugs in milligrams. A charge of aggravated trafficking or furnishing is a Class A felony, with a mandatory minimum sentence of 4 years of prison.
5. It prevents the use of altered, forged or counterfeit prescriptions by having the Department of Public Safety, after consultation with the Board of Osteopathic Licensure, the Board of Licensure in Medicine and the Board of Pharmacy, adopt major substantive rules establishing security requirements for written prescriptions for narcotics. The Department of Public Safety shall bring its proposed rules before the Criminal Justice Committee in the Second Regular Session of the 120th Legislature.
6. It amends the crime of acquiring drugs by deception to clarify that failure to disclose recent narcotic prescriptions from other doctors, or use of a false name or address, is within the definition of "deception." It also addresses the issue of having to prove causation between obtaining drugs and the deceptive act if the patient deceives the physician in these ways.
7. It increases the penalties for stealing schedule W, X or Y drugs by making these crimes Class C offenses. Stealing schedule Z drugs remains a Class D crime. This equalizes the penalties for the crimes of acquiring drugs by deception and stealing drugs.
8. It clarifies that a medical drug prescription form is a "written instrument" for purposes of the forgery law.
9. It clarifies that the analysis of a scheduled drug may be by a method designed to accurately determine the composition of the drug, and may include a visual examination. This is intended to approve the practice of proving the composition of a commercially manufactured pharmaceutical drug by visual observation of the unique markings on the pill by a chemist or pharmacist.
10. It adds the newly popular hallucinogenic "club" or "rave" drug ecstasy, 3, 4 -methylenedioxymethamphetamine, MDMA, and its close chemical relatives for the purposes of criminal enforcement: 4 – bromo – 2, 5 – dimethoxyphenethylamine, NEXUS; 3, 4 – methylenedioxy-N-ethylamphetamine, MDE; paramethoxymethamphetamine, PMMA; paramethoxyamphetamine, PMA; and paramethoxythylamphetamine, PMEA to the list of schedule W drugs. None of these drugs have been previously schedule in the State, but all are schedule I drugs under the federal Controlled Substances Act.
11. It moves other close chemical relatives of MDMA that have been listed as schedule X drugs under the state law since 1989, to schedule W, increasing potential penalties for trafficking or furnishing the drugs.
12. It adds 3 other newly popular drugs to the list of schedule X drugs: gamma hydroxybutyrate, GHB; Ketamine; and alpha-ethyltryptamine, AET.
13. It sets the number of pills containing MDMA and related drugs that results in a permissible inference at trial of intent to furnish and traffick.
14. It creates a charge of aggravated trafficking and furnishing MDMA and similar drugs based on trafficking or furnishing 300 or more pills.

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15. It results in possession of MDMA, GHB or Ketamine being a Class D crime; trafficking in MDMA being a Class B crime; trafficking in GHB or Ketamine being a Class C crime; aggravated furnishing MDMA being a Class B crime with a mandatory minimum 2-year sentence; and aggravated trafficking in MDMA being a Class A crime with a mandatory minimum 4-year sentence.

LD 1739 **Resolve, to Implement Additional Recommendations of the** **RESOLVE 45**
MCJUSTIS Board

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 1739

This resolve proposed to amend the reporting requirements for the MCJUSTIS Board to clarify that the board must submit its final report and proposed legislation amending the Maine Revised Statutes, Title 17-A by January 31, 2001. This resolve also proposed to amend the board's reporting requirements to specify that the board submit proposed legislation amending other civil and criminal violations to make them compatible with computerized databases by December 15, 2001 and December 15, 2002.

Enacted law summary

Resolve 2001, chapter 45 amends the reporting requirements for the MCJUSTIS Board to clarify that the board submits its final report and proposed legislation amending the Maine Revised Statutes, Title 17-A by January 31, 2001. Resolve 2001, chapter 45 also amends the board's reporting requirements to specify that the board submit proposed legislation amending other civil and criminal violations to make them compatible with computerized databases by December 15, 2001 and December 15, 2002. The retroactivity section makes these changes retroactive to January 31, 2001.

LD 1740 **An Act to Implement Recommendations of the MCJUSTIS Board** **PUBLIC 383**
Pursuant to the Study Required by Resolve 1997, Chapter 105

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-596
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LD 1740 was the report of the Maine Criminal Justice Information System, MCJUSTIS, Policy Board pursuant to Resolve 1997, chapter 105, as amended by Public Law 1999, chapter 451, section 5 and Public Law 1999, chapter 790, Part D, section 12.

MCJUSTIS is an information clearinghouse, the purpose of which is to provide access to shared uniform information on criminal defendants and crime data. In order for the information to be uniform and accurate, it must be entered and accessed by all participants in the same way. To ensure that crimes are entered accurately, the statutes defining each crime must be precise and narrow enough to ensure that citing to the specific statutory unit

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will be the same as describing the elements and class of that exact crime. There must be a one-to-one relationship between each crime and the statutory unit that defines it. This bill proposed to revise the Maine Criminal Code to establish that one-to-one relationship for each crime and its unique statutory cite.

The original resolve directed the MCJUSTIS policy board to propose only those substantive changes to the laws that are necessary to result in a unique statutory cite for each crime. In working through each crime in the Maine Criminal Code, the MCJUSTIS policy board, as advised by the Criminal Law Advisory Commission, identified one category of substantive changes that are necessary and several others that it recommends; all are included in this bill.

The category of substantive changes that are necessary relates to how to handle facts about a crime that are not technically elements but are currently used for determining the class of crime for sentencing purposes. The statute currently does not require that such "enhancers" be proved beyond a reasonable doubt by the prosecution. The Law Court has required, however, that the prosecution must prove such facts beyond a reasonable doubt if the facts are to be used to make the underlying crime a higher class than it would otherwise be or would require a specific punishment. This bill proposed to incorporate each enhancer into the elements of the crime that it enhances. This would result in the statutory requirement that the enhancer be proved beyond a reasonable doubt in order to secure a conviction for that crime at that class.

For example, assault is usually a Class D crime. If the victim was under 6 years of age, however, the assault would be a Class C crime. This bill proposed to revise assault to require the prosecutor to prove beyond a reasonable doubt that the victim was under 6 years of age in order to secure the Class C conviction. It proposed changes to the Maine Criminal Code that are substantive and that are proposed to improve the Maine Criminal Code for consistency or clarity.

In addition to formatting changes, this bill proposed to make the following changes to the Maine Criminal Code:

1. Rewrite as an element of a crime any fact regarding the crime that is used to establish the class for the crime or the appropriate sentence is rewritten as an element of the crime. This was a substantive change, although it will make little difference in how cases are currently prosecuted;
2. Revise language, including "presumption," "presumed" and "prima facie" to reflect Supreme Judicial Court rulings and Rule 303 of the Maine Rules of Evidence. The revised language instead would refer to "permissible inference" to ensure that the jury knows how to use certain proven evidence. This does not reflect a change in practice, but clarifies the law;
3. Provide a definition of being related within the "2nd degree of consanguinity." The term is used in defining both gross sexual assault and incest;
4. Establish standard language for referring to prior convictions and using prior convictions to affect one class of a newly committed crime. The Maine Revised Statutes, Title 17-A, section 9-A is would be amended to provide general rules for using prior convictions to enhance a new crime. These general rules would be consistent with most existing provisions concerning the use of prior convictions, but do represent a substantive change in a few cases.

The general rules included here would require considering specific convictions secured within the last 10 years. This was a substantive change for Title 17-A, sections 506-A and 556.

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The period for prior convictions was not changed for prostitution crimes, which remain at 2 years, and certain drug crimes, which do not limit how far back a prior conviction can be used to enhance the current crime.

The general rules propose to provide consistent language dealing with multiple crimes committed within 2 or 3 days. This probably would result in a substantive change in a limited number of crimes in order to treat them consistently;

5. Insert the language declaring the class in the same statutory unit that defines the way to commit the crime. When the statute defines more than one way of committing a crime, and those different ways are identified as different classes, the exception to this is in the statutes dealing with gross sexual assault, unlawful sexual contact and theft, where if certain circumstances exist, the classification will go up a class. Because each way of committing these crimes could be increased if the particular circumstance exists, an enhancer provision was drafted at the end of each crime to specify that the classification will increase if the circumstances are proved;
6. Rewrite permissible inference language regarding a person accused of theft to include Title 17-A, section 405, burglary. This change would expand the presumption that by permitting an inference to be made under the Maine Rules of Evidence, Rule 303, a person in exclusive possession of property recently taken was guilty of the burglary.
7. Amend the drug laws dealing with unlawful trafficking, unlawful furnishing and unlawful possession to clarify that a person was guilty of trafficking, furnishing or possessing a scheduled drug if the person intentionally or knowingly trafficked, furnished or possessed what the person knew or believed to be a scheduled drug, which was in fact a scheduled drug and the drug was a type of scheduled drug.
8. Include language to make the statutes gender neutral and to correct and update grammar. In addition, the following language changes were proposed for consistency and were not intended to be substantive.
 - A. When referring to the age of the perpetrator or victim, the term as used was "__ years of age." For example, if current law says "under 14" or "has not reached his 14th birthday," this bill would revise it to "less than 14 years of age."
 - B. "Exceeds" was changed to "more than," "under" was changed to "less than."
 - C. The perpetrator of the crime was usually referred to in the definition as "the person." Exceptions occur when the crime definition involved other people and the "the person" becomes confusing. In these situations, "actor" was used instead. "Defendant" was often used in procedural and sentencing provisions.
9. Add an effective date of January 31, 2003.

Committee Amendment "A" (H-596) proposed to:

1. Make a technical change to the criminal trespass provisions;
2. Correct an additional cross-reference in the drug statutes required by the bill;
3. Reorder the crime of unlawful possession of scheduled drugs to provide for the highest class being listed first;

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4. Repeal a subsection in the drug statutes that the bill makes unnecessary;
5. Delete a duplicative section of the bill;
6. Reorganize the firearm forfeiture provisions to clarify that section of law;
7. Correct the crime of aggravated cultivating of marijuana to correctly list the Class D and Class E crimes.

LD 1740 proposed to make changes to the Maine Criminal Code with regard to sentence enhancers. To clarify what was stated in the bill, the category of substantive changes that were necessary relates to how to handle facts about a crime that are not technically elements but are currently used for determining the class of crime for sentencing purposes. Facts that function to give the underlying crime a higher class than it would otherwise carry were termed "sentence enhancers" and are the functional equivalent of elements of the resulting in higher class crimes. Legally indistinguishable from an element, a sentence enhancer, in order to meet state and federal constitutional requirements, other than the fact of convictions, must be alleged in the charging instrument, submitted to the jury and proved by the prosecution beyond a reasonable doubt. Although in many instances these specific procedural safeguards currently expressly accompany the sentence enhancer, such is not always the case. The bill as amended proposed to incorporate each sentence enhancer into the elements of the crime that it enhances. This results in the statutory requirement that the enhancers be pleaded and proved beyond a reasonable doubt in order for the prosecution to secure a conviction for that crime at that class. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 383 is the report of the Maine Criminal Justice Information System, MCJUSTIS, Policy Board pursuant to Resolve 1997, chapter 105, as amended by Public Law 1999, chapter 451, section 5 and Public Law 1999, chapter 790, Part D, section 12.

MCJUSTIS is an information clearinghouse, the purpose of which is to provide access to shared uniform information on criminal defendants and crime data. In order for the information to be uniform and accurate, it must be entered and accessed by all participants in the same way. To ensure that crimes are entered accurately, the statutes defining each crime must be precise and narrow enough to ensure that citing to the specific statutory unit will be the same as describing the elements and class of that exact crime. There must be a one-to-one relationship between each crime and the statutory unit that defines it. Public Law 2001, chapter 383 revises the Maine Criminal Code to establish that one-to-one relationship for each crime and its unique statutory cite.

The original resolve directed the MCJUSTIS policy board to propose only those substantive changes to the laws that are necessary to result in a unique statutory cite for each crime. In working through each crime in the Maine Criminal Code, the MCJUSTIS policy board, as advised by the Criminal Law Advisory Commission, identified one category of substantive changes that are necessary and several others that it recommends; all are included in Public Law 2001, chapter 383.

The category of substantive changes that are necessary relates to how to handle facts about a crime that are not technically elements but are currently used for determining the class of crime for sentencing purposes. The statute currently does not require that such "enhancers" be proved beyond a reasonable doubt by the prosecution. The Law

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Court has required, however, that the prosecution must prove such facts beyond a reasonable doubt if the facts are to be used to make the underlying crime a higher class than it would otherwise be or would require a specific punishment. Public Law 2001, chapter 383 incorporates each enhancer into the elements of the crime that it enhances. This results in the statutory requirement that the enhancer be proved beyond a reasonable doubt in order to secure a conviction for that crime at that class.

For example, assault is usually a Class D crime. If the victim is under 6 years of age, however, the assault is a Class C crime. This bill revises assault to require the prosecutor to prove beyond a reasonable doubt that the victim is under 6 years of age in order to secure the Class C conviction.

Public Law 2001, chapter 383 contains changes to the Maine Criminal Code that are substantive and that are proposed to improve the Maine Criminal Code for consistency or clarity.

In addition to formatting changes, Public Law 2001, chapter 383 makes the following changes to the Maine Criminal Code.

1. It rewrites as an element of a crime any fact regarding the crime that is used to establish the class for the crime or the appropriate sentence is rewritten as an element of the crime. This is a substantive change, although it will make little difference in how cases are currently prosecuted.
2. It revises language, including "presumption," "presumed" and "prima facie" to reflect Supreme Judicial Court rulings and Rule 303 of the Maine Rules of Evidence. The revised language instead refers to "permissible inference" to ensure that the jury knows how to use certain proven evidence. This does not reflect a change in practice, but clarifies the law.
3. It provides a definition of being related within the "2nd degree of consanguinity." The term is used in defining both gross sexual assault and incest.
4. It establishes standard language for referring to prior convictions and using prior convictions to affect one class of a newly committed crime. The Maine Revised Statutes, Title 17-A, section 9-A is amended to provide general rules for using prior convictions to enhance a new crime. These general rules are consistent with most existing provisions concerning the use of prior convictions, but do represent a substantive change in a few cases.

The general rules included here require considering specific convictions secured within the last 10 years. This is a substantive change for Title 17-A, sections 506-A and 556.

The period for prior convictions is not changed for prostitution crimes, which remain at 2 years, and certain drug crimes, which do not limit how far back a prior conviction can be used to enhance the current crime.

The general rules provide consistent language dealing with multiple crimes committed within 2 or 3 days. This may result in a substantive change in a limited number of crimes in order to treat them consistently.

5. It inserts the language declaring the class in the same statutory unit that defines the way to commit the crime. When the statute defines more than one way of committing a crime, and those different ways are identified as different classes, the exception to this is in the statutes dealing with gross sexual assault, unlawful sexual contact and theft, where if certain circumstances exist, the classification will go up a class. Because each way

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of committing these crimes could be increased if the particular circumstance exists, an enhancer provision was drafted at the end of each crime to specify that the classification will increase if the circumstances are proved.

The category of substantive changes that are necessary relates to how to handle facts about a crime that are not technically elements but are currently used for determining the class of crime for sentencing purposes. Facts that function to give the underlying crime a higher class than it would otherwise carry are termed "sentence enhancers" and are the functional equivalent of elements of the resulting higher class crimes. Legally indistinguishable from an element, a sentence enhancer, in order to meet state and federal constitutional requirements, other than the fact of convictions, must be alleged in the charging instrument, submitted to the jury and proved by the prosecution beyond a reasonable doubt. Although in many instances these specific procedural safeguards currently expressly accompany the sentence enhancer, such is not always the case. Public Law 2001, chapter 383 incorporates each sentence enhancer into the elements of the crime that it enhances. This results in the statutory requirement that the enhancers be pleaded and proved beyond a reasonable doubt in order for the prosecution to secure a conviction for that crime at that class

6. It rewrites permissible inference language regarding a person accused of theft to include Title 17-A, section 405, burglary. This change expands the presumption that by permitting an inference to be made under the Maine Rules of Evidence, Rule 303, a person in exclusive possession of property recently taken is guilty of the burglary.
7. It amends the drug laws dealing with unlawful trafficking, unlawful furnishing and unlawful possession to clarify that a person is guilty of trafficking, furnishing or possessing a scheduled drug if the person intentionally or knowingly trafficks, furnishes or possesses what the person knows or believes to be a scheduled drug and the drug is a type of scheduled drug.
8. It makes a technical change to the criminal trespass provisions.
9. It corrects an additional cross-reference in the drug statutes required by the bill.
10. It reorders the crime of unlawful possession of scheduled drugs to provide for the highest class being listed first.
11. It reorganizes the firearm forfeiture provisions to clarify that section of law.
12. It corrects the crime of aggravated cultivating of marijuana to correctly list the Class D and Class E crimes.
13. It includes language to make the statutes gender neutral and to correct and update grammar. In addition, the following language changes are made for consistency and are not intended to be substantive.
 - A. When referring to the age of the perpetrator or victim, the term used is "years of age." For example, if current law says "under 14" or "has not reached his 14th birthday," this bill revises it to "less than 14 years of age."
 - B. "Exceeds" is changed to "more than," "under" is changed to "less than."
 - C. The perpetrator of the crime is usually referred to in the definition as "the person." Exceptions occur when the crime definition involves other people and the "the person" becomes confusing. In these

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situations, "actor" is used instead. "Defendant" is often used in procedural and sentencing provisions.

14. It adds an effective date of January 31, 2003.

LD 1743

An Act to Establish a Cold Case Homicide Squad

**DIED ON
ADJOURNMENT**

Sponsor(s)

Committee Report

Amendments Adopted

LD 1743 proposed to establish a cold case homicide squad within the Department of Public Safety. The bill proposed to terminate the squad on October 30, 2004 unless the squad is continued by the Legislature. The bill proposed to require the Department of Public Safety to provide a report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters by January 1, 2004 evaluating the success of the cold case homicide squad and making recommendations on continuation of the squad. The bill also proposed to include an appropriation and an allocation to fund 3 state police detective positions for the cold case homicide squad.

LD 1743 was not removed by the Senate from the Special Appropriations Table and died on adjournment. However, Public Law 2001, chapter 439 (Part 2 budget) enacted part of LD 1743 that establishes the squad and appropriates funds for one additional State Police Detective position. (See Part XXXX.)

LD 1750

**An Act to Authorize the Surrender of Concealed Firearms Permits
of Persons Who are the Subjects of Permanent Protection Orders**

ONTP

Sponsor(s)
KILKELLY
COLWELL

Committee Report
ONTP

Amendments Adopted

LD 1750 proposed to allow the court to order the surrender of a person's concealed firearms permit if the person is subject to a permanent protection order under the Maine Revised Statutes, Title 19-A, section 4007. The bill proposed that the surrender would be for the duration of the order only, and that the permit would be returned, at the person's request, within 10 days after the expiration of the order. It also proposed to require that the Department of Public Safety, Bureau of State Police apply to the Federal Government for approval to establish state-issued concealed firearms permits as qualifying permits for purposes of bypassing federal background check requirements for firearms transactions.

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LD 1758

An Act to Amend the Laws Pertaining to the Department of Corrections

PUBLIC 386

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY	OTP-AM MAJ OTP-AM MIN	S-280

LD 1758 proposed to do the following:

1. Establish the authority for the Department of Corrections to transport prisoners across state lines for medical care;
2. Authorize the department to pay for cremation as an option and to clarify reimbursement for funeral expenses;
3. Allow deathbed visits by prisoners to step-relatives;
4. Exempt corrections officers at juvenile facilities from the Criminal Justice Academy's training and certification requirements;
5. Create the Correctional Medical Services Fund;
6. Amend the confidentiality statutes to make screening and assessment tools confidential;
7. Add tobacco trafficking to the prison contraband law;
8. Repeal the temporary certification requirement for batterers' intervention programs;
9. Remove Assistant to the Commissioner of Corrections from positions that serve at the pleasure of the commissioner;
10. Add Correctional Trade Instructor to the definition of corrections officer;
11. Allow polygraph testing of sex offenders in court-ordered treatment;
12. Clarify use of force relating to corrections personnel; and
13. Clarify termination of probation provisions for those who complete batterers' intervention programs.

Committee Amendment "A" (S-280) was the majority report of the Joint Standing Committee on Criminal Justice. Committee Amendment "A" proposed to do the following:

1. Remove that portion of the bill that would have repealed and replaced the law governing the use of force, including deadly force, by corrections personnel;

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2. Remove that portion of the bill that would have exempted corrections officers in juvenile facilities from Maine Criminal Justice Academy training and required the Department of Corrections to provide separate training for these officers;
3. Remove that portion of the bill that would have allowed the Department of Corrections to use money in a prisoner's account to pay for the cost of burial in those cases where the prisoner was buried at public expense;
4. Replace that portion of the bill that proposed to make tobacco trafficking in prison a Class C crime; under the amendment, tobacco trafficking in an adult correctional facility would be a class E crime;
5. Make a technical correction to correct a reference;
6. Replace that portion of the bill that would have added Correctional Trade Instructor to the definition of "corrections officer" under the laws relating to the Maine Criminal Justice Academy training requirements; under this amendment, the instructors would have been required to meet the same training requirements, but were not defined as "corrections officers" for purposes of the Maine Criminal Justice Academy law. Nothing in this amendment was intended to affect the salary classification of the instructors;
7. Make technical corrections to ensure that the Correctional Program Improvement Fund was repealed and replaced by the new Correctional Medical Services Fund;
8. Replace that portion of the bill that would have made certain screening and assessment tools used by the Department of Corrections confidential; the amendment proposed to provide that such documents are not public records but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health;
9. Amend the bill to allow prisoners, with the approval of the Department of Corrections, to visit the deathbed and attend the funeral of natural, adoptive or foster relatives; and
10. Add a fiscal note to the bill.

Committee Amendment "B" (S-281) was the minority report of the Joint Standing Committee on Criminal Justice. Committee Amendment "B" proposed to do the following:

1. Remove that portion of the bill that would have repealed and replaced the law governing the use of force, including deadly force, by corrections personnel;
2. Remove that portion of the bill that would have exempted corrections officers in juvenile facilities from Maine Criminal Justice Academy training and required the Department of Corrections to provide separate training for these officers;
3. Remove that portion of the bill that would have allowed the Department of Corrections to use money in a prisoner's account to pay for the cost of burial in those cases where the prisoner was buried at public expense;
4. Replace that portion of the bill that proposed to make tobacco trafficking in prison a Class C crime; under the amendment, tobacco trafficking in an adult correctional facility would be a class E crime;

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5. Make a technical correction to correct a reference;
6. Replace that portion of the bill that would have added Correctional Trade Instructor to the definition of "corrections officer" under the laws relating to the Maine Criminal Justice Academy training requirements; under this amendment, the instructors would have been required to meet the same training requirements, but were not defined as "corrections officers" for purpose of the Maine Criminal Justice Academy law. Nothing in this amendment was intended to affect the salary classifications of the instructors;
7. Remove that portion of the bill that would have struck the assistant to the commissioner position from the list of positions that serve at the pleasure of the Commissioner of Corrections;
8. Make technical corrections to ensure that the Correctional Program Improvement Fund was repealed and replaced by the new Correctional Medical Services Fund;
9. Replace that portion of the bill that would have made certain screening and assessment tools used by the Department of Corrections confidential; the amendment proposed to provide that such documents are not public records but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health;
10. Amend the bill to allow prisoners, with the approval of the Department of Corrections, to visit the deathbed and attend the funeral of natural, adoptive or foster relatives; and
11. Add a fiscal note to the bill.

Committee Amendment "B" was not adopted.

Enacted law summary

Public Law 2001, chapter 386 does the following.

1. It establishes the authority for the Department of Corrections to transport prisoners across state lines for medical care.
2. It authorizes the department to pay for cremation in cases where it assumes responsibility for burial of prisoners at public expense.
3. It allows deathbed visits by prisoners to natural, adopted, foster or step relatives.
4. It amends the confidentiality statutes to make screening and assessment tools confidential.
5. It adds the Class E crime of tobacco trafficking to the prison contraband law.
6. It repeals the temporary certification requirement for batterers' intervention programs.
7. It removes Assistant to the Commissioner of Corrections from positions that serve at the pleasure of the commissioner.

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8. It requires Correctional Trade Instructors to meet the same training requirements as corrections officers.
9. It allows polygraph testing of sex offenders in court-ordered treatment.
10. It makes technical corrections to ensure that the Correctional Program Improvement Fund is repealed and replaced by the new Correctional Medical Services Fund.
11. It provides that certain screening and assessment tools used by the Department of Corrections are confidential and are not public records, but that they must be supplied on request to other agencies and to any committee or study commission established by the Legislature with authority to examine issues related to mental health.

LD 1764 **An Act to Amend the Crime of Endangering the Welfare of a Child** **PUBLIC 429**

<u>Sponsor(s)</u> MCALEVEY POVICH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-203
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LD 1764 proposed to create the crime of aggravated endangering the welfare of a child, which is committed when a parent, foster parent, guardian or person responsible for the care and custody of the child knows that the child has been subject to serious bodily injury by another and fails to protect the child from further injury. Current law punishes this conduct by a maximum of less than one year in jail.

Committee Amendment "A" (S-203) replaced the bill and proposed to amend the current endangering the welfare of a child law to include the Class C crime of failing to take measures to protect a child from further bodily injury when such injury has been committed by another person and the person responsible for the long-term general care of the child knows of the prior injury. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 429 amends the current endangering the welfare of a child law to include the Class C crime of failing to take measures to protect a child from further bodily injury when such injury has been committed by another person and the person responsible for the long-term general care of the child knows of the prior injury.

LD 1800 **An Act to Enhance the Enforcement and Prosecution of Computer Crimes Through Support of the Maine Computer Crimes Task Force** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1800 proposed to establish the Maine Computer Crimes Task Force, which is a collaborative partnership under the auspices of the Department of Public Safety, Bureau of State Police and includes the Department of Attorney General and local law enforcement agencies. The bill proposed that the purpose of the task force is to investigate and assist those law enforcement agencies in the State that investigate crimes involving computers. The task force would have been funded by a General Fund appropriation.

LD 1800 was not removed by the Senate from the Special Appropriations Table and died on adjournment. However, Public Law 2001, chapter 439 (Part 2 budget) enacted part of LD 1800 that establishes the task force and appropriates funds for one State Police Sergeant position and operating costs. (See Part QQQQ.)

LD 1815 **An Act Regarding the Training Requirements for Certain** **INDEF PP**
Employees of the Department of Public Safety

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u>
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LD 1815 proposed to exempt from the full-time law enforcement officer training requirements the State Fire Marshal and the Department of Public Safety's Chief of the Bureau of Liquor Enforcement. The bill also proposed to exempt from the full-time law enforcement officer training requirements the Department of Public Safety's director of capitol security or security officers who are hired on or before May 1, 2001. A director or security officer hired after May 1, 2001 would not have been exempt from the training requirements. A director or security officer hired on or before May 1, 2001 could choose to attend the full-time law enforcement officer training course before July 15, 2005. The bill proposed that the Department of Public Safety shall pay for that training. This bill also proposed to include an appropriation section.

House Amendment "A" (H-754) replaced the bill. The amendment proposed to exempt from the full-time law enforcement officer training requirements the State Fire Marshal and the Department of Public Safety's Chief of the Bureau of Liquor Enforcement. The amendment also proposed to exempt from the full-time law enforcement officer training requirements capitol security officers who are hired before July 15, 2003 and the Director of Capitol Security employed in that position on June 1, 2001. A director or security officer hired before July 15, 2003 could choose to attend the full-time law enforcement officer training course before July 15, 2005. The amendment proposed that the Department of Public Safety shall pay for that training. The amendment proposed to change the penalty for a violation of any rules adopted by the Commissioner of Public Safety from \$50 to not more than \$250 and to conform the language to drafting standards.

This amendment also proposed to require the Department of Public Safety to implement the requirements within existing resources.

House Amendment "A" was not adopted.

Senate Amendment "A" (S-388) proposed to exempt the State Fire Marshal, the Director of the Bureau of Liquor Enforcement and the security officers of the Bureau of Capitol Security with limited law enforcement powers, from the full-time law enforcement officer training requirements.

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Senate Amendment "A" was not adopted.

LD 1825

**An Act Providing Funding for the Office of the State Fire Marshal
and to Increase Certain Fire Inspection Fees**

**PUBLIC 437
EMERGENCY**

<u>Sponsor(s)</u> POVICH MCALEVEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-743
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LD 1825

This emergency bill proposed to do the following:

1. Increase certain inspection and permit fees collected by the Office of the State Fire Marshal to more accurately reflect the costs associated with those inspections and permits;
2. Establish a one-year special assessment to be collected from policyholders of insured fire risks located in the State. This special assessment was designed to provide operating revenues for the Office of the State Fire Marshal for fiscal year 2002;
3. Allocate funds to cover increased operating costs in the Office of the State Fire Marshal; and
4. Repeal Public Law 2001, chapter 343 retroactively.

House Amendment "A" (H-707) proposed to revise the bill by specifying that a fire insurance company or association that collects a special assessment shall notify each policyholder that the premium includes a special assessment to provide funding for the State Fire Marshal. The amendment proposed that the notification accompany the premium notice and be made in a manner determined by each fire insurance company or association. This amendment was not adopted.

Senate Amendment "A" (S-331) proposed to remove the requirement that the special assessment be separately identified on all premium notices. This amendment was not adopted.

Committee Amendment "A" (H-743) proposed to revise the bill by specifying that a fire insurance company or association that collects a special assessment shall notify each policyholder that the premium includes a special assessment to provide funding for the State Fire Marshal. The amendment proposed that the notification accompany the premium notice and be made in a manner determined by each fire insurance company or association. Committee Amendment "A" was adopted after LD 1825 was recommitted to the Criminal Justice Committee.

Enacted law summary

Public Law 2001, chapter 437 does the following.

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1. It increases certain inspection and permit fees collected by the Office of the State Fire Marshal to more accurately reflect the costs associated with those inspections and permits.
2. It establishes a one-year special assessment to be collected from policyholders of insured fire risks located in the State. This special assessment is designed to provide operating revenues for the Office of the State Fire Marshal for fiscal year 2002.
3. It specifies that a fire insurance company or association that collects a special assessment shall notify each policyholder that the premium includes a special assessment to provide funding for the State Fire Marshal. The notification has to accompany the premium notice and may be made in a manner to be determined by each fire insurance company or association.
4. It repeals Public Law 2001, chapter 343 retroactively.

Public Law 2001, chapter 437 was enacted as an emergency measure effective on June 20, 2001.

HP 1245 **Joint Study – Relative to the Joint Select Committee to Find a Sustainable Source of Funding for Gun Safety Classes** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MUSE	ONTP-MAJ OTP-MIN	

Enacted law summary

Joint Study Order HP 1245 proposed to establish the Joint Select Committee to Find a Sustainable Source of Funding for Gun Safety Classes.

HP 1383 **Joint Order – Relative to the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated** **READ AND PASSED**

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

Enacted law summary

Joint Study Order HP 1383 proposed to establish the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated. As proposed the committee consists of the 13 members of the Joint Standing Committee on

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Criminal Justice who are directed to invite the participation of experts and interested parties, gather information and request necessary data from public and private entities in order to:

1. Evaluate the availability and appropriateness of current mental health services for persons incarcerated in Department of Corrections facilities and in county jails, including but not limited to: access to forensic beds for prisoners in need of that level of mental health intervention; the provision of mental health services within the institutions provided by or in partnership with the Department of Mental Health, mental Retardation and Substance Abuse Services and involuntary medication of prisoners with mental illness;
2. Identify what additional mental health services are needed for incarcerated persons and how those services may best be implemented, provided and funded;
3. Identify what mental health training is required for law enforcement and corrections officers who work in corrections facilities and jails and how that training may best be implemented, provided and funded; and
4. Identify steps necessary for county jails to seek and achieve accreditation.

The joint study order proposed that the committee shall submit its report, together with any necessary implementing legislation, to the Legislature no later than December 5, 2001.

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