

**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

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

July 2009

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# Joint Standing Committee on Criminal Justice and Public Safety

## LD 14 An Act To Prohibit Air Bag Fraud

ONTP

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

This bill creates the Class C crime of air bag fraud, which is knowingly making an air bag inoperable for fraudulent purposes. Specifically, the bill states that a person may not, with intent to defraud another person, obtain property from that other person or a 3rd person by knowingly installing or reinstalling in a motor vehicle an object in lieu of an air bag. Penalties for the crime include a \$5,000 fine and imprisonment not to exceed one year.

## LD 53 An Act To Permit the Use of a Common Flue for Oil and Solid Fuel Burning Equipment

PUBLIC 250

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L	OTP-AM MAJ OTP-AM MIN	H-173 H-317 MARTIN J L

This bill prohibits the Commissioner of Public Safety and the Oil and Solid Fuel Board from adopting rules that prohibit the use of a common chimney flue for 2 appliances using different fuels.

### Committee Amendment "A" (H-173)

This amendment, which is the majority report of the committee, allows the use of a single chimney flue to vent 2 appliances that use different fuels as long as a carbon monoxide detector is installed in the building near a bedroom.

### Committee Amendment "B" (H-174)

This amendment, which is the minority report of the committee, replaces the bill. It requires the Commissioner of Public Safety and the Oil and Solid Fuel Board to adopt rules that allow the continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as sufficient draft is available for each appliance and the chimney is lined and structurally intact. This amendment would require the Commissioner of Public Safety and the Oil and Solid Fuel Board to include language from the rule that went into effect February 2, 1998 and repeal language from the new rule that went into effect February 3, 2008. This amendment was not adopted.

### House Amendment "A" To Committee Amendment "A" (H-317)

This amendment requires the Commissioner of Public Safety and the Oil and Solid Fuel Board to adopt rules that allow the continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as sufficient draft is available for each appliance, the chimney is lined and structurally intact and a carbon monoxide detector is installed in the building near a bedroom.

### Enacted Law Summary

Public Law 2009, chapter 250 requires the Commissioner of Public Safety and the Oil and Solid Fuel Board to adopt

# *Joint Standing Committee on Criminal Justice and Public Safety*

rules that allow the continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as sufficient draft is available for each appliance, the chimney is lined and structurally intact and a carbon monoxide detector is installed in the building near a bedroom.

## **LD 59      An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans**

**PUBLIC 339**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P SIMPSON	OTP-AM	H-362 H-449 HASKELL

This bill adds security plans for correctional facilities to the list of documents that are confidential under the freedom of access laws.

### **Committee Amendment "A" (H-362)**

This amendment clarifies that records containing or describing plans prepared for or by or kept in the custody of the Department of Corrections or a county jail are not public documents, rather than only those prepared specifically for state or county correctional facilities, as in the bill. It also clarifies that, in order for such a record to be confidential, its public release poses a threat to the physical safety of any individual, rather than only to government personnel, correctional unit residents or the public. It also adds that the information may be released to the Department of Corrections in addition to the Legislature, county officials or members of the State Board of Corrections.

This amendment was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **House Amendment "A" To Committee Amendment "A" (H-449)**

This amendment clarifies that the security plans, staffing plans, security procedures and other plans prepared for emergency events are not public records, but that the existence of such plans remains a public record. It also expands the list of individuals to whom that information can be disclosed to encompass Legislators and judges.

This amendment incorporates the recommendations by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **Enacted Law Summary**

Public Law 2009, chapter 339 adds security plans, staffing plans, security procedures and other plans prepared for emergency events to the list of confidential documents under the freedom of access laws. Although the plans are confidential, the existence of such plans remains a public record. In order for such a record to be confidential, its public release must pose a threat to the physical safety of an individual. Information may be released to state officials, county officials, the Department of Corrections or members of the State Board of Corrections.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 69      An Act To Provide a Reward for Information Regarding the Murder of  
a Law Enforcement Officer**

**ONTP**

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

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

**LD 122      An Act To Correct the Law Concerning Private Investigators' License  
Qualifications**

**PUBLIC 20**

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

This bill corrects a provision of law concerning private investigators' license qualifications by clarifying that an affirmative answer to any one of six background questions on the application is cause for refusal to grant a license.

**Enacted Law Summary**

Public Law 2009, chapter 20 corrects a provision of law concerning private investigators' license qualifications by clarifying that an affirmative answer to any one of six background questions on the application is cause for refusal to grant a license.

**LD 180      An Act To Make Technical Corrections to the Operating Under the  
Influence Laws**

**PUBLIC 54  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	S-24

This bill corrects the inconsistency in the minimum periods of license suspension for repeat OUI offenders resulting from Public Law 2007, chapter 531. The bill amends the OUI laws to treat OUI convictions rendered by jurisdictions other than the State the same as Maine OUI convictions for the purpose of increasing the class of crime for operating after habitual offender revocation. This bill also amends the OUI laws to treat OUI convictions rendered by jurisdictions other than the State the same as Maine OUI convictions for purposes of the imposition of penalties for aggravated operating after habitual offender revocation.

**Committee Amendment "A" (S-24)**

This amendment specifies that ignition interlock provisions apply to administrative motor vehicle license

## *Joint Standing Committee on Criminal Justice and Public Safety*

suspensions by the Secretary of State, as well as to court-ordered suspensions. The amendment also adds an emergency preamble and clause and makes the changes retroactive to September 1, 2008 when the ignition interlock law, Public Law 2007, chapter 531, took effect.

### **Enacted Law Summary**

Public Law 2009, chapter 54 corrects the inconsistency in the minimum periods of license suspension for repeat OUI offenders resulting from Public Law 2007, chapter 531. Public Law 2009, chapter 54 amends the OUI laws to treat OUI convictions rendered by jurisdictions other than the State the same as Maine OUI convictions for the purpose of increasing the class of crime for operating after habitual offender revocation and also amends the OUI laws to treat OUI convictions rendered by jurisdictions other than the State the same as Maine OUI convictions for purposes of the imposition of penalties for aggravated operating after habitual offender revocation. Public Law 2009, chapter 54 specifies that ignition interlock provisions apply to administrative motor vehicle license suspensions by the Secretary of State, as well as to court-ordered suspensions. Public Law 2009, chapter 54 was an emergency measure effective April 22, 2009.

After enactment, it was discovered that a substantive error existed. LD 180 unintentionally repealed the enhancement of the Class for operating after habitual offender revocation by deleting the language based on Public Law 2007, chapter 531. Public Law 2009, chapter 415, the enacted version of LD 1475, An Act to Correct Errors and Inconsistencies in the Laws of Maine, corrects drafting errors in LD 180, including reenacting the inadvertent repeal of that portion of Title 29-A, section 2558, subsection 2, paragraph B, which enhances the penalty for aggravated operating after habitual offender revocation if the driver had been once previously convicted of the same offense. Without this change, a second or subsequent offender could be prosecuted only for a Class D crime. Public Law 2009, Chapter 415 also limits the retroactivity provision of Public Law 2009, chapter 54 to the sections of Title 29-A that affect suspension of a motor vehicle license. Portions of the law that affect sentencing are not applied retroactively. Public Law 2009, chapter 415 was an emergency measure effective June 17, 2009.

**LD 185      An Act To Ensure Public Safety during High-speed Chases by Law Enforcement Officers**

**ONTP**

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

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to prohibit law enforcement officers from engaging in high-speed chases.

**LD 186      An Act Pertaining to the Possession of Animal Fighting Paraphernalia**

**DIED BETWEEN HOUSES**

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

This bill amends the existing crime of viewing animal fighting by increasing it from a Class D to a Class C crime. The bill also creates the new Class C crime of possession of animal fighting paraphernalia. A person is guilty of this new crime if the person possesses, manufactures for sale, ships, transports or delivers a device or equipment used to train or condition an animal for participation in an animal fighting contest that the person knows or should have

## *Joint Standing Committee on Criminal Justice and Public Safety*

known is intended for use in a show, exhibition, program or other activity featuring or otherwise involving a fight between 2 or more animals or an implement designed to be attached in place of a natural spur of a cock or other fighting bird in order to enhance the bird's fighting ability or ability to harm or kill another animal.

### **Committee Amendment "A" (H-44)**

This amendment is the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment does the following.

1. It amends the affirmative defense to prosecution under the Maine Revised Statutes, Title 17, section 1033 to include lawful animal competitions, field tests, field trials and shows and the training and use of law enforcement dogs.
2. It amends the new crime of possession of animal fighting paraphernalia to limit its application to devices and equipment solely used to train or condition animals for fighting and to situations in which a person knows or should have known the devices or equipment were intended for use in an animal fighting show or exhibition.
3. It also provides examples and descriptions of types of animal fighting paraphernalia.

This amendment was not adopted.

### **Senate Amendment "A" (S-122)**

This amendment amends the affirmative defense to prosecution under the Maine Revised Statutes, Title 17, section 1033 to include lawful animal competitions, field tests, field trials and shows and the training and use of law enforcement dogs. This amendment also amends the new crime of possession of animal fighting paraphernalia to change it to possession of a fighting pit. Possession of a fighting pit is described as the knowing possession, manufacture, transportation or delivery of a fighting pit, which is defined as a walled area intended to be used to contain a dogfight.

This amendment removes the provision in the bill that increased the class of crime for viewing animal fighting to a Class C crime and provided the same penalty for possession of animal paraphernalia. This amendment was not adopted.

### **Senate Amendment "B" (S-137)**

This amendment amends the affirmative defense to prosecution under the Maine Revised Statutes, Title 17, section 1033 to include lawful animal competitions, field tests, field trials and shows and the training and use of law enforcement dogs. This amendment also amends the new crime of possession of animal fighting paraphernalia to change it to possession of a fighting pit. Possession of a fighting pit is described as the knowing possession, manufacture, transportation or delivery of a fighting pit, which is defined as a walled area intended to be used to contain a dogfight.

This amendment removes the provision in the bill that increased the class of crime for viewing animal fighting to a Class C crime and decreases the penalty for possession of a fighting pit from a Class C crime as proposed in the bill to a Class D crime. This amendment was not adopted.

***Joint Standing Committee on Criminal Justice and Public Safety***

**LD 187      An Act To Require a Test for Operating Under the Influence for a Driver Involved in an Accident That Caused Bodily Injury**

**ACCEPTED ONTP  
REPORT**

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

Current law requires that the operator of a motor vehicle involved in an accident that results in or is likely to result in death to submit to a test to determine blood alcohol level or drug concentration. The investigating law enforcement officer is required to cause the test to be administered but has the discretion to determine the form of the test. This bill requires that if there is probable cause to believe that "apparent serious bodily injury" has occurred or will occur as a result of an accident, any vehicle operator involved in the accident must submit to a chemical test used to determine blood-alcohol level or drug concentration by analysis of blood, breath or urine.

The bill also amends the law regarding an operator's right to hearing on an administrative license suspension by the Secretary of State by adding the operator involved in an accident where there is apparent serious bodily injury as proposed by the bill. For purposes of this bill, "serious bodily injury" has the same meaning as found in Title 17-A, §2, sub-§23; "serious bodily injury" means a bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health.

**Committee Amendment "A" (H-175)**

This amendment is the minority report. The amendment specifies that for purposes of a motor vehicle accident, if there is probable cause to believe that a serious bodily injury has occurred or will occur as a result of the accident, an operator of a motor vehicle involved in the motor vehicle accident who the law enforcement officer has probable cause to believe caused the accident shall submit to a chemical test to determine blood-alcohol level or drug concentration in the same manner as for OUI. The amendment also clarifies that for purposes of a motor vehicle accident in which there is probable cause to believe that a death has or will occur as a result of the accident, each operator, whether living or deceased, of a motor vehicle involved in that motor vehicle accident must have a chemical test. This amendment also adds an appropriations and allocations section. This amendment was not adopted.

**LD 202      Resolve, Directing the Department of Corrections To Accept Bank Checks for Inmates**

**ONTP**

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

This bill requires the Department of Corrections to amend its rules to accept any check, except a personal check, without placing the check on hold for a period of 14 days.

# Joint Standing Committee on Criminal Justice and Public Safety

**LD 227 An Act To Raise the Fee a Bail Commissioner May Charge**

**PUBLIC 23**

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

This bill raises the fee a bail commissioner is entitled to receive from \$40 to \$60.

## Enacted Law Summary

Public Law 2009, chapter 23 raises the fee a bail commissioner is entitled to receive from \$40 to \$60.

**LD 249 An Act Regarding Bail Defaults and the Extradition Account**

**DIED ON  
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P HASTINGS	OTP-AM	H-43

This bill raises the amount from \$20,000 to \$35,000 that a prosecutorial district is allowed to collect from forfeited bail.

## Committee Amendment "A" (H-43)

This amendment incorporates a fiscal note.

**LD 250 An Act To Streamline and Clarify Laws Pertaining to the Civil and Criminal Possession of Marijuana**

**PUBLIC 67**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P GERZOFSKY	OTP-AM	H-42

Current law makes it a civil violation to possess less than 1 1/4 ounces of marijuana, and there is no criminal possession statute for possession of greater quantities. This bill makes possession of up to 4 ounces a civil violation; possession of over 4 and up to 8 ounces a Class E crime; possession of over 8 and up to 16 ounces a Class D crime; possession of over one pound up to 20 pounds a Class C crime; and possession over 20 pounds a Class B crime.

The bill specifies that fines for civil possession, none of which may be suspended, are \$350 for possession of up to 1 1/4 ounces and \$700 for over 1 1/4 ounces up to 4 ounces. Current law which requires a fine of \$550 for persons with a prior violation of the civil possession statute remains the same for persons who possess 1 1/4 ounces but increases to \$1,000 for persons who possess over 1 1/4 ounces to 4 ounces.

## Committee Amendment "A" (H-42)

## *Joint Standing Committee on Criminal Justice and Public Safety*

This amendment makes it a civil violation to possess up to 2 1/2 ounces of marijuana. The fines for possession of up to 1 1/4 ounces do not change, and fines for possession of up to 2 1/2 ounces must be not less than \$700 and not more than \$1,000. The amendment repeals penalties for prior civil violations, since the new fines are up to the same amount. The amendment also changes the permissible inference that a person is unlawfully furnishing marijuana by raising the amount from more than 1 1/4 ounces to more than 2 1/2 ounces to be consistent with the new criminal offense of possession of more than 2 1/2 ounces of marijuana.

### **Enacted Law Summary**

Public Law 2009, chapter 67 makes it a civil violation to possess up to 2 1/2 ounces of marijuana. The fines for possession of up to 1 1/4 ounces do not change, and fines for possession of up to 2 1/2 ounces must be not less than \$700 and not more than \$1,000. Public Law 2009, chapter 67 repeals penalties for prior civil violations, since the new fines are up to the same amount. Public Law 2009, chapter 67 also changes the permissible inference that a person is unlawfully furnishing marijuana by raising the amount from more than 1 1/4 ounces to more than 2 1/2 ounces to be consistent with the new criminal offense of possession of more than 2 1/2 ounces of marijuana.

### **LD 282      An Act Regarding the Requirement That the Treatment of a Gunshot Wound Be Reported**

**PUBLIC 49**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P	OTP-AM	H-19

Current law requires a "licensed physician" who treats a person for a gunshot wound to report that wound to a law enforcement officer within 24 hours. This bill amends the reporting law to require an "attending medical provider" that treats a gunshot would to report the wound to law enforcement as soon as possible.

### **Committee Amendment "A" (H-19)**

This amendment replaces the bill and amends the existing requirement that treatment of a gunshot wound be reported. The amendment specifies that a health care practitioner or emergency medical services person report the treatment of a wound apparently caused by the discharge of a firearm to a law enforcement agency immediately by the quickest means of communication. This amendment recognizes that not all gunshot wounds are treated in an emergency room by a physician. The amendment will better ensure that all gunshot wounds are reported and that they are reported in a timely manner.

### **Enacted Law Summary**

Public Law 2009, chapter 49 amends the existing requirement that treatment of a gunshot wound be reported. The amendment specifies that a health care practitioner or emergency medical services person report the treatment of a wound apparently caused by the discharge of a firearm to a law enforcement agency immediately by the quickest means of communication. Public Law 2009, chapter 49 recognizes that not all gunshot wounds are treated in an emergency room by a physician. Public Law 2009, chapter 49 will better ensure that all gunshot wounds are reported and that they are reported in a timely manner.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 283      Resolve, Regarding the Cost of Telephone Calls Made by Incarcerated Persons      ONTP**

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

This bill directs the Commissioner of Corrections and the State Board of Corrections to study the feasibility of making the cost of long-distance telephone calls made by inmates at jails, prisons and correctional facilities less expensive.

**LD 284      An Act Regarding the Period of Time for Which an Incarcerated Person Is Eligible To Earn Good Time      ONTP**

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

This bill increases the amount of good time that may be deducted from a person's sentence for a crime committed on or after October 1, 2009. The bill applies deductions enacted by Public Law 1983, chapter 456 to persons who commit crimes on or after October 1, 2009. The bill makes no distinction as to the type of crime the person committed. The bill also includes a deduction of good time for a person's good conduct during detention, which was first enacted by Public Law 2003, chapter 711, but the bill doubles the maximum prior amount from 2 days to 4.

**LD 299      Resolve, Regarding Legislative Review of Portions of Chapter 4: Water-based Fire Protection Systems, a Major Substantive Rule of the Office of the State Fire Marshal      RESOLVE 31 EMERGENCY**

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

This bill provides for legislative review of Chapter 4: Water-based fire protection systems, a major substantive rule of the Department of Public Safety, Office of the State Fire Marshal. The rule regulates installers of water-based fire protection systems and prescribes how sprinklers are to be installed, inspected, maintained and tested.

**Enacted Law Summary**

Resolve 2009, chapter 31 provides for legislative review of Chapter 4: Water-based fire protection systems, a major substantive rule of the Department of Public Safety, Office of the State Fire Marshal. The rule regulates installers of water-based fire protection systems and prescribes how sprinklers are to be installed, inspected, maintained and tested.

Resolve 2009, chapter 31 was enacted as an emergency measure effective May 8, 2009.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 309      Resolve, To Direct the Emergency Medical Services' Board To Examine  
the Licensure Procedures for Emergency Medical Services Persons** **ONTP**

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

This bill directs the Emergency Medical Services' Board to examine the procedure by which the board releases information to the public when a licensure request is either accepted or denied to make certain that private and confidential information is not released pursuant to the freedom of access statutes. The board is to report to the Second Regular Session of the 124th Legislature on its findings.

**LD 325      An Act To Authorize the Resentencing of Certain Prisoners Who Have  
Served Consecutive Sentences of 20 or More Years** **ONTP**

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

This bill authorizes a sentencing court to grant a petition for resentencing that is filed by a person who has served a term of imprisonment of 20 consecutive years or more. The sentencing court may resentence the person if the court finds that there is a release plan for the person and the person has demonstrated rehabilitation and possesses the ability to lead a positive and productive life. At the hearing for determining resentencing, the court may take testimony from the petitioner and hear from witnesses, including victims, personnel from the correctional facility and family. The sentencing court may grant the petition and suspend any part of the sentence not served, sentence the person to a period of probation or other type of supervised release or impose any conditions the court determines are appropriate. If the court denies the petition, the person may repetition the court for resentencing one year after the denial.

**LD 382      An Act To Clarify the Meaning of Prudent Speed** **ONTP**

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

This bill requires a law enforcement officer who cites a driver for imprudent speed to briefly describe on the Uniform Summons and Complaint the reason the officer considered the driver's speed imprudent and what maximum speed the officer would consider prudent.

***Joint Standing Committee on Criminal Justice and Public Safety***

**LD 384      An Act To Amend the Laws Governing the Cap on the Tax Assessment  
for Correctional Services in Lincoln County and Sagadahoc County**

**ONTP**

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

This bill combines the cap on the amount that Lincoln County and Sagadahoc County may collect from municipalities for administration of the jail that serves both counties.

**LD 385      An Act To Ensure a Uniform Comprehensive State Policy Regarding  
Residency Restrictions for Sex Offenders**

**PUBLIC 351**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL SHERMAN	OTP-AM A OTP-AM B ONTP C	H-474

This bill prohibits municipalities from adopting ordinances regarding residency restrictions for persons required to register as 10-year or lifetime registrants under the Sex Offender Registration and Notification Act of 1999.

**Committee Amendment "A" (H-474)**

This amendment is the majority report and replaces the bill. The amendment specifies that a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in Maine or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in Maine or in another jurisdiction. The purpose of this amendment is for the Legislature to preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction, except as provided in this amendment. If a municipality chooses to adopt an ordinance, it may not be based on a person's obligation to register under the Sex Offender Registration and Notification Act of 1999. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, and the ordinance must be limited as follows. It may restrict only residence and may not impose additional restrictions or requirements, including, but not limited to, registration and fees. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users. An ordinance may not restrict the residence of a person who lived in an area restricted as provided by this amendment prior to the adoption or amendment of the ordinance.

**Committee Amendment "B" (H-475)**

This is one of 2 minority reports of the committee. The other minority report was ought not to pass. This amendment specifies that a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in Maine or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in Maine or in another jurisdiction. The purpose of this amendment is for the Legislature to preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction.

**Enacted Law Summary**

## *Joint Standing Committee on Criminal Justice and Public Safety*

Public Law 2009, chapter 351 specifies that a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in Maine or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in Maine or in another jurisdiction. The purpose of Public Law 2009, chapter 351 is for the Legislature to preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction, except as provided in this law. If a municipality chooses to adopt an ordinance, it may not be based on a person's obligation to register under the Sex Offender Registration and Notification Act of 1999. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, and the ordinance must be limited as follows. It may restrict only residence and may not impose additional restrictions or requirements, including, but not limited to, registration and fees. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users. An ordinance may not restrict the residence of a person who lived in an area restricted as provided by this law prior to the adoption or amendment of the ordinance.

**LD 393      An Act Relating to Death Benefits for Certain Law Enforcement  
Officers and Amending the Definition of Emergency Vehicles**

**PUBLIC 421**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	S-132 S-325 DIAMOND

Under current law, a state benefit of \$50,000 is paid to the family of an eligible law enforcement officer who has died in the line of duty. This bill expands the list of eligible law enforcement officers to include forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety and motor vehicle investigators appointed by the Secretary of State. This bill also removes an obsolete reference to liquor enforcement officers.

**Committee Amendment "A" (S-132)**

This amendment makes a number of changes to the bill.

1. It adds forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety, motor vehicle investigators or supervisors appointed by the Secretary of State, military security police officers appointed by the Adjutant General and University of Maine System police officers to the definition of "law enforcement officer" in the Maine Revised Statutes, Title 20-A so that survivors would receive tuition benefits to Maine colleges and universities in the event that one of these officers died in the line of duty. It also removes liquor enforcement officers from the definition because they no longer exist.
2. It adds a University of Maine System police officer and a military security police officer appointed by the Adjutant General to the definition of "law enforcement officer" so that the families of those officers are eligible for death benefits in the event that an officer dies in the line of duty.
3. It clarifies that supervisors of motor vehicle investigators appointed by the Secretary of State are eligible for benefits.

## *Joint Standing Committee on Criminal Justice and Public Safety*

4. It adds University of Maine System vehicles operated by a University of Maine System police officer to the definition of "authorized emergency vehicle."

### **Senate Amendment "A" To Committee Amendment "A" (S-325)**

This amendment ensures that the death benefit for eligible law enforcement officers is paid as soon as a sufficient balance in the Maine Budget Stabilization Fund exists.

### **Enacted Law Summary**

Public Law 2009, chapter 421 expands the definition of law enforcement officers whose families are eligible for a state benefit of \$50,000 and tuition benefits to Maine college and universities in the event that one of these officers dies in the line of duty. The definition of law enforcement officer is expanded to include the following: forest rangers; Baxter State Park rangers; detectives employed by the Office of the Attorney General; investigative officers employed by the Department of Corrections; juvenile community corrections officers; probation officers; certain security officers appointed by the Commissioner of Public Safety; motor vehicle investigators appointed by the Secretary of State and the supervisors of those motor vehicle investigators; University of Maine System police officers; and military security police officers appointed by the Adjutant General. If there is insufficient funds in the Maine Budget Stabilization Fund to pay the \$50,000 benefit, it is paid as soon as there is sufficient funding available. It also adds University of Maine System vehicles operated by a University of Maine System police officer to the definition of "authorized emergency vehicle."

### **LD 401      An Act Creating a Probationary Period for County Corrections Officials**

**PUBLIC 106**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAGNAN DAVIS G	OTP-AM	H-81

This bill requires county corrections officials to serve a one-year period of probation after completion of the basic corrections training at the Maine Criminal Justice Academy.

### **Committee Amendment "A" (H-81)**

This amendment changes the probationary period for county corrections officials from at least one year after completion of basic corrections training at the Maine Criminal Justice Academy to one year from the date of hire. The probationary period would go into effect for all new hires after October 1, 2009.

### **Enacted Law Summary**

Public Law 2009, chapter 106 requires county corrections officials to serve a one-year probationary period from the date of hire. The probationary period would go into effect for all new hires after October 1, 2009.

### **LD 433      An Act To Reinstate Rules Requiring Inspection of Chimneys upon the Sale or Transfer of Property**

**ONTP**

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

# *Joint Standing Committee on Criminal Justice and Public Safety*

Current law allows the Commissioner of Public Safety to adopt rules requiring the maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances upon the sale or transfer of property. The rules of the Department of Public Safety, Office of the State Fire Marshal were recently amended to remove the requirement of inspection of existing chimneys upon the sale and transfer of property. This bill amends the law to require the adoption of rules requiring the inspection of chimneys upon the sale or transfer of property.

## **LD 441      An Act To Establish the Civil Violation of Motor Vehicle Violation Resulting in Death**

**PUBLIC 182**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P	OTP-AM MAJ ONTP MIN	H-185 MAZUREK H-78

This bill creates the Class D strict liability crime of motor vehicle violation resulting in death. A person commits the crime if that person, while operating a motor vehicle and committing a traffic infraction, causes the death of another person. The State must plead and prove that the defendant's committing a traffic infraction while operating a motor vehicle caused the death, and the court shall apply the causation provision in Title 17-A, §33 to assess causation.

### **Committee Amendment "A" (H-78)**

This amendment is the majority report. Instead of creating a new crime, it establishes the civil violation of motor vehicle violation resulting in death. A person commits the civil violation if the person, while operating a motor vehicle and committing a traffic infraction, causes the death of another person. The penalty for this violation is a mandatory license suspension of up to 4 years and may also include a fine not to exceed \$5,000 and community service work.

### **House Amendment "A" To Committee Amendment "A" (H-185)**

This amendment imposes a minimum period of license suspension of 14 days.

### **House Amendment "B" To Committee Amendment "A" (H-207)**

Unlike Committee Amendment "A," which establishes the civil violation of motor vehicle violation resulting in death, this amendment retains the language of the bill, which establishes the crime of motor vehicle violation resulting in death. In addition, this amendment replaces the title of the bill to clarify that the new crime of motor vehicle violation resulting in death established in the bill applies only if the traffic infraction causes the death. This amendment also adds an appropriations and allocations section. This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2009, chapter 182 establishes the civil violation of motor vehicle violation resulting in death. A person commits the civil violation if the person, while operating a motor vehicle and committing a traffic infraction, causes the death of another person. The penalty for this violation is a mandatory license suspension for a minimum period of 14 days up to 4 years. Penalties may also include a fine not to exceed \$5,000 and community service work.

***Joint Standing Committee on Criminal Justice and Public Safety***

**LD 442      An Act To Require Prisoners To Perform Community Service and To Require Jails, Prisons, Nonprofit Entities, Universities and Counties To Compost Food Waste**

**ONTP**

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

This bill requires the Department of Corrections and the county jails to establish community service programs for inmates and requires inmates to participate in those programs as determined appropriate. The community service programs may include any service, but must include a gardening program. The Department of Corrections and the county jails may seek the support of the State Board of Corrections in developing and implementing the community service programs.

The bill also requires the University of Maine System, the Maine Community College System, Maine Maritime Academy and all counties and nonprofit entities, including, but not limited to, hospitals, county jails and prisons that prepare and serve meals, to develop and implement food composting programs no later than December 30, 2009. Composted materials may be distributed to the Department of Corrections and to county jails as needed for the purpose of supporting their community service gardens.

**LD 468      An Act To Amend the Laws Concerning Terrorizing**

**ONTP**

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

This bill expands the scope of the criminal offense of terrorizing by eliminating the need for a crime of violence to be dangerous to human life and by broadening the effect of a communicated threat to not only putting the person to whom the threat is communicated or the person threatened but also any reasonable person in reasonable fear that the crime will be committed.

**LD 478      An Act To Ensure That the Membership of the State Board of Corrections Includes a Representative with Expertise in Issues Regarding Mental Illness**

**PUBLIC 89**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E	OTP-AM MAJ ONTP MIN	S-76

This bill proposes to amend the membership of the State Board of Corrections by adding 2 mental health advocates to the board. One of the advocates would be selected from a list of 3 nominations submitted to the Governor by the President of the Senate, and one of the advocates would be selected from a list of 3 nominations submitted to the Governor by the Speaker of the House. The bill also changes the quorum from 3 to 4 members for subcommittee

## *Joint Standing Committee on Criminal Justice and Public Safety*

hearings held by the board that do not involve decision making.

### **Committee Amendment "A" (S-76)**

This amendment replaces the bill and is the majority report. The amendment changes the title and specifies that of the 9 members of the State Board of Corrections, one must be a person who has expertise in issues relating to mental illness. The amendment does not add additional members to the board.

### **Enacted Law Summary**

Public Law 2009, chapter 89 specifies that of the 9 members of the State Board of Corrections, one must be a person who has expertise in issues relating to mental illness.

### **LD 481      An Act To Allow the Department of Corrections To Certify Community Intervention Programs**

**PUBLIC 92**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-79

This bill defines the terms "community agency," "community intervention program," and "nonprofit" and authorizes the Department of Corrections to adopt routine technical rules that establish standards and procedures for the certification of community intervention programs. The department may review and certify programs that meet standards and may require certification of programs providing services to clients of the department whether or not the department disburses funds to the agency. Certification is intended to ensure that programs that provide intervention services are based on best practices and are proven to be effective in changing criminal behaviors.

### **Committee Amendment "A" (H-79)**

This amendment requires that the Department of Corrections consult other state agencies if adopting rules to establish standards and procedures for certification of community intervention programs. This amendment is proposed in recognition of the fact that other state agencies are already involved in the certification and licensing of various programs, services and professions and coordination of efforts makes sense.

### **Enacted Law Summary**

Public Law 2009, chapter 92 authorizes the Department of Corrections to adopt routine technical rules in consultation with other state agencies to establish standards and procedures for the certification of community intervention programs. The department may review and certify programs that meet standards and may require certification of programs providing services to clients of the department whether or not the department disburses funds to the agency. Certification is intended to ensure that programs that provide intervention services are based on best practices and are proven to be effective in changing criminal behaviors.

### **LD 483      An Act To Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections**

**PUBLIC 94**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-82

## *Joint Standing Committee on Criminal Justice and Public Safety*

This bill permits the Department of Corrections to serve protection from harassment and protection from abuse orders on defendants incarcerated in its facilities. The bill also clarifies that victim restitution must be paid through the Department of Corrections when it is owed by a client of the department and requires that the department determine the time and method of payment while the defendant is a departmental client, with a defendant having recourse to the court to avoid a default.

### **Committee Amendment "A" (H-82)**

This amendment clarifies that the chief administrative officer or the officer's designee is authorized to serve protection from abuse or protection from harassment orders on persons who are incarcerated in a Department of Corrections facility. The amendment also clarifies that this service applies to both temporary and permanent orders.

### **Enacted Law Summary**

Public Law 2009, chapter 94 permits the Department of Corrections to serve protection from harassment and protection from abuse orders on defendants incarcerated in its facilities. Specifically, the chief administrative officer or the officer's designee is authorized to serve protection from abuse or protection from harassment orders on persons who are incarcerated in a Department of Corrections facility. This service applies to both temporary and permanent orders.

Public Law 2009, chapter 94 also clarifies that victim restitution must be paid through the Department of Corrections when it is owed by a client of the department and requires that the department determine the time and method of payment while the defendant is a departmental client, with a defendant having recourse to the court to avoid a default.

### **LD 492      An Act to More Accurately Reflect the Disposition of a Case in Criminal History Record Information**

**ONTP**

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

This bill requires that when a person is arrested and the law enforcement officer decides not to refer the case to the prosecutor or the prosecutor elects not to prosecute, that information must be included in the person's criminal history record along with the arrest record. This arrest information is available as public information until one year after the arrest. Arrest information without disposition becomes nonconviction data, which is available to law enforcement, if one year has lapsed from the date of the arrest and no active prosecution is pending.

### **LD 550      An Act To Protect Maine Residents from Home Fires and Carbon Monoxide**

**PUBLIC 162**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-98

This bill requires that all single-family dwellings and multi-apartment buildings sold in the State and newly constructed single-family dwellings have photoelectric-type smoke detectors and at least one carbon monoxide detector in an area within or giving access to a bedroom. The detectors in multi-family dwellings and newly constructed single-family dwellings must be powered by both the electrical service in the building and by battery.

## *Joint Standing Committee on Criminal Justice and Public Safety*

### **Committee Amendment "A" (S-98)**

This amendment makes the following changes to the bill.

1. It clarifies that smoke detectors are required in all single-family dwellings rather than in existing single-family dwellings.
2. It removes the requirement for smoke detectors in multi-family or newly constructed single-family buildings to be the photoelectric type although smoke detectors must be powered by both electricity and battery.
3. It requires tenants to notify landlords in writing that a smoke detector or carbon monoxide detector is not working.
4. It clarifies that tenants shall keep smoke detectors and carbon monoxide detectors in working order, test them periodically and refrain from disabling them.
5. It requires the buyer of a single-family dwelling or multi-apartment building to certify at closing that the building is provided with smoke detectors and carbon monoxide detectors, rather than the seller.
6. It clarifies that carbon monoxide detectors must be powered by electricity and battery and clarifies that electrical service means either a device plugged into an electrical outlet or hardwired.
7. It removes the requirement that carbon monoxide detectors must be on or near the ceiling or floor in each area and requires them only near or in bedrooms.
8. It removes the section requiring carbon monoxide detectors to be in corridors or hallways of multi-apartment buildings more than 3 stories in height because they are required in every apartment of a multi-apartment building.
9. It requires the Department of Public Safety, Office of the State Fire Marshal to spend \$100,000 to purchase carbon monoxide detectors to be distributed to organizations that promote the placement of carbon monoxide detectors in homes and have the ability to install them.
10. It requires the Office of the State Fire Marshal to develop standards for substantial compliance and a plan for an education program to achieve substantial compliance with the Maine Revised Statutes, Title 25, section 2468.

### **Enacted Law Summary**

Public Law 2009, chapter 162 requires that all single-family dwellings and multi-apartment buildings sold in the State and newly constructed single-family dwellings have smoke detectors and at least one carbon monoxide detector in an area within or giving access to a bedroom. The detectors must be powered by electricity and battery. Tenants shall keep smoke detectors and carbon monoxide detectors in working order, test them periodically and refrain from disabling them. Tenants must also notify landlords in writing if a smoke detector or carbon monoxide detector is not working. Buyers of single-family dwellings and multi-apartment buildings must certify at closing that the building is provided with smoke detectors and carbon monoxide detectors. The Department of Public Safety, Office of the State Fire Marshal shall spend \$100,000 to purchase carbon monoxide detectors to be distributed to organizations that promote the placement of carbon monoxide detectors in homes and have the ability to install them. The Office of the State Fire Marshal is also required to develop standards for substantial compliance and a plan for an education program to achieve substantial compliance with the Maine Revised Statutes, Title 25, section 2468.

# Joint Standing Committee on Criminal Justice and Public Safety

## LD 567 Resolve, To Establish a Working Group To Increase Protection for Victims of Domestic Violence

RESOLVE 61

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN K ROSEN R	OTP-AM	H-172

This bill does the following:

1. Requires a person charged with a domestic violence crime or violation of a protective order to undergo a dangerousness assessment;
2. Allows a court to order as a condition of bail that a person charged with a domestic violence crime or a violation of a protective order wear an electronic monitoring device;
3. Requires a court to order as a condition of probation that a person convicted of a violation of a protective order wear an electronic monitoring device;
4. Sets a minimum fine of \$200 for any person convicted of a domestic violence crime or violation of a protective order to be paid to the Electronic Monitoring Fund;
5. Establishes the Electronic Monitoring Program under the Department of Corrections that requires a participant to wear a global positioning anklet or bracelet that alerts the program and the victim if the participant is violating restricted area boundaries; and
6. Establishes the Electronic Monitoring Fund, which uses the proceeds of fines from domestic violence and protective order offenders to help pay the expenses of the Electronic Monitoring Program.

### Committee Amendment "A" (H-172)

This amendment replaces the bill with a resolve that requires the Department of Corrections to convene a working group to develop a process to assess dangerousness and more effectively monitor those who commit domestic violence crimes. The working group shall review other states' existing electronic monitoring and offender management programs, determine accurate costs and program management needs and identify possible pilot sites in the State. The department shall submit a report including the working group's recommendations by January 15, 2010, and the Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

### Enacted Law Summary

Resolve 2009, chapter 61 requires the Department of Corrections to convene a working group to develop a process to assess dangerousness and more effectively monitor those who commit domestic violence crimes. The working group shall review other states' existing electronic monitoring and offender management programs, determine accurate costs and program management needs and identify possible pilot sites in the State. The department shall submit a report including the working group's recommendations by January 15, 2010, and the Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

# *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 568      An Act To Amend the Sex Offender Registration Laws**

**Carried Over**

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

This bill implements recommendations for immediate legislative changes to the Sex Offender Registration and Notification Act of 1999, as recommended by the Joint Standing Committee on Criminal Justice and Public Safety in its Final Report of the Criminal Justice and Public Safety Committee Study of Sex Offender Registration Laws in November 2008.

The bill amends the crime of prohibited contact with a minor by repealing the element that the person has a duty to register under the Sex Offender Registration and Notification Act of 1999 and by making the law applicable only to those persons convicted on or after June 30, 1992. The fact that a person must previously have been convicted of a Maine Revised Statutes, Title 17-A, chapter 11 or chapter 12 offense against a victim who had not attained 14 years of age is material to the commission of the crime of prohibited contact with a minor. The bill also specifies that the person must initiate the direct or indirect contact with another person who has not attained 14 years of age.

The bill repeals from the sentencing provisions the directive that a court order a person convicted of a sex offense or a sexually violent offense to satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. This change clarifies that the Legislature determines that a duty to register exists based on the conviction and that the court's duty is only to notify the person of that duty.

The bill repeals from the probation provisions the directive that a court attach as a condition of probation that a person convicted of a sex offense or a sexually violent offense satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. The court has discretion to order any condition of probation reasonably related to the rehabilitation of the convicted person or the public safety or security, including satisfying registration requirements if appropriate.

The bill amends that part of the definition of "lifetime registrant" in the Sex Offender Registration and Notification Act of 1999 that pertains to persons classified as lifetime registrants because of having multiple convictions for sex offenses to clarify that the changes made by Public Law 2005, chapter 423 operate prospectively. For persons convicted and sentenced on or after September 17, 2005, the definition remains unchanged except for technical drafting changes. For persons convicted and sentenced before September 17, 2005, the amendment changes the definition of "another conviction" to mean an offense for which sentence was imposed prior to the occurrence of the new offense. This change would undo the expansion of 10-year registrants who became lifetime registrants with the 2005 change, including those registrants whose duty to register had ended prior to that change.

LD 568 was carried over to any special or regular session of the 124th Legislature by joint order, House Paper 1053.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 591      An Act Regarding the Granting of a Work-restricted Driver's License  
for Travel to and from Work for Certain Persons with Suspended  
Licenses** **ONTP**

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

This bill proposes that the Secretary of State may issue a work-restricted license to a person who has been enrolled for at least 6 months in an alcohol and drug program administered by the Department of Health and Human Services, Office of Substance Abuse or has satisfactorily completed such a program, has installed a global positioning system approved by the Secretary of State in the motor vehicle the petitioner operates and has provided the Secretary of State with the petitioner's residential address and the petitioner's place of employment or the educational facility attended by the petitioner, whichever is applicable.

**LD 594      An Act To Require That Police Reports Be Filed in All Automobile  
Accidents** **ONTP**

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

This bill amends the definition of "reportable accident" by removing the requirement that a traffic accident must have apparent property damage of \$1,000 or more to be reportable. As proposed, a "reportable accident" would mean an accident on a public way or a place where public traffic may reasonably be anticipated, resulting in bodily injury or death to a person or apparent property damage.

**LD 595      An Act To Prevent High-speed Chases** **ONTP**

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

This bill creates a new motor vehicle infraction "unlawful use" that allows a law enforcement officer, rather than engaging in a high-speed chase, to issue a summons to an offender for an observed violation. If the operator is not determined, the owner of the registered vehicle may be summonsed for the observed violation. The registered owner of the vehicle may also be charged with the offense of allowing unlawful use, whether the owner was in the vehicle or not, that is subject to a fine of \$500.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 601      An Act To Require That the Proceeds from Property Seized through  
Drug Crime Forfeitures Go to the General Fund**

**ONTP**

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

This bill requires that all proceeds from the forfeiture of property relating to a conviction of a crime involving drugs, after paying the reasonable expenses of the forfeiture proceeding and related costs, go to the General Fund. Current law authorizes a court, to the extent that the court finds it reasonable, to order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case.

**LD 631      An Act To Amend the Laws Relating to the Department of Corrections**

**PUBLIC 142**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS DAVIS G	OTP-AM	H-101

This bill makes changes to the laws relating to the Department of Corrections as follows.

Sections 1, 2, 9 and 12 of bill add adult probation supervisors to definitions of "law enforcement officer" for the purposes of the Maine Criminal Code and the State's liquor laws. Current law includes adult probation officers but not their supervisors; all are treated as probation officers for purposes of law enforcement training. Section 9 also clarifies Department of Corrections training: correctional investigators would have to complete the basic law enforcement training but the Department of Corrections would be exempt from writing policies and procedures for activities that the investigators are not involved in, like high speed pursuits.

Section 3 of the bill provides that pursuant to Title 17-A, §15, a law enforcement officer may make a warrantless arrest of a juvenile who violates a condition of release, as is presently provided in the Maine Juvenile Code and adds authority for law enforcement officers to arrest without a warrant other persons who violate conditions of supervision by the Department of Corrections, including violations of supervised community confinement, placement on community reintegration or furloughs.

Section 4 of the bill corrects an incorrect reference to the Department of Health and Human Services to the Department of Corrections, as the Department of Corrections grants prisoner furloughs and work releases.

Section 5 of the bill clarifies the provision requiring termination of probation for a person who has completed a certified batterers' intervention program; a person on probation must also satisfy all other conditions of probation and have paid any restitution ordered to the victim before a hearing on the probation termination may take place. Completing the batterers' intervention program alone is not enough to terminate probation.

Section 6 of the bill sets a default monthly probation supervision fee of \$10 when a court fails to specify an amount. Current law requires a supervision fee of between \$10 and \$50 per month as determined by the court.

## *Joint Standing Committee on Criminal Justice and Public Safety*

Section 7 of the bill adds prisoners on supervised community confinement to the laws governing multiple sentences of imprisonment, which is consistent with those who would be sentenced to intensive supervision. This provision addresses sentencing for those who commit new crimes while on supervised community confinement.

Section 8 repeals Title 17-A, §1266, which governs the sentence for a crime committed by a prisoner on intensive supervision, because it is no longer necessary due to changes in the language of Title 17-A, §1256 since §1266 was enacted.

Section 13 corrects an oversight by amending the definition of "prisoner" in the Department of Corrections statutes to include those on supervised community confinement.

Section 14 amends the provision permitting the Commissioner of Corrections to transfer prisoners between facilities, whether pending trial or other proceeding or sentenced, under the new unified correctional system.

Section 15 eliminates the prohibition on the Department of Corrections' investigative officers exercising power against other employees of the department, which is consistent with other law enforcement agencies in the State. Section 15 also expands the authority of correctional investigators to exercise law enforcement powers with respect to community corrections programs administered by the Department of Corrections.

Sections 10, 11 and 16-19 allow prisoners who are in the community working under the supervised community confinement program to be able to collect workers' compensation benefits. Current law provides this benefit only for those on intensive supervision.

### **Committee Amendment "A" (H-101)**

This amendment adds language to the definition of "contraband" in the crime of aiding escape, which is cross-referenced in the crime of trafficking in prison contraband, to address the problem of prisoners smuggling drugs that are prescribed to them in the community but that are not permitted in a county jail or Department of Corrections facility. The amendment ensures that a prisoner has only a drug that was validly prescribed to the prisoner and that the custodial agency has approved the use of the drug. The amendment also retains language referring to a probation officer's duty to perform intensive supervision functions, instead of striking the reference as proposed in the bill.

### **Enacted Law Summary**

Public Law 2009, chapter 142 makes a number of changes to the Department of Corrections statutes.

Public Law 2009, chapter 142 adds adult probation supervisors to definitions of "law enforcement officer" for the purposes of the Maine Criminal Code and the State's liquor laws and specifies that the training for correctional investigators requires completion of the basic law enforcement training course but the Department of Corrections is exempt from writing policies and procedures for activities in which the investigators are not involved.

Public Law 2009, chapter 142 specifies that a law enforcement officer may make a warrantless arrest of a juvenile who violates a condition of release, as is presently provided in the Maine Juvenile Code, and adds authority for law enforcement officers to arrest without a warrant other persons who violate conditions of supervision by the Department of Corrections, including violations of supervised community confinement, placement on community reintegration or furloughs.

Public Law 2009, chapter 142 corrects an incorrect reference to the Department of Health and Human Services to the Department of Corrections, as the Department of Corrections grants prisoner furloughs and work releases.

Public Law 2009, chapter 142 clarifies the provision requiring termination of probation for a person who has completed a certified batterers' intervention program; a person on probation must also satisfy all other conditions of probation and have paid any restitution ordered to the victim before a hearing on the probation termination may take

## *Joint Standing Committee on Criminal Justice and Public Safety*

place.

Public Law 2009, chapter 142 sets a default monthly probation supervision fee of \$10 when a court fails to specify an amount.

Public Law 2009, chapter 142 adds prisoners on supervised community confinement to the laws governing multiple sentences of imprisonment, which is consistent with those who would be sentenced to intensive supervision. This provision addresses sentencing for those who commit new crimes while on supervised community confinement.

Public Law 2009, chapter 142 repeals Title 17-A, §1266, which governs the sentence for a crime committed by a prisoner on intensive supervision, because it is no longer necessary due to changes in the language of Title 17-A, §1256 since §1266 was enacted.

Public Law 2009, chapter 142 corrects an oversight by amending the definition of "prisoner" in the Department of Corrections statutes to include those on supervised community confinement.

Public Law 2009, chapter 142 amends the provision permitting the Commissioner of Corrections to transfer prisoners between facilities, whether pending trial or other proceeding or sentenced, under the new unified correctional system.

Public Law 2009, chapter 142 eliminates the prohibition on the Department of Corrections' investigative officers exercising power against other employees of the department, which is consistent with other law enforcement agencies in the State. It also expands the authority of correctional investigators to exercise law enforcement powers with respect to community corrections programs administered by the Department of Corrections.

Public Law 2009, chapter 142 allows prisoners who are in the community working under the supervised community confinement program to be able to collect workers' compensation benefits.

Public Law 2009, chapter 142 also adds language to the definition of "contraband" in the crime of aiding escape, which is cross-referenced in the crime of trafficking in prison contraband, to address the problem of prisoners smuggling drugs that are prescribed to them in the community but that are not permitted in a county jail or Department of Corrections facility. It ensures that a prisoner has only a drug that was validly prescribed to the prisoner and that the custodial agency has approved the use of the drug.

### **LD 632      An Act To Increase Payments to Victims of Crimes**

**PUBLIC 79**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS SIMPSON	OTP-AM	H-52

This bill amends the Victims' Compensation laws as follows.

1. It creates the definition of "catastrophic injury" for purposes of eligibility for Victims' Compensation Fund and gives the Victims' Compensation Board authority to award compensation for unreimbursed mental health treatment expenses directly related to a crime for the benefit of a surviving family or household member of a person who suffers "catastrophic injury" as a direct result of the crime.

2. It adds other homicide-related expenses, expenses incidental to obtaining care for personal injury, the cost of security deposits and the cost to install locks or security devices to the definition of "eligible expenses and losses."

## *Joint Standing Committee on Criminal Justice and Public Safety*

3. It also increases the payment for forensic examinations for alleged victims of gross sexual assault from \$500 to \$750, in order to better reflect the cost of performing the examinations.

### **Committee Amendment "A" (H-52)**

This amendment incorporates a fiscal note.

### **Enacted Law Summary**

Public Law 2009, chapter 79 creates the definition of "catastrophic injury" for purposes of eligibility for Victims' Compensation Fund and gives the Victims' Compensation Board authority to award compensation for unreimbursed mental health treatment expenses directly related to a crime for the benefit of a surviving family or household member of a person who suffers "catastrophic injury" as a direct result of the crime. It adds other homicide-related expenses, expenses incidental to obtaining care for personal injury, the cost of security deposits and the cost to install locks or security devices to the definition of "eligible expenses and losses." Public Law 2009, chapter 79 also increases the payment for forensic examinations for alleged victims of gross sexual assault from \$500 to \$750, in order to better reflect the cost of performing these examinations.

### **LD 633 An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention**

**PUBLIC 449**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HANLEY MCCORMICK	OTP-AM	H-201 S-327 DIAMOND

Under current law, it is a Class D crime to refuse to submit to an arrest or detention if that person uses physical force against a law enforcement officer or creates a substantial risk of bodily injury to a law enforcement officer. This bill repeals that provision of law and enacts in its stead a provision that establishes that refusal to submit to arrest:

1. Is a Class E crime if the person performs an act of physical interference or resistance;
2. Is a Class D crime if the person uses physical force against the law enforcement officer; and
3. Is a Class D crime if the person creates a substantial risk of bodily injury to the law enforcement officer, resulting in the law enforcement officer's pursuing, chasing or attempting to pursue or chase the person.

### **Committee Amendment "A" (H-201)**

This amendment redefines the offense of refusing to submit to arrest or detention as proposed in the bill. A person is guilty of refusing to submit to arrest or detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention of that person, the person refuses to stop on request or signal of a law enforcement officer, which is a Class E crime; uses physical force against the law enforcement officer, which is a Class D crime; or creates a substantial risk of bodily injury to the law enforcement officer, which is a Class D crime. The amendment maintains the defense to prosecution that the person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer. The amendment also adds the defense that the law enforcement officer acted unlawfully in attempting to effect the arrest or detention for the offense of refusing to stop on request or signal of a law enforcement officer. It also adds an appropriations and allocations section.

### **Senate Amendment "A" To Committee Amendment "A" (S-327)**

This amendment appropriates funds for the county jail costs to the State Board of Corrections rather than the

# Joint Standing Committee on Criminal Justice and Public Safety

Department of Corrections.

## Enacted Law Summary

Public law 2009, chapter 449 redefines the offense of refusing to submit to arrest or detention. A person is guilty of refusing to submit to arrest or detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention of that person, the person refuses to stop on request or signal of a law enforcement officer, which is a Class E crime; uses physical force against the law enforcement officer, which is a Class D crime; or creates a substantial risk of bodily injury to the law enforcement officer, which is a Class D crime. Public Law 2009, chapter 449 maintains the defense to prosecution that the person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer. It also adds the defense that the law enforcement officer acted unlawfully in attempting to effect the arrest or detention for the offense of refusing to stop on request or signal of a law enforcement officer.

### LD 634      **An Act To Create a Mandatory Sentence for Repeat Offenders of Sex Offenses against Victims under 12 Years of Age**

ONTP

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

This bill requires a court to sentence a person convicted of committing any offense under Title 17-A, chapter 11 or 12 against a child under 12 years of age who has a prior conviction for committing a chapter 11 or 12 offense against a child under 12 years of age to a mandatory term of imprisonment of at least 25 years, none of which may be suspended.

### LD 653      **An Act To Strengthen the Penalties for Leaving the Scene of an Accident**

ONTP

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

Under current law, a person who is involved in an accident and who fails to stop or leaves the scene of the accident commits a Class E crime for accidents involving damage to the vehicle, a Class D crime for accidents involving personal injury or death and a Class C crime if the person intentionally, knowingly or recklessly leaves the scene of an accident involving serious bodily injury or death. This bill increases the penalty class for each crime to a Class D, Class C and Class B crime, respectively.

### LD 668      **An Act To Amend the Laws Concerning Disorderly Conduct**

ONTP

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

## *Joint Standing Committee on Criminal Justice and Public Safety*

This bill repeals the existing law governing disorderly conduct and enacts a new provision defining disorderly conduct. Under the new provision, disorderly conduct remains a Class E crime.

### **LD 690      **Resolve, To Establish a Working Group Concerning Domestic Violence and Firearms****

**RESOLVE 86**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	S-181

This bill brings Maine law into conformity with federal law. The bill adds to state law the existing federal prohibition against possession of firearms by a person who has been convicted of a misdemeanor crime of domestic violence. A misdemeanor crime of domestic violence means an offense that is a misdemeanor under federal, state or tribal law and has as an element the use or attempted use of physical force or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

#### **Committee Amendment "A" (S-181)**

This amendment replaces the bill with a resolve and directs the Commissioner of Public Safety to convene a working group concerning domestic violence and firearms. The group shall look at incorporating into state law the prohibition of possession of firearms by a person convicted of a misdemeanor crime of domestic violence in order to conform to federal law. The working group must invite representatives from each of the following to participate: the Office of the Attorney General, the Maine Prosecutors Association, the Maine Coalition to End Domestic Violence, the Maine Association of Criminal Defense Lawyers, Maine Citizens Against Handgun Violence, the Sportsman's Alliance of Maine, the Maine Chiefs of Police Association, the Maine Sheriffs' Association and up to 3 other entities that the Commissioner of Public Safety determines appropriate. The Commissioner of Public Safety shall report the working group's recommendations, including recommended legislation, to the Joint Standing Committee on Criminal Justice and Public Safety no later than January 15, 2010. The Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

#### **Enacted Law Summary**

Resolve 2009, chapter 86 directs the Commissioner of Public Safety to convene a working group concerning domestic violence and firearms. The group shall look at incorporating into state law the prohibition of possession of firearms by a person convicted of a misdemeanor crime of domestic violence in order to conform to federal law. The working group must invite representatives from each of the following to participate: the Office of the Attorney General, the Maine Prosecutors Association, the Maine Coalition to End Domestic Violence, the Maine Association of Criminal Defense Lawyers, Maine Citizens Against Handgun Violence, the Sportsman's Alliance of Maine, the Maine Chiefs of Police Association, the Maine Sheriffs' Association and up to 3 other entities that the Commissioner of Public Safety determines appropriate. The Commissioner of Public Safety shall report the working group's recommendations, including recommended legislation, to the Joint Standing Committee on Criminal Justice and Public Safety no later than January 15, 2010. The Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

***Joint Standing Committee on Criminal Justice and Public Safety***

**LD 712      An Act To Require That Prior OUI Convictions Committed with a Motor Vehicle, Watercraft, Snowmobile or All-terrain Vehicle Are Treated as Previous OUI Convictions for Purposes of Sentencing**

**DIED BETWEEN HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AUSTIN SCHNEIDER	OTP-AM MAJ ONTP MIN	H-363

This bill amends Title 12 §10701, the prohibition for hunting or operating watercraft, snowmobiles or ATVs while under the influence. The bill adds to the penalties that a court may impose for these violations the option to suspend, for a period of time to be determined by the court, the driver's license of the person who is convicted for an operating under the influence on a watercraft, ATV or snowmobile or for an operating under the influence while hunting.

**Committee Amendment "A" (H-363)**

This amendment is the majority report, replaces the bill and changes the bill's title. The amendment requires a court, when sentencing a person convicted for OUI committed with a motor vehicle, watercraft, snowmobile or all-terrain vehicle, to treat prior convictions for OUI committed with a motor vehicle, watercraft, snowmobile or all-terrain vehicle as a previous conviction. The amendment also adds appropriations and allocations sections.

**LD 713      An Act Regarding Assault on a Firefighter**

**ONTP**

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

Current law makes assault on a police officer or emergency medical services person a Class C crime. This bill extends the same penalty to assault on a firefighter while the firefighter is engaged in the firefighter's official duties at the scene of a fire or other emergency.

**LD 726      An Act To Improve the Process for Issuing Concealed Weapons Permits**

**ONTP**

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

This bill provides that any government agency with authority to issue a concealed weapons permit must, in the course of reviewing an application and considering the issue of the applicant's good moral character, request and receive copies of any abstract of any court ruling regarding the applicant's mental fitness. The abstracts are currently collected by the State Bureau of Identification within the Department of Public Safety.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 727 An Act To Protect Sports Officials**

**ONTP**

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

This bill creates the crime of assault on a sports official. A person is guilty of assault on a sports official if the person intentionally, knowingly or recklessly causes bodily injury or offensive physical contact to a sports official and that assault occurs within the confines of or immediate vicinity of an athletic facility at which the sports official is acting or was acting in the capacity of a sports official, except at a professional sporting event. The new crime is a Class D crime, the same as assault, except that the maximum fine that may be imposed is increased from \$2,000 to \$4,000.

**LD 730 An Act To Allow Bail Commissioners To Access Criminal Records**

**ONTP**

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

This bill adds a new subsection to Title 15, §1023, which allows a bail commissioner to consider a defendant's criminal history record information in setting preconviction bail for the defendant and requires the Chief of the State Police to make criminal history record information available to a bail commissioner to carry out this purpose. Currently, Title 15, §1023, sub-§4, C requires that bail commissioners in cases involving domestic violence may not set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the district attorney, a jail employee or other law enforcement officer: a brief history of the alleged abuser; the relationship of the parties; the name, address, phone number and date of birth of the victim; and existing conditions of protection from abuse orders, conditions of bail and conditions of probation.

**LD 747 An Act To Increase Split Sentencing Alternatives**

**ONTP**

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

This bill amends the sentencing alternative of split sentences. The bill specifies that the initial portion of imprisonment may not exceed 1/3 of the sentence imposed; however, if the court determines that imposing only 1/3 of the initial portion of imprisonment frustrates the general purposes of sentencing set forth in the Maine Revised Statutes, Title 17-A, section 1151, the court may impose a greater sentence of imprisonment but must state in writing its reasons for its findings and imposition of sentence.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 748      An Act To Adjust the Assessment for Correctional Services from  
Sagadahoc County**

**ONTP**

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

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

LD 748 is an emergency bill that amends the correctional related expenditures for Sagadahoc County from \$2,295,849, as enacted in Public Law 2007, chapter 653, to \$2,526,623. After the county made its correctional related expenditures report in the information gathering process of the development of the cap, the county became aware that alternative sentencing programs could be included, and Sagadahoc County's report omitted those costs. Without including these alternative sentencing program costs in the assessment amount, and therefore being able to expend them for this purpose, the county's number of prisoners will increase. By increasing the figure of the funds that the county is authorized to collect, Sagadahoc County can keep its alternative sentencing programs.

**LD 791      An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs**

**Carried Over**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAYE		S-193

This bill prohibits the furnishing of a place for minors to use illegal drugs. A person is guilty of furnishing a minor a place to use scheduled drugs, imitation scheduled drugs or counterfeit drugs if that person knowingly furnishes a minor a place to use scheduled drugs, imitation scheduled drugs or counterfeit drugs. Violation of the offense would be a Class B crime if the violation involves a counterfeit drug or a schedule W drug, a Class C crime if the violation involves a schedule X, Y or Z drug and a Class D crime if the violation involves an imitation scheduled drug.

**Committee Amendment "A" (S-193)**

This amendment replaces the bill and mirrors the penalties for furnishing a place for a minor to consume alcohol in the Maine Revised Statutes, Title 28-A, section 2081. For purposes of this new crime, a minor is a person under 21 years of age. The amendment also adds an appropriations and allocations section.

LD 791 was carried over to the any special or regular session of the 124th Legislature by joint order, House Paper 1053.

# Joint Standing Committee on Criminal Justice and Public Safety

LD 793 An Act To Improve Juvenile Correctional Services

PUBLIC 93

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLUMMER	OTP-AM	H-80

This bill permits the interception of phone calls made by or to residents of juvenile correctional facilities on the same basis as the interception of phone calls made by or to residents of adult correctional facilities. It also makes willful failure to comply with the terms of any court order resulting from a juvenile adjudication of a juvenile crime involving drugs or liquor itself a juvenile crime consistent with other provisions that define a juvenile crime. The bill requires that a detainee under 18 years of age who has been convicted as an adult in another jurisdiction be detained with adults, as is presently the case for detainees under 18 years of age who have been convicted as an adult in the State. The bill also makes the provisions for the detention of juveniles in a jail consistent by allowing such detention to be for up to 48 hours.

### Committee Amendment "A" (H-80)

This amendment repeals the provision in current law that establishes that a violation of a court order relating to drug and alcohol infractions constitutes a new and distinct juvenile crime. The provision is seldom used, and juveniles may be held accountable through the contempt powers of the court.

The amendment clarifies under what conditions a person who is over 18 years of age but is considered a juvenile because the offense was committed before the person attained 18 years of age may be detained in a jail. The amendment also specifies the conditions under which a person convicted of an adult offense in another jurisdiction that would be a juvenile offense here may be detained and housed with juveniles in the State and under what conditions a juvenile detained in the State for a new offense can be housed after previously being convicted as an adult in another jurisdiction.

Finally, the amendment specifies that a juvenile may be held for over 6 hours, but not more than 48 hours, in a separate juvenile section of a rural jail. The conditions of detention are consistent with the federal Juvenile Justice and Delinquency Prevention Act of 1974. The amendment also corrects cross-references.

### Enacted Law Summary

Public Law 2009, chapter 93 permits the interception of phone calls made by or to residents of juvenile correctional facilities under the same circumstances as the interception of phone calls made by or to residents of adult correctional facilities. Monitoring prisoner phone calls is a permitted exception to Title 15, chapter 102, "Interception of Wire and Oral Communications."

Public Law 2009, chapter 93 clarifies under what conditions a person who is 18 years of age or older is considered a juvenile for purposes of being detained in jail for an offense committed when the person was less than 18 years of age. Public Law 2009, chapter 93 also addresses the conditions under which a person who has been convicted of an adult offense in another state can be detained and housed with juveniles. Public Law 2009, chapter 93 gives the court discretion to determine where to house a person who was adjudicated as an adult in another jurisdiction but was less than 18 years of age at the time of the crime and comes to Maine and commits a new offense. The court may determine the appropriate placement, unless the person reaches 18 years and 6 months, in which case the federal law requires that the person be housed in a jail.

Public Law 2009, chapter 93 permits detention of juveniles in a jail for up to 48 hours, instead of 24 hours, and it specifies the circumstances in which a juvenile can be held for more than 6 hours, but no more than 48 hours, in an

***Joint Standing Committee on Criminal Justice and Public Safety***

adult jail; detention for this purpose must be pending an initial appearance in court.

**LD 814      An Act Regarding the Sale of Weapons at Gun Shows**

**ONTP**

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

This bill requires that a national instant criminal background check be performed prior to the sale or transfer of a firearm at a gun show. The bill makes a gun show operator responsible for any failure to perform a required background check and subject to a fine of up to \$10,000 for each such failure. The bill also requires gun show operators to post signs at gun shows and notify exhibitors of the background check requirement and to provide unlicensed sellers and transferors with access to licensed sellers and transferors who will undertake the required background checks. The licensed firearms dealer is required to maintain the paperwork for 10 years.

**LD 815      An Act To Require the Collection of DNA from a Person under Certain Circumstances**

**ACCEPTED ONTP  
REPORT**

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

This bill modifies the DNA Data Base and Data Bank Act by establishing a DNA Fund to pay for the reasonable expenses of the Chief of the State Police in administering the DNA Data Base and Data Bank Act. It would require a fee to be paid into the DNA Fund by persons required to submit DNA samples or requesting DNA searches.

**Committee Amendment "A" (H-495)**

This amendment, which is the minority report of the committee, removes the provision that would allow a fee to be charged to a relative of a missing person who has requested a DNA search in the state DNA data base and state DNA data bank for the purposes of finding the missing person.

**LD 847      An Act Authorizing Statewide Mutual Aid among First Responder Agencies**

**PUBLIC 175  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-157

This bill provides that the Maine First Responders State-wide Mutual Aid Agreement, drafted by the Maine Emergency Management Agency and dated November 2008, applies to all political subdivisions in the State. The agreement authorizes first responder agencies to provide emergency services, even if a political subdivision has not entered into a mutual aid agreement with the political subdivision sending the requested emergency management, fire, law enforcement, emergency medical, public works or other emergency services. The bill eliminates the necessity for political subdivisions to adopt local ordinances to participate in the agreement but they retain the right

## *Joint Standing Committee on Criminal Justice and Public Safety*

to withdraw from the agreement if they choose to do so.

### **Committee Amendment "A" (H-157)**

This amendment adds an emergency preamble and emergency clause to the bill.

### **Enacted Law Summary**

Public Law 2009, chapter 175 provides that the Maine First Responders State-wide Mutual Aid Agreement, drafted by the Maine Emergency Management Agency and dated November 2008, applies to all political subdivisions in the State. The agreement authorizes first responder agencies to provide emergency services, even if a political subdivision has not entered into a mutual aid agreement with the political subdivision sending the requested emergency management, fire, law enforcement, emergency medical, public works or other emergency services. It eliminates the necessity for political subdivisions to adopt local ordinances to participate in the agreement but they retain the right to withdraw from the agreement if they choose to do so.

Public Law 2009, chapter 175 was enacted as an emergency measure effective May 19, 2009.

### **LD 915 An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety**

**PUBLIC 317**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-357

This bill makes changes to the statutes administered by the Department of Public Safety. The bill:

1. Updates the list of major policy-influencing positions of the Department of Public Safety;
2. Corrects the definition of "qualified person" in the Maine State Railroad Police Act;
3. Establishes the Bureau of Consolidated Emergency Communications;
4. Clarifies that the training standards and requirements of the Maine Revised Statutes, Title 25, section 2803-B do not apply to the Assistant State Fire Marshal;
5. Designates rules adopted by the Commissioner of Public Safety governing the security regarding use and occupancy of parks, grounds and buildings maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
6. Designates rules adopted by the Commissioner of Public Safety governing the use of public ways and parking areas maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
7. Authorizes the Commissioner of Public Safety to grant statewide power of enforcement of any law of this State to a capitol security officer if that officer has completed a basic training course at the Maine Criminal Justice Academy or equivalent training; and
8. Generally updates and corrects statutes relating to the organizational structure of the Department of Public Safety.

### **Committee Amendment "A" (H-357)**

## *Joint Standing Committee on Criminal Justice and Public Safety*

This amendment changes the name of the Bureau of Capitol Security to the Bureau of Capitol Police and the name of those security officers to police officers.

### **Enacted Law Summary**

Public Law 2009, chapter 317 makes changes to the statutes administered by the Department of Public Safety. The law:

1. Updates the list of major policy-influencing positions of the Department of Public Safety;
2. Corrects the definition of "qualified person" in the Maine State Railroad Police Act;
3. Establishes the Bureau of Consolidated Emergency Communications;
4. Clarifies that the training standards and requirements of the Maine Revised Statutes, Title 25, section 2803-B do not apply to the Assistant State Fire Marshal;
5. Designates rules adopted by the Commissioner of Public Safety governing the security regarding use and occupancy of parks, grounds and buildings maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
6. Designates rules adopted by the Commissioner of Public Safety governing the use of public ways and parking areas maintained by the State at the capitol area or other state-controlled locations in Augusta as routine technical rules;
7. Authorizes the Commissioner of Public Safety to grant statewide power of enforcement of any law of this State to a capitol security officer if that officer has completed a basic training course at the Maine Criminal Justice Academy or equivalent training;
8. Changes the name of the Bureau of Capitol Security to the Bureau of Capitol Police and the name of those security officers to police officers; and
9. Generally updates and corrects statutes relating to the organizational structure of the Department of Public Safety.

### **LD 985      An Act To Increase Public Safety by Requiring a Federally Licensed Firearms Dealer To Facilitate the Transfer of Firearms**

**ONTP**

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

This bill requires private transfers, sales or loans of firearms to be facilitated by a federally licensed firearms dealer, who must request a criminal history record check. A seller, transferor or person loaning a firearm shall deliver a firearm to a dealer who shall retain possession of that firearm and then do the record check. If a record check reveals that the buyer is prohibited from purchasing the firearm, the dealer shall notify the seller of that fact. The dealer may charge not more than \$10 per check.

The requirements of the bill do not apply to transactions in which the seller and buyer are family members, to transfers pursuant to operation of law or court order or to transfers in which a law enforcement officer is the seller or buyer.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 995      An Act To Improve Purchasing for the Department of Corrections**

**ONTP**

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

This bill authorizes the chief administrative officer of a correctional facility to enter into a contract for the purchase of materials used in the manufacture of products for sale to the public or through contract bids in a prison industries program at the correctional facility supervised by that chief administrative officer.

**LD 1035      An Act To Discourage Theft from and Destruction of Vending Machines**

**ONTP**

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

This bill provides a minimum fine of \$1,000 for a person who steals or vandalizes a vending machine or the contents of a vending machine and requires that such a person pay restitution to the owner of the vending machine.

**LD 1066      Resolve, Directing the Board of Trustees of the Maine Criminal Justice Academy To Amend Its Minimum Standards for the Law Enforcement Use of Force Policy**

**RESOLVE 58**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PILON BLISS	OTP-AM	H-200

Title 5 gives the Office of the Attorney General exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who, while acting in the performance of that law enforcement officer's duties, uses deadly force. Any law enforcement agency whose officer uses deadly force shall notify, as soon as practicable, the Attorney General of the event. The AG's review determines whether the officer actually and reasonably believed that there was an imminent threat of deadly force and that deadly force on the officer's part was necessary to meet or counter that threat. The AG's review does not include a determination of civil liability or consequences to employment or certification or whether the use of deadly force was avoidable. These issues fall to the agency employing the officer. Findings of investigations into an officer's conduct are public records.

This bill establishes the Independent Review Board for Police Involved in Fatal Shootings to review all incidents involving the use of a firearm by a law enforcement or corrections officer that results in the death of another person. The board shall conduct a review for the purpose of determining: the facts; whether relevant policy was understandable and effective for the particular circumstances; whether compliance with relevant policy occurred; whether the relevant current training curriculum was sufficient and effective for the particular circumstances; whether changes in the relevant current policy, practice, procedures or training are recommended; whether any remedial action should be recommended; and any other recommendations.

## *Joint Standing Committee on Criminal Justice and Public Safety*

The board would have access to the records and findings of the Attorney General, any internal or administrative investigation undertaken by the officer's department, the Board of Trustees of the Maine Criminal Justice Academy if action was contemplated or taken, and personnel records maintained by the department employing or any department that previously employed the law enforcement or corrections officer whose actions are under review. The board must also be granted access to similar records relating to prior incidents of the use of force that have been investigated by the Attorney General. Access to these records or findings does not constitute a public right to access that does not otherwise exist. The review and deliberations of the board do not constitute public proceedings.

At the conclusion of its review, the board shall issue a public report stating its determinations with respect to each of the factors identified and report to the joint standing committee of the Legislature having jurisdiction over public safety matters and to the law enforcement agency involved in the incident under review. This report is not admissible in any litigation arising out of the incident. The opinions and conclusions of the board or of individual board members are not discoverable or admissible under any circumstances. A person who illegally distributes confidential information under the new provisions commits a Class E crime.

### **Committee Amendment "A" (H-200)**

This amendment replaces the bill with a resolve that directs the Board of Trustees of the Maine Criminal Justice Academy to amend its minimum standards for the use of force policy relative to the procedure for agency investigation and review of the use of deadly force. Amendments to the policy must include the convening of an incident review team consisting of members appointed by the chief executive officer of each law enforcement agency to review instances of the use of deadly force. Members appointed must include at least one member who is a commissioned officer of the Maine State Police and at least one member of the public who is not and has not previously served as a sworn law enforcement officer. The incident review team shall review the use of deadly force to determine the facts of an incident, whether relevant policy was clearly understandable and effective to cover the particular situation and whether changes are necessary to incorporate improved procedures or practices demonstrated to increase public safety or officer safety, whether training protocols should be reviewed or revised and whether equipment or other resources should be modified. The incident review team shall generate a written report of its findings, and that report is public. The amendment also directs the board to report on compliance, implementation and the results of the new policy change. That report is due to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters no later than January 15, 2011.

### **Enacted Law Summary**

Resolve 2009, chapter 58 directs the Board of Trustees of the Maine Criminal Justice Academy to amend its minimum standards for the use of force policy relative to the procedure for agency investigation and review of the use of deadly force. Amendments to the policy must include the convening of an incident review team consisting of members appointed by the chief executive officer of each law enforcement agency to review instances of the use of deadly force. Members appointed must include at least one member who is a commissioned officer of the Maine State Police and at least one member of the public who is not and has not previously served as a sworn law enforcement officer. The incident review team shall review the use of deadly force to determine the facts of an incident, whether relevant policy was clearly understandable and effective to cover the particular situation and whether changes are necessary to incorporate improved procedures or practices demonstrated to increase public safety or officer safety, whether training protocols should be reviewed or revised and whether equipment or other resources should be modified. The incident review team shall generate a written report of its findings, and that report is public. Resolve 2009, chapter 58 also directs the board to report on compliance, implementation and the results of the new policy change. That report is due to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters no later than January 15, 2011.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 1067      Resolve, To Establish a Blue Ribbon Commission To Study Methods of Protecting Emergency Medical Services Personnel during the Transportation of Persons with Mental Illness** **ONTP**

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

This bill establishes a blue ribbon commission to conduct a study and make recommendations on the issue of emergency medical services personnel and the transportation of people with mental illnesses and specifically address the best way to protect emergency medical services workers with established protocols for the occasions when attacks and threats occur to the personnel and when to use law enforcement intervention and arrest as opposed to using commitment to mental health facilities. The blue ribbon commission shall make a report and recommendations to the Joint Standing Committee on Criminal Justice and Public Safety, which is authorized to introduce a bill on this matter.

**LD 1076      An Act To Create a Statewide Training and Protocol for Responding to Mental Health Crises** **ONTP**

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

This bill requires the Maine Criminal Justice Academy Board of Trustees, the State Fire Marshal and the Emergency Medical Services' Board to establish statewide protocols and a training program for firefighters, law enforcement officers and first responders to ensure that they are trained in serving people with mental illness. Training must include 4 hours of initial training and periodic review, and programs and protocols must be reviewed annually.

**LD 1107      An Act To Promote Personal Financial Responsibility by Allowing a Person To Make Good on Dishonored Checks Prior to the Imposition of Criminal Penalties** **ONTP**

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

This bill creates a new category of the crime of negotiating a worthless instrument. If a person issues or negotiates a negotiable instrument that is not honored, and the intended recipient of the negotiable instrument sends written notice that the instrument was not honored, the person commits a crime if the person does not pay the intended recipient the full amount of the face value of the negotiable instrument, plus fees, within 30 days of receiving that written notice. The notice must be sent by certified mail, return receipt requested. The intent of this new category of the crime is to eliminate the need to prove that the person knew that the negotiable instrument would not be honored at the time it was written. Current law requires proof that the person intentionally issues or negotiates a negotiable instrument knowing that it will not be honored.

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 1130 An Act To Clarify the Crime of Obstructing Government Administration**

**ONTP**

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

This bill provides that a person is guilty of obstructing government administration if the person intentionally or recklessly obstructs, resists, hinders or endangers any public servant performing or purporting to perform an official function. Current law provides that a person is guilty of obstructing government administration if the person intentionally interferes by force, violence or intimidation or by any physical act with a public servant performing or purporting to perform an official function.

**LD 1138 Resolve, To Provide Assistance to Private Sellers of Firearms**

**RESOLVE 53**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL BRYANT B	OTP-AM	H-180

This resolve directs the Department of Public Safety to assist private sellers of firearms by providing information about how to collect appropriate information about the purchasers of firearms and how to obtain criminal history record checks on those purchasers. In this effort, the Department of Public Safety shall invite the United States Attorney for the District of Maine to collaborate in order to educate and encourage access to the Project Safe Neighborhoods website where private sellers can obtain a gun seller's tool kit. The department shall also invite the United States Attorney to assist it in contacting Maine's federally licensed firearms dealers and compiling a list of those dealers who are willing to perform criminal history record checks of buyers purchasing firearms from private sellers. The department shall post that list on its website and shall publicize the information to educate the public. The department shall report its progress to the Joint Standing Committee on Criminal Justice and Public Safety by February 1, 2010.

**Committee Amendment "A" (H-180)**

This amendment directs the Department of Public Safety to assist private sellers of firearms by providing information about how to collect appropriate information about the purchasers of firearms and how to obtain criminal history record checks on those purchasers. In this effort, the Department of Public Safety shall invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to collaborate in order to educate the public and private sellers and encourage access to the United States Department of Justice's Project Safe Neighborhoods website where private sellers can obtain a gun seller's tool kit. The department shall also invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to assist it in contacting Maine's federally licensed firearms dealers and compiling a list of those dealers who are willing to perform criminal history record checks of buyers purchasing firearms from private sellers. The department shall post that list on its website and shall invite both the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to include the list on their existing websites and shall publicize the information to educate the public. The department shall report its progress to the Joint Standing Committee on Criminal Justice and Public Safety by February 1, 2010.

**Enacted Law Summary**

## *Joint Standing Committee on Criminal Justice and Public Safety*

Resolve 2009, chapter 53 directs the Department of Public Safety to assist private sellers of firearms by providing information about how to collect appropriate information about the purchasers of firearms and how to obtain criminal history record checks on those purchasers. In this effort, the Department of Public Safety shall invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to collaborate in order to educate the public and private sellers and encourage access to the United States Department of Justice's Project Safe Neighborhoods website where private sellers can obtain a gun seller's tool kit. The department shall also invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to assist it in contacting Maine's federally licensed firearms dealers and compiling a list of those dealers who are willing to perform criminal history record checks of buyers purchasing firearms from private sellers. The department shall post that list on its website and shall invite both the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to include the list on their existing websites and shall publicize the information to educate the public. The department shall report its progress to the Joint Standing Committee on Criminal Justice and Public Safety by February 1, 2010.

**LD 1139      An Act To Require Internet Service Providers To Retain Records**

**Carried Over**

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

This bill requires that Internet service providers retain customer records for at least 180 days and directs the Attorney General to adopt routine technical rules governing the retention of those records. Failure to comply with the retention requirements is a civil violation for which a fine of up to \$10,000 per violation may be adjudged.

LD 1139 was carried over to any special or regular session of the 124th Legislature by joint order, House Paper 1053.

**LD 1157      An Act To Improve the Use of Information Regarding Sex Offenders**

**PUBLIC 365**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	S-264

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

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

## *Joint Standing Committee on Criminal Justice and Public Safety*

Notification Act of 1999. The court has discretion to order any condition of probation reasonably related to the rehabilitation of the convicted person or the public safety or security, including satisfying registration requirements if appropriate.

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

1. It repeals and replaces the application section to specify that those persons sentenced in Maine as an adult or as a juvenile sentenced as an adult for a sex offense or sexually violent offense on or after January 1, 1982 but before June 30, 1992 must continue to register if they remained in execution of their sentence on September 1, 1998; if they have more than one conviction for a Class A sex offense or Class A sexually violent offense whether or not the convictions were on the same date; if, at the time of offense, they had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; or if, at the time of offense, they had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense. The application section continues to require all persons sentenced on or after June 30, 1992 for a sex offense or a sexually violent offense to comply with the registration requirements.

2. It repeals and replaces the application section to specify that those persons sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult on or after January 1, 1982 but before June 30, 1992 must register for an offense that contains the essential elements of a sex offense or sexually violent offense if that person remained in execution of that sentence on September 1, 1998; if that person has more than one conviction for a Class A sex offense or sexually violent offense whether or not the conviction was on the same date; if, at the time of offense, they had been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; or if, at the time of offense, they had been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense. The application section continues to require persons to register for a conviction, regardless of the date, if registration is required in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or would have been required pursuant to those laws had the person remained there. The statute continues to require registration for those convicted on or after June 30, 1992 for an offense that contains the essential elements of a sex offense or sexually violent offense. The amendment also clarifies that a person must register if the person was sentenced for a specified military, tribal or federal offense.

3. It defines the term "offender" as a person to whom the Sex Offender Registration and Notification Act of 1999 applies.

4. For purposes of establishing a standard for residence and for establishing that the name and birth date of the person notified of the duty to register are the same as those of a person convicted of an offense requiring registration, it identifies when specified instances of proof give rise to permissible inferences under the Maine Rules of Evidence, Rule 303.

5. It amends the definition of "sex offense" by removing criminal restraint and all forms of kidnapping except kidnapping for which the actor knowingly restrains another person with the intent to inflict bodily injury upon the other person or subject the other person to sexual assaults prohibited pursuant to the Maine Revised Statutes, Title 17-A, chapter 11.

6. It amends the definition of "lifetime registrant" that pertains to persons classified as lifetime registrants because of having multiple convictions for sex offenses to clarify that the changes made by Public Law 2005, chapter 423 operate prospectively. For persons convicted and sentenced on or after September 17, 2005, the definition remains unchanged except for technical drafting changes. As used in that definition, the term "another conviction" includes a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if there is more than one victim or the convictions are for offenses based on different conduct or arising from different criminal episodes. Multiple convictions that result

## *Joint Standing Committee on Criminal Justice and Public Safety*

from or are connected with the same act or that result from offenses committed at the same time against one person are considered one conviction. For persons convicted and sentenced before September 17, 2005, the amendment changes the definition of "another conviction" to mean an offense for which sentence was imposed prior to the occurrence of the new offense.

7. It clarifies that a duty to register is not triggered by a court determination, but by and upon notification by a court, the Department of Corrections, the State Bureau of Identification or a law enforcement agency that a person has a duty to register under the Sex Offender Registration and Notification Act of 1999. In response to *State v. Johnson*, 2005 ME 46, the amendment also specifies that the State Bureau of Identification may correct the term of a registration erroneously assigned to an offender or registrant, as registration is not part of a criminal sentence. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.

8. It clarifies that an affirmative defense provided in the Sex Offender Registration and Notification Act of 1999 may be raised for just cause, which may include that the offender was not aware of the duty to register.

9. It clarifies that a certification made by the record custodian also may be made by the record custodian's designee.

10. It makes these proposed changes retroactive to January 1, 1982.

### **Committee Amendment "A" (S-264)**

This amendment creates an exception to the application provision of the Sex Offender Registration and Notification Act of 1999. The amendment specifies that a person sentenced on or after January 1, 1982 and prior to June 30, 1992 is not required to register if that person submits to the Department of Public Safety, State Bureau of Identification, in a form to be determined by the bureau, documentation to establish the following: the person was finally discharged from the correctional system prior to September 1, 1998; the person's convictions do not include more than one Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense, whether or not the convictions occurred on the same date; at the time of the offense, the person had not been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; at the time of the offense, the person had not been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense; subsequent to the commission of the offense, the person has not been convicted of a crime under the Maine Revised Statutes, Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more; and, subsequent to the commission of the offense, the person has not been convicted under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year. This requirement does not include a crime under the laws of another jurisdiction that is classified by the laws of that jurisdiction as a misdemeanor and is punishable by a term of imprisonment of 2 years or less.

The amendment specifies that a person's duty to register continues until the bureau determines that documentation meets the requirements and any rules adopted by the bureau, and a person who submits documentation is responsible for the costs of any criminal history record checks required.

Finally, the registration obligation of a person sentenced on or after January 1, 1982 and prior to June 30, 1992 that is discharged pursuant to this amendment is restored by any subsequent conviction for a crime under Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more or a subsequent conviction under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year.

### **Enacted Law Summary**

Public Law 2009, chapter 365 makes number of changes to the Maine Criminal Code. Specifically, it amends the crime of prohibited contact with a minor by repealing the element that the person has a duty to register under the Sex

## *Joint Standing Committee on Criminal Justice and Public Safety*

Offender Registration and Notification Act of 1999 and by making the law applicable only to those persons convicted on or after June 30, 1992. It repeals from the sentencing provisions the directive that a court order a person convicted of a sex offense or a sexually violent offense to satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. This change clarifies that the Legislature determines that a duty to register exists based on the conviction and that the court's duty is only to notify the person of that duty. Public Law 2009, chapter 365 also repeals from the probation provisions the directive that a court attach as a condition of probation that a person convicted of a sex offense or a sexually violent offense satisfy all requirements of the Sex Offender Registration and Notification Act of 1999. The court has discretion to order any condition of probation reasonably related to the rehabilitation of the convicted person or the public safety or security, including satisfying registration requirements if appropriate.

Public Law 2009, chapter 365 also makes changes to the Sex Offender Registration and Notification Act of 1999. It creates an exception to the application provision of the SORNA of 1999 by specifying that a person sentenced on or after January 1, 1982 and prior to June 30, 1992 is not required to register if that person submits to the Department of Public Safety, State Bureau of Identification, in a form to be determined by the bureau, documentation to establish the following: the person was finally discharged from the correctional system prior to September 1, 1998; the person's convictions do not include more than one Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense, whether or not the convictions occurred on the same date; at the time of the offense, the person had not been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense; at the time of the offense, the person had not been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense; subsequent to the commission of the offense, the person has not been convicted of a crime under the Maine Revised Statutes, Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more; and, subsequent to the commission of the offense, the person has not been convicted under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year. This requirement does not include a crime under the laws of another jurisdiction that is classified by the laws of that jurisdiction as a misdemeanor and is punishable by a term of imprisonment of 2 years or less. A person's duty to register continues until the bureau determines that documentation meets the requirements and any rules adopted by the bureau, and a person who submits documentation is responsible for the costs of any criminal history record checks required. The registration obligation of a person sentenced on or after January 1, 1982 and prior to June 30, 1992 that is discharged is restored by any subsequent conviction for a crime under Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more or a subsequent conviction under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year.

Public Law 2009, chapter 365 also amends the SORNA of 1999 by: defining the term "offender" as a person to whom the Sex Offender Registration and Notification Act of 1999 applies; identifying when specified instances of proof give rise to permissible inferences under the Maine Rules of Evidence, Rule 303; amending the definition of "sex offense" by removing criminal restraint and all forms of kidnapping except kidnapping for which the actor knowingly restrains another person with the intent to inflict bodily injury upon the other person or subject the other person to sexual assaults prohibited pursuant to the Maine Revised Statutes, Title 17-A, chapter 11; amending the definition of "lifetime registrant" that pertains to persons classified as lifetime registrants because of having multiple convictions for sex offenses to clarify that the changes made by Public Law 2005, chapter 423 operate prospectively. For persons convicted and sentenced on or after September 17, 2005, the definition remains unchanged except for technical drafting changes. As used in that definition, the term "another conviction" includes a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if there is more than one victim or the convictions are for offenses based on different conduct or arising from different criminal episodes. Multiple convictions that result from or are connected with the same act or that result from offenses committed at the same time against one person are considered one conviction. For persons convicted and sentenced before September 17, 2005, the amendment changes the definition of "another conviction" to mean an offense for which sentence was imposed prior to the

# Joint Standing Committee on Criminal Justice and Public Safety

occurrence of the new offense.

It also clarifies that a duty to register is not triggered by a court determination, but by and upon notification by a court, the Department of Corrections, the State Bureau of Identification or a law enforcement agency that a person has a duty to register under the Sex Offender Registration and Notification Act of 1999. In response to *State v. Johnson*, 2005 ME 46, the amendment also specifies that the State Bureau of Identification may correct the term of a registration erroneously assigned to an offender or registrant, as registration is not part of a criminal sentence. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable. Public Law 2009, chapter 365 clarifies that an affirmative defense provided in the Sex Offender Registration and Notification Act of 1999 may be raised for just cause, which may include that the offender was not aware of the duty to register, and clarifies that a certification made by the record custodian also may be made by the record custodian's designee. Finally, it makes these changes retroactive to January 1, 1982.

**LD 1166      An Act To Implement the Recommendations of the Ad Hoc Task Force  
on the Use of Deadly Force by Law Enforcement Officers Against  
Individuals Suffering From Mental Illness**

**PUBLIC 451**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST GERZOFSKY	OTP-AM	H-413 S-337 DIAMOND

This bill implements legislative recommendations from the Attorney General's Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness. The bill includes recommendations for increased law enforcement training and awareness of mental illness and the involuntary commitment process, increased sharing of mental health patients' information by mental health professionals to law enforcement consistent with Health Insurance Portability and Accountability Act of 1996 standards and increased education and awareness on the part of mental health providers regarding prohibitions of access to firearms by persons who are to be discharged from commitment.

**Committee Amendment "A" (H-413)**

This amendment amends language in the bill to reflect the fact that when a person is first taken by law enforcement to a hospital for a psychiatric examination, it may be any hospital and not necessarily a psychiatric hospital.

**Senate Amendment "A" To Committee Amendment "A" (S-337)**

This amendment provides that when the Board of Trustees of the Maine Criminal Justice Academy incorporates specific training on mental illness as a component of the police tactical team certification process, it does not have to provide an electronic version of the training. The amendment also strikes the appropriations and allocations section.

**Enacted Law Summary**

Public Law 2009, chapter 451 implements legislative recommendations from the Attorney General's Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness. Public Law 2009, chapter 451 includes recommendations for increased law enforcement training and awareness of mental illness and the involuntary commitment process, increased sharing of mental health patients' information by mental health professionals to law enforcement consistent with Health Insurance Portability and Accountability Act of 1996 standards and increased education and awareness on the part of mental health providers regarding prohibitions of access to firearms by persons who are to be discharged from commitment.

***Joint Standing Committee on Criminal Justice and Public Safety***

**LD 1177     An Act To Establish the Maine Emergency Services Institute**

**INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	JT. RULE 309	

This bill establishes the Maine Emergency Services Institute to provide core and specialized training to first responders in multiple areas related to fire safety, public safety and emergency management. The Board of Directors of the Maine Emergency Services Institute is charged with developing a plan for the physical establishment of institute facilities by December 31, 2014, developing a funding plan including application for federal funds and developing training programs. The institute is partially funded by 20¢ from the E-9-1-1 surcharge and the redirection of funding that currently goes to the Maine Fire Training and Education Program.

Permission to carry over LD 1177 was denied. Pursuant to Joint Rule 309, the bill was taken from committee without a vote.

**LD 1187     An Act To Allow the Sale and Use of Consumer Fireworks**

**DIED IN  
CONCURRENCE**

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

This bill removes the prohibition on the sale and use of consumer fireworks and establishes a licensing protocol for sellers of consumer fireworks. A seller of consumer fireworks must have a federal and state license and a permit from a municipality. A municipality may adopt an ordinance that allows or prohibits the sale, use or possession of consumer fireworks. A seller of consumer fireworks must be 21 years of age or older and may not have been convicted or found in violation of any state, federal or municipal law, rule or ordinance concerning fireworks or explosives. Consumer fireworks must be stored in a building exclusively used for the storage and sale of fireworks that has met all applicable fire safety, building and zoning codes and municipal ordinances. The Commissioner of Public Safety may adopt rules relative to the use, storage, transportation and display of consumer fireworks. A seller of consumer fireworks may not use misleading advertising and must warn consumers in any advertising to check with the local fire department to see if consumer fireworks are allowed in the community. A person who violates the provisions of this bill is liable for any bodily injury or property damage that results and cannot use certain civil defenses. A violation of the provisions of this bill may result in the seizure of and suspension of a license to sell consumer fireworks and is a Class E crime.

**Committee Amendment "A" (S-244)**

This amendment, which is the minority report of the committee, clarifies that a law enforcement officer as defined by the Maine Revised Statutes, Title 25, section 2801-A, subsection 5 may enforce any violation of the law related to consumer fireworks rather than only a state or municipal law enforcement officer.

# Joint Standing Committee on Criminal Justice and Public Safety

## LD 1224 An Act Regarding the Operation of County Jails and the State Board of Corrections

PUBLIC 391

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P JACKSON	OTP-AM	H-439

This bill makes 2 changes to the laws governing the State Board of Corrections as follows.

1. It requires the Commissioner of Corrections to submit the Department of Corrections' adult correctional and adult probation services budget proposals to the State Board of Corrections and requires the board to review those budget proposals and submit recommendations regarding them to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

2. It clarifies that a public or private correctional construction project may not proceed without a certificate of need issued by the board.

### Committee Amendment "A" (H-439)

This amendment replaces the bill and implements recommendations of the State Board of Corrections as reported to the Joint Standing Committee on Criminal Justice and Public Safety pursuant to the Maine Revised Statutes, Title 34-A, section 1803, subsection 11. The amendment expands victim notification of a prisoner's release to include notice to victims of the release of those convicted of Class D crimes under chapter 9, 11 or 12 of the Maine Criminal Code.

It clarifies that counties adopting a July 1st to June 30th fiscal year may, as one option to transition to a 12-month fiscal year, adopt a fiscal year of no more than 18 months and collect one or 2 tax assessments during that period; specifies that counties may use unencumbered surplus funds from corrections operations to fund a corrections services capital reserve account; clarifies that county corrections unencumbered surplus funds remain as the correctional services fund balance separate from the county's noncorrectional fund balance; authorizes counties that adopt a July 1st to June 30th fiscal year to adopt a 6-month transitional budget. Counties may borrow to fund this transitional budget. A municipality may chose to pay its share of the transitional budget in one, 2, 3, 4 or 5 annual increments. This language allows counties to borrow annually a nontaxable tax anticipation note to fund the cost of the 6-month transitional budget.

The amendment repeals the Home Release Monitoring Program and enacts a new community confinement monitoring program. The community confinement monitoring program is established to permit inmates in a county jail to serve a portion of their sentence of imprisonment in an approved community confinement program.

It repeals the definition of "holding facility" and replaces it with a new and more comprehensive definition.

It clarifies the responsibility of the Commissioner of Correction to provide the departmental budgets for adult prison and probation services to the Board of Corrections in a timely fashion.

It amends the duties of the State Board of Corrections to include the review of the Department of Corrections' biennial and supplemental budget proposals affecting adult correctional and probation services and to submit its recommendations regarding these budgets to the joint standing committees of the Legislature having jurisdiction over criminal justice and public safety matters and appropriations and financial affairs.

## *Joint Standing Committee on Criminal Justice and Public Safety*

It clarifies that a certificate of need must be approved by the board before a public or private construction project can be undertaken.

It amends a provision in the State Board of Corrections Investment Fund to specify that any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance.

It amends the statutes that currently allow the Department of Corrections to transfer a terminally ill prisoner to supervised community confinement and the sheriff to transfer a terminally ill prisoner to home release monitoring by adding similar authority to transfer a prisoner with a severely incapacitating medical condition.

It makes explicit the discretion of the commissioner to revoke supervised community confinement.

It also eliminates the requirement for the warden of the Maine State Prison and the superintendent of the Maine Correctional Center to cause a copy of the warrant of commitment to be filed in the court from which it was issued. This filing is unnecessary.

### **Senate Amendment "A" To Committee Amendment "A" (S-282)**

Current law requires that the county tax assessment for correctional services-related expenditures in Somerset County be set at the fiscal year 2009-10 level. This amendment lowers that assessment to \$4,400,000. The amendment also adds an appropriations and allocations section. This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2009, chapter 391 implements recommendations of the State Board of Corrections as reported to the Joint Standing Committee on Criminal Justice and Public Safety pursuant to the Maine Revised Statutes, Title 34-A, section 1803, subsection 11. Public Law 2009, chapter 391 does the following.

It expands victim notification of a prisoner's release to include notice to victims of the release of those convicted of Class D crimes under chapter 9, 11 or 12 of the Maine Criminal Code.

It clarifies that counties adopting a July 1st to June 30th fiscal year may, as one option to transition to a 12-month fiscal year, adopt a fiscal year of no more than 18 months and collect one or 2 tax assessments during that period; specifies that counties may use unencumbered surplus funds from corrections operations to fund a corrections services capital reserve account; clarifies that county corrections unencumbered surplus funds remain as the correctional services fund balance separate from the county's noncorrectional fund balance; authorizes counties that adopt a July 1st to June 30th fiscal year to adopt a 6-month transitional budget. Counties may borrow to fund this transitional budget. A municipality may choose to pay its share of the transitional budget in one, 2, 3, 4 or 5 annual increments. This language allows counties to borrow annually a nontaxable tax anticipation note to fund the cost of the 6-month transitional budget.

It repeals the Home Release Monitoring Program and enacts a new community confinement monitoring program. The community confinement monitoring program is established to permit inmates in a county jail to serve a portion of their sentence of imprisonment in an approved community confinement program.

It repeals the definition of "holding facility" and replaces it with a new and more comprehensive definition.

It clarifies the responsibility of the Commissioner of Correction to provide the departmental budgets for adult prison and probation services to the Board of Corrections in a timely fashion.

It amends the duties of the State Board of Corrections to include the review of the Department of Corrections' biennial and supplemental budget proposals affecting adult correctional and probation services and to submit its recommendations regarding these budgets to the joint standing committees of the Legislature having jurisdiction

## *Joint Standing Committee on Criminal Justice and Public Safety*

over criminal justice and public safety matters and appropriations and financial affairs.

It clarifies that a certificate of need must be approved by the board before a public or private construction project can be undertaken.

It amends a provision in the State Board of Corrections Investment Fund to specify that any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance.

It amends the statutes that currently allow the Department of Corrections to transfer a terminally ill prisoner to supervised community confinement and the sheriff to transfer a terminally ill prisoner to home release monitoring by adding similar authority to transfer a prisoner with a severely incapacitating medical condition.

It makes explicit the discretion of the commissioner to revoke supervised community confinement.

It also eliminates the requirement for the warden of the Maine State Prison and the superintendent of the Maine Correctional Center to cause a copy of the warrant of commitment to be filed in the court from which it was issued. This filing is unnecessary.

### **LD 1242    An Act To Streamline the Regulatory Process for Commercial Building Construction Projects**

**PUBLIC 364  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-368

This bill provides for the delegation of fire code permitting authority from the Department of Public Safety, Office of the State Fire Marshal to municipalities. It amends the law concerning certain public building projects for which the Department of Public Safety provides plan reviews and allows the option for municipal review for those projects. It creates a new section of law that outlines the circumstances that need to be satisfied before the Commissioner of Public Safety may delegate permitting authority to a municipality. It adjusts the payment of the current 5¢ plan review fee that is paid to the Department of Public Safety so if a municipality issues the permit, the municipality receives the 4¢ fee per square foot and the Department of Public Safety receives the 1¢ fee per square foot of the proposed project.

#### **Committee Amendment "A" (H-368)**

This amendment allows a municipality to review projects that are public buildings that constitute a mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories rather than public buildings less than 3,000 square feet, as in the bill. This change matches the definition of "public building" in the Maine Revised Statutes, Title 25, section 2448.

#### **Enacted Law Summary**

Public Law 2009, chapter 364 provides for the delegation of fire code permitting authority from the Department of Public Safety, Office of the State Fire Marshal to municipalities. It amends the law to allow a municipality, under certain conditions, the option to review projects that are public buildings that constitute a mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories. It adjusts the payment of the current 5¢ plan review fee that is paid to the Department of Public Safety so if a municipality issues the permit, the municipality receives the 4¢ fee per square foot and the Department of Public Safety receives the 1¢ fee per square foot of the proposed project.

# *Joint Standing Committee on Criminal Justice and Public Safety*

Public Law 2009, chapter 364 was enacted as an emergency measure effective June 11, 2009.

**LD 1243      An Act To Amend Operating After Suspension Laws by Creating an  
Infraction Alternative for Certain Kinds of Operating After Suspension**

**PUBLIC 297**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-412

This bill creates a two-tiered structure to the offense of operating while license suspended or revoked, making the offense a traffic infraction if the offense was a first offense and the sole basis for the suspension is for a dishonored check or the failure to pay a fine, appear in court, comply with a child support order or pay a license reinstatement fee. Effect of this change would be to take these specific offenses out of the criminal justice system and redirect them through the Judicial Branch's Violations Bureau where infractions are processed.

Under this bill, operating while license suspended or revoked when the underlying offense requiring the suspension or revocation involved the operation of a motor vehicle remains a Class E crime.

**Committee Amendment "A" (H-412)**

This amendment narrows the scope of the bill by eliminating the option to allow certain operating after suspension offenses to be considered traffic infractions in the case of a license that has been revoked and provides that certain operating after suspension infractions exist only in the case of license suspensions. The amendment also clarifies that the bill looks at prior adjudications as well as convictions for operating after suspension. The amendment removes from the bill the offenses of failure to appear in court and failure to comply with a child support order from the types of operating after suspension offenses that may be considered traffic infractions instead of crimes. Finally, the amendment specifies that the 3 operating after suspension offenses that are identified as traffic infractions are not included under the list of offenses for which a person is considered a habitual offender.

**Enacted Law Summary**

Public Law 2009, chapter 297 creates a two-tiered structure to the offense of operating while license suspended or revoked, making the offense a traffic infraction if the offense was a first offense and the sole basis for the suspension is for a dishonored check, for failure to pay a fine or for failure to pay a license reinstatement fee. These 3 operating after suspension offenses that are identified as traffic infractions are not included under the list of offenses for which a person is considered a habitual offender. Effect of this change would be to take these specific offenses out of the criminal justice system and redirect them through the Judicial Branch's Violations Bureau where infractions are processed.

**LD 1258      An Act To Create a Duty To Report Serious Injuries**

**ACCEPTED ONTP  
REPORT**

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

This bill creates a legal duty for a person who is 18 years of age or older and who observes that another person has received a serious injury to immediately report that injury and request first aid by the quickest means of communication available from any police department, emergency dispatch center, licensed medical facility or

## *Joint Standing Committee on Criminal Justice and Public Safety*

licensed medical provider. This duty applies regardless of whether the injury was self-inflicted intentionally, recklessly, negligently or accidentally. The duty does not include the actual provision of first aid or other medical treatment, and the duty is satisfied if another person has already made or agreed to make the initial report and request for first aid.

A person who is injured by the failure of another person to report a serious injury may bring a civil action against the person alleged to have breached the duty to report the injury. A person who brings a civil action must prove by a preponderance of the evidence (more likely or more probable than not) that the extent to which the alleged breach of the duty to report was a substantial factor in causing an aggravation of the person's injury.

The bill creates the affirmative defense that the person did not report the serious injury because that person was providing first aid to the injured person. Also, any amount of damages awarded may not be reduced as a result of any intentional act or negligence committed by the injured person, as long as the recoverable damages are limited to the aggravation of the injury proximately caused by the failure to report the injury.

The civil cause of action created must be applied to any claim that is not otherwise barred by the existing statutes of limitations and also must be applied to any lawsuits pending as of the effective date of this section in any court of competent jurisdiction.

The bill also creates the new Class E crime of failure to make a report. A person commits the new crime if the person intentionally, knowingly or recklessly fails to make a report required by the bill.

The bill does not apply to a governmental entity or government employee acting in the course and scope of that entity's or employee's duties.

### **Committee Amendment "A" (H-488)**

This amendment incorporates a fiscal note and is the minority report. This amendment was not adopted.

### **LD 1275 An Act To Implement the Recommendations of the Criminal Law Advisory Commission**

**PUBLIC 336**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-376

This bill makes technical and substantive changes as proposed by the Criminal Law Advisory Commission, pursuant to the Maine Revised Statutes, Title 17-A, chapter 55. The bill does the following.

1. It repeals Title 5, section 3360, subsection 3, paragraph I because it is redundant; the forms of kidnapping and criminal restraint that constitute a "human trafficking offense" as defined in Title 5, section 4701, subsection 1, paragraph C are already included within section 3360, subsection 3, paragraph C.
2. It amends Title 17-A, section 106, subsections 1 and 1-A to make clear that the parent or surrogate parent's right to use physical force to prevent or punish misconduct applies to children and only so long as the child is a minor who has not been ordered emancipated by a court. Subsections 1 and 1-A have no application once the child reaches adulthood. The bill also makes technical changes to subsections 2, 3 and 4 of Title 17-A, section 106 to enhance clarity and adds the mental state of "knowing" to subsection 4.
3. It eliminates a current inconsistency between the meaning of "another jurisdiction" and "prior conviction" in the crime of stalking. The latter includes a qualifying conviction from any Indian tribe and not simply a conviction of

## *Joint Standing Committee on Criminal Justice and Public Safety*

the Passamaquoddy Tribe or the Penobscot Nation. Non-Maine tribes do not constitute "another jurisdiction" under the general definitions of the Maine Criminal Code.

4. It amends Title 17-A, section 1004, subsection 4, paragraph B by deleting that portion characterizing a person's use of an electronic weapon as "using deadly force." A person's lawful use of an electronic weapon is limited to certain specific circumstances in which the law allows the person to use deadly force pursuant to Title 17-A, section 104, subsections 3 and 4 and section 108, subsection 1, paragraph A, subparagraph (1).

5. It adds a new paragraph C to subsection 1 of Title 17-A, section 1158-A providing that, in addition to a court-ordered forfeiture to the State, a court must also order the firearm forfeited to the State if, with the approval of the State, the defendant consents to such forfeiture. This change is important in the circumstance in which a defendant seeks to avoid the elevation of a Class D to a Class C crime, pursuant to Title 17-A, section 1252, subsection 4, if the State pleads and proves that the firearm is used by the defendant during the commission of any Class D crime defined in chapter 9, 11 or 13.

6. It clarifies that any justice or judge, in addition to the justice or judge who originally imposed probation, may initiate and hear a motion to modify or discharge probation and may hear any motion brought by the probation officer or by the person on probation to modify or discharge probation.

7. It amends deferred disposition in 4 ways. First, it broadens eligibility for a deferred disposition both by adding Class B crimes and by including a person who has pled nolo contendere to a qualifying class crime. Second, it allows a court to make a final disposition at the conclusion of the period of deferment and prior to sentence imposition without the necessity of a hearing or the personal appearance of the person in cases where the attorney for the State moves the court in writing to allow the person to withdraw the plea and the person in writing agrees to such withdrawal. Third, it clarifies that until the person is actually sentenced by the court, the person is not deemed to have been convicted. Fourth, it makes reference to the fact that if the attorney for the State has probable cause to believe that a person who was granted a deferred disposition has violated a court-imposed deferment requirement, in addition to the option of applying for an arrest warrant, the attorney for the State may request a warrantless arrest of the person by a law enforcement officer.

8. It amends the administrative release provision to make reference to the fact that if the attorney for the State has probable cause to believe that the person placed on administrative release has violated an administrative release requirement, in addition to the option of applying for an arrest warrant, the attorney for the State may request a warrantless arrest of the person by a law enforcement officer.

9. It addresses the use of less-than-lethal munitions discharged from a firearm by law enforcement officers, corrections officers and corrections supervisors by amending 3 separate statutory provisions. First, it amends Title 17-A, section 101, subsection 5 to provide that the use of a less-than-lethal munition by those state agents constitutes, as a matter of law, the use of nondeadly force and defines "less-than-lethal munition" as "a low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy." Second, the bill amends the definition of "deadly force" in Title 17-A, section 2, subsection 8 to exclude the intentional, knowing or reckless discharge of a firearm in the direction of another person using a less-than-lethal munition and adds the mental state of "knowingly." Third, it amends Title 25, section 2803-B to require that all law enforcement agencies adopt a written policy on the use of physical force, including the use of an electronic weapon and less-than-lethal munitions and certify the same to the board by April 1, 2010; that the board establish policies for the expanded use of physical force by October 1, 2009; and all law enforcement agencies certify to the board that they have provided orientation and training for its members with respect to policies regarding expanded use of physical force by October 1, 2010.

10. It also specifies that, notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the Board of Trustees of the Maine Criminal Justice Academy, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

# *Joint Standing Committee on Criminal Justice and Public Safety*

## **Committee Amendment "A" (H-376)**

This amendment strikes from the bill the eligibility of persons for deferred disposition who plead guilty to Class B crimes or persons who plead nolo contendere to a Class B, C, D or E crime. Deferred disposition will continue to be a sentencing alternative for those persons who plead guilty to Class C, D or E crimes.

The amendment also makes changes to the dates in provisions regarding policy development, adoption and training to allow the Maine Criminal Justice Academy to effectively implement requirements of the bill.

## **Enacted Law Summary**

Public Law 2009, chapter 336 makes technical and substantive changes as proposed by the Criminal Law Advisory Commission, pursuant to the Maine Revised Statutes, Title 17-A, chapter 55. Public Law 2009, chapter 336 does the following.

1. It repeals Title 5, section 3360, subsection 3, paragraph I because it is redundant; the forms of kidnapping and criminal restraint that constitute a "human trafficking offense" as defined in Title 5, section 4701, subsection 1, paragraph C are already included within section 3360, subsection 3, paragraph C.
2. It amends Title 17-A, section 106, subsections 1 and 1-A to make clear that the parent or surrogate parent's right to use physical force to prevent or punish misconduct applies to children and only so long as the child is a minor who has not been ordered emancipated by a court. Subsections 1 and 1-A have no application once the child reaches adulthood. It also makes technical changes to subsections 2, 3 and 4 of Title 17-A, section 106 to enhance clarity and adds the mental state of "knowing" to subsection 4.
3. It eliminates a current inconsistency between the meaning of "another jurisdiction" and "prior conviction" in the crime of stalking. The latter includes a qualifying conviction from any Indian tribe and not simply a conviction of the Passamaquoddy Tribe or the Penobscot Nation. Non-Maine tribes do not constitute "another jurisdiction" under the general definitions of the Maine Criminal Code.
4. It amends Title 17-A, section 1004, subsection 4, paragraph B by deleting that portion characterizing a person's use of an electronic weapon as "using deadly force." A person's lawful use of an electronic weapon is limited to certain specific circumstances in which the law allows the person to use deadly force pursuant to Title 17-A, section 104, subsections 3 and 4 and section 108, subsection 1, paragraph A, subparagraph (1).
5. It adds a new paragraph C to subsection 1 of Title 17-A, section 1158-A providing that, in addition to a court-ordered forfeiture to the State, a court must also order the firearm forfeited to the State if, with the approval of the State, the defendant consents to such forfeiture. This change is important in the circumstance in which a defendant seeks to avoid the elevation of a Class D to a Class C crime, pursuant to Title 17-A, section 1252, subsection 4, if the State pleads and proves that the firearm is used by the defendant during the commission of any Class D crime defined in chapter 9, 11 or 13.
6. It clarifies that any justice or judge, in addition to the justice or judge who originally imposed probation, may initiate and hear a motion to modify or discharge probation and may hear any motion brought by the probation officer or by the person on probation to modify or discharge probation.
7. It amends deferred disposition by allowing a court to make a final disposition at the conclusion of the period of deferment and prior to sentence imposition without the necessity of a hearing or the personal appearance of the person in cases where the attorney for the State moves the court in writing to allow the person to withdraw the plea and the person in writing agrees to such withdrawal and clarifies that until the person is actually sentenced by the court, the person is not deemed to have been convicted. It also makes reference to the fact that if the attorney for the State has probable cause to believe that a person who was granted a deferred disposition has violated a court-imposed deferment requirement, in addition to the option of applying for an arrest warrant, the attorney for the

## *Joint Standing Committee on Criminal Justice and Public Safety*

State may request a warrantless arrest of the person by a law enforcement officer.

8. It amends the administrative release provision to make reference to the fact that if the attorney for the State has probable cause to believe that the person placed on administrative release has violated an administrative release requirement, in addition to the option of applying for an arrest warrant, the attorney for the State may request a warrantless arrest of the person by a law enforcement officer.

9. It addresses the use of less-than-lethal munitions discharged from a firearm by law enforcement officers, corrections officers and corrections supervisors by amending 3 separate statutory provisions. First, it amends Title 17-A, section 101, subsection 5 to provide that the use of a less-than-lethal munition by those state agents constitutes, as a matter of law, the use of nondeadly force and defines "less-than-lethal munition" as "a low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy." Second, it amends the definition of "deadly force" in Title 17-A, section 2, subsection 8 to exclude the intentional, knowing or reckless discharge of a firearm in the direction of another person using a less-than-lethal munition and adds the mental state of "knowingly." Third, it amends Title 25, section 2803-B to require that all law enforcement agencies adopt a written policy on the use of physical force, including the use of an electronic weapon and less-than-lethal munitions and certify the same to the board; that the board establish policies for the expanded use of physical force; and all law enforcement agencies certify to the board that they have provided orientation and training for its members with respect to policies regarding expanded use of physical force.

10. It also specifies that, notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the Board of Trustees of the Maine Criminal Justice Academy, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

**LD 1338      An Act To Deter Graffiti**

**ONTP**

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

This bill creates new civil offenses of applying graffiti on private or public property without permission from the owner, possessing graffiti implements by minors on or near a school or by persons near private or public property without permission of the property owner and furnishing graffiti implements to a minor, unless the person furnishing is the minor's parent or guardian. The penalties for these violations are a fine of up to \$250 for a first offense and a fine of up to \$500 for a 2nd or subsequent offense. Each day a violation occurs or remains is considered a separate violation, and a person who violates this section also shall pay restitution for all costs of removal of the graffiti. The bill also defines "graffiti," "graffiti implement," and "property" for purpose of the new violations.

**LD 1342      Resolve, To Direct the Commissioner of Health and Human Services To Establish a Blue Ribbon Task Force To Examine the Attorney General's Report Regarding Police Shootings as It Relates to Deaths of Persons with Mental Illness**

**ACCEPTED ONTP  
REPORT**

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

## *Joint Standing Committee on Criminal Justice and Public Safety*

This resolve requires the Commissioner of Health and Human Services to establish a blue ribbon task force to examine the Attorney General's recent task force report on the issue of police shootings in confrontations with people with mental illness and to recommend protocols to avoid lethal confrontations. The proposed task force must include members who represent public safety, mental health care and judicial services and members of the public. The blue ribbon task force is also directed to review the findings of the recent report of the Mental Health Homicide, Suicide and Aggravated Assault Review Board and ways that the public safety, judicial system and mental health fields interrelate in order to improve communication. The task force shall look at other states' procedures and protocols and review information from the National Alliance on Mental Illness. Finally, the task force shall make a recommendation about having a specially trained State Police tactical team respond to a dangerous situation involving a person with a mental illness. The commissioner will report to the Joint Standing Committee on Criminal Justice and Public Safety by March 1, 2010 with recommendations and suggested legislation of the blue ribbon task force. The joint standing committee is authorized to submit legislation to the Second Regular Session of the 124th Legislature to implement the recommendations.

### **Committee Amendment "A" (H-414)**

This amendment is the minority report and it replaces the resolve and renames it. The amendment directs the Department of Corrections, the Department of Health and Human Services, the Department of Public Safety and the Judicial Department to work together to convene the Blue Ribbon Task Force on Law Enforcement, the Courts, the Correctional System and Persons with Mental Illness. The blue ribbon task force must review information from this State and other states regarding the costs, outcomes and effectiveness of the following issues: services to persons with mental illness, including but not limited to crisis services and community-based and facility-based mental health and substance abuse services, and the costs and delivery systems for those services; training for providers of mental health services regarding and procedures for coordination with law enforcement, the courts and the correctional system; training for law enforcement, the courts and correctional personnel regarding mental illness, working with persons with mental illness, working with persons with mental illness who also require substance abuse services, working with providers of services to persons with mental illness including providers of crisis services and substance abuse services and coordination with providers of services to persons with mental illness; any available information from the Mental Health Homicide, Suicide and Aggravated Assault Review Board established pursuant to the Maine Revised Statutes, Title 34-B, section 1931; and best practices for interactions between persons with mental illness, law enforcement, the courts, the corrections system and providers of services to persons with mental illness.

The amendment also requires a report from the agencies on the work of the blue ribbon task force by January 15, 2010 to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety. This amendment was not adopted.

### **LD 1373     An Act To Increase the Safety of Maine State Troopers**

**DIED ON  
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAUDOIN BOWMAN	OTP-AM MAJ ONTP MIN	H-322

This bill includes a one-time General Fund appropriation of \$35,700 and a one-time Highway Fund allocation of \$34,300 to equip a limited number of state troopers with semi-automatic rifles.

### **Committee Amendment "A" (H-322)**

This amendment incorporates a fiscal note and is the majority report.

# Joint Standing Committee on Criminal Justice and Public Safety

## LD 1374 An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams

PUBLIC 289

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS	OTP	H-448 HASKELL

Maine State Police's Critical Incident Debriefing Team (CIDT) is a confidential program, unless failure to disclose any information learned in a CIDT session could cause a clear and present danger to the safety or security of an individual, the public or the Bureau. The same confidentiality and mandatory disclosure that govern the existing MSP program are codified in this bill. This bill establishes statutory guidelines for Critical Incident Stress Management Teams. A "critical incident" is a work-related incident that causes or has the potential to cause a law enforcement officer emotional or physical stress. A "critical incident stress management team" is a team composed of members of a State, county or municipal law enforcement agency that is trained in accordance with rules established by the Commissioner of Public Safety to assist and provide support to any law enforcement officer involved in a critical incident that has affected or may affect that law enforcement officer's work performance or general well-being.

All proceedings, communications and records connected with the work of a critical incident stress management team are confidential and not subject to compulsory legal process or otherwise discoverable or admissible in evidence in any civil action unless confidentiality is waived by the affected person. The exceptions to this confidentiality that require mandatory disclosure are: an admission of the commission of a crime by the person seeking assistance; information that would lead one to reasonably believe that the person is a danger to himself or herself or to another, and information that must otherwise be reported pursuant to law.

LD 1374 was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### House Amendment "A" (H-448)

This amendment makes 2 changes to the bill. The first change specifies that statistical data not identifying a person seeking the assistance of a critical incident stress management team must be made available for statistical evaluation and may not be made available for any other purpose. The second change specifies that any information required to be disclosed under the Maine Revised Statutes, Title 25, section 4202, subsection 2 is no longer confidential unless it is otherwise designated confidential by statute.

This amendment incorporates the recommendations of the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### Enacted Law Summary

Public Law 2009, chapter 289 establishes statutory guidelines for Critical Incident Stress Management Teams. A "critical incident" is a work-related incident that causes or has the potential to cause a law enforcement officer emotional or physical stress. A "critical incident stress management team" is a team composed of members of a State, county or municipal law enforcement agency that is trained in accordance with rules established by the Commissioner of Public Safety to assist and provide support to any law enforcement officer involved in a critical incident that has affected or may affect that law enforcement officer's work performance or general well-being.

Public Law 2009, chapter 289 specifies that all proceedings, communications and records connected with the work

## *Joint Standing Committee on Criminal Justice and Public Safety*

of a critical incident stress management team are confidential and not subject to compulsory legal process or otherwise discoverable or admissible in evidence in any civil action unless confidentiality is waived by the affected person. The exceptions to this confidentiality that require mandatory disclosure are: an admission of the commission of a crime by the person seeking assistance; information that would lead one to reasonably believe that the person is a danger to himself or herself or to another, and information that must otherwise be reported pursuant to law.

It also specifies that statistical data not identifying a person seeking the assistance of a critical incident stress management team must be made available for statistical evaluation and may not be made available for any other purpose. Any information required to be disclosed under the Maine Revised Statutes, Title 25, section 4202, subsection 2 is no longer confidential unless it is otherwise designated confidential by statute.

### **LD 1391     An Act To Amend the Laws Governing Emergency Management**

**PUBLIC 252**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	S-182

This bill amends the laws governing the Disaster Relief Fund to allow for reimbursed costs to be deposited back into the fund, to list uses of the fund and to adjust the fund's maximum allowable balance annually for inflation. It also revises language relating to chemical inventory reporting. It amends statutory language to reflect the administrative change that has phased out paper chemical inventory reporting forms in favor of electronic reports containing the same information. It repeals the Interstate Civil Defense and Disaster Compact, which has been superseded by the Emergency Management Assistance Compact.

#### **Committee Amendment "A" (S-182)**

This amendment clarifies that the Disaster Relief Fund may be used for any of the purposes outlined in the bill at the discretion of the Governor or Governor's designee. The amendment allows for flexibility of prioritization according to the unmet need during a disaster.

#### **Enacted Law Summary**

Public Law 2009, chapter 252 amends the laws governing the Disaster Relief Fund to allow for reimbursed costs to be deposited back into the fund, to list uses of the fund, to allow flexibility of prioritization according to the unmet need during a disaster and to adjust the fund's maximum allowable balance annually for inflation. It also revises language relating to chemical inventory reporting. It amends statutory language to reflect the administrative change that has phased out paper chemical inventory reporting forms in favor of electronic reports containing the same information. It repeals the Interstate Civil Defense and Disaster Compact, which has been superseded by the Emergency Management Assistance Compact.

### **LD 1442     An Act To Create the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies**

**PUBLIC 353**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS	OTP-AM   MAJ OTP-AM   MIN	S-265

This bill prohibits law enforcement officers from using racial profiling. This bill also adds a prohibition on racial profiling by law enforcement officers to the Maine Civil Rights Act and the Maine Human Rights Act. The bill

## *Joint Standing Committee on Criminal Justice and Public Safety*

further requires the Board of Trustees of the Maine Criminal Justice Academy to develop mandatory law enforcement agency minimum policy standards regarding racial profiling and requires all law enforcement agencies to adopt policies and provide all officers with training regarding racial profiling. It also establishes the Advisory Committee on Racial Profiling to provide research and advice to the Commissioner of Public Safety and report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding racial profiling.

### **Committee Amendment "A" (S-265)**

This amendment is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety, and it changes the title and replaces the bill. The amendment creates the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies whose membership includes the Commissioner of Public Safety, the Attorney General, representatives of law enforcement groups, representatives of civil rights groups and a representative from a federally recognized Indian tribe in the State. The duties of the committee include: working with the Board of Trustees of the Maine Criminal Justice Academy to develop a model policy on bias-based profiling; working with law enforcement across the State on a voluntary basis to assess whether or not bias-based profiling occurs in Maine and, if it does, to what extent and making recommendations to address the matter; making recommendations to the Board of Trustees of the Maine Criminal Justice Academy on curricula for basic and in-service law enforcement training on the subject of bias-based profiling; establishing a mechanism for outreach and public awareness campaigns to educate advocacy organizations and the general public about modern law enforcement practices and procedures; and advising the Legislature on matters involving bias-based profiling on its own initiative and when requested.

The amendment also specifies that the committee is required to report annually to the Joint Standing Committee on Criminal Justice and Public Safety and to the Board of Trustees of the Maine Criminal Justice Academy. The Joint Standing Committee on Criminal Justice and Public Safety has authority to report out legislation each year upon receiving the report. The amendment creates a nonlapsing Other Special Revenue Funds account for the deposit of funds from outside sources. The Commissioner of Public Safety shall administer the fund and may use the fund only to support the administrative costs associated with the committee and educational and training materials regarding bias-based profiling.

The laws governing the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies and its Other Special Revenue Funds account are repealed on November 1, 2012.

### **Enacted Law Summary**

Public Law 2009, chapter 353 creates the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies whose membership includes the Commissioner of Public Safety, the Attorney General, representatives of law enforcement groups, representatives of civil rights groups and a representative from a federally recognized Indian tribe in the State. The duties of the committee include: working with the Board of Trustees of the Maine Criminal Justice Academy to develop a model policy on bias-based profiling; working with law enforcement across the State on a voluntary basis to assess whether or not bias-based profiling occurs in Maine and, if it does, to what extent and making recommendations to address the matter; making recommendations to the Board of Trustees of the Maine Criminal Justice Academy on curricula for basic and in-service law enforcement training on the subject of bias-based profiling; establishing a mechanism for outreach and public awareness campaigns to educate advocacy organizations and the general public about modern law enforcement practices and procedures; and advising the Legislature on matters involving bias-based profiling on its own initiative and when requested.

Public Law 2009, chapter 353 also specifies that the committee is required to report annually to the Joint Standing Committee on Criminal Justice and Public Safety and to the Board of Trustees of the Maine Criminal Justice Academy. The Joint Standing Committee on Criminal Justice and Public Safety has authority to report out legislation each year upon receiving the report. Public Law 2009, chapter 353 creates a nonlapsing Other Special Revenue Funds account for the deposit of funds from outside sources. The Commissioner of Public Safety shall

***Joint Standing Committee on Criminal Justice and Public Safety***

administer the fund and may use the fund only to support the administrative costs associated with the committee and educational and training materials regarding bias-based profiling.

The laws governing the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies and its Other Special Revenue Funds account are repealed on November 1, 2012.

**LD 1447     An Act Clarifying the Manner in Which a Person's Alcohol Level Is Determined under Maine Law**

**PUBLIC 447**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	H-521 HASKELL S-202

Maine prohibits driving while under the influence of alcohol or driving impaired, which is a subjective determination made by law enforcement, courts and juries based on all factors, including speech, driving, smell and test results. Maine also prohibits driving with a blood alcohol level of .08% or greater, whether or not a person is impaired. Current law regarding operating while under the influence of alcohol specifies, in most occurrences, a blood-alcohol level. Maine uses the value of only blood alcohol to determine intoxication using both breath and blood samples. This bill clarifies that the presence and level of alcohol may be determined by using breath or blood testing; it provides a new method: .08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

**Committee Amendment "A" (S-202)**

This amendment adds an appropriations and allocations section to the bill.

**House Amendment "A" To Committee Amendment "A" (H-521)**

This amendment removes the appropriations and allocations section and requires the Department of Public Safety and the Secretary of State to implement the provisions of the legislation within existing budgeted resources.

**Enacted Law Summary**

Current law regarding operating while under the influence of alcohol specifies, in most occurrences, a blood-alcohol level. Maine uses the value of only blood alcohol to determine intoxication using both breath and blood samples. Public Law 2009, chapter 447 clarifies that the presence and level of alcohol may be determined by using breath or blood testing; it codifies this method of determining intoxication: .08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

**LD 1466     An Act To Establish the Maine Fire Protection Services Commission Length of Service Award Program**

**ACCEPTED ONTP REPORT**

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

This bill establishes the framework for a statewide pension-type program under which "bona fide volunteers" as defined in the United States Internal Revenue Code are paid length of service awards for performing qualified services. The term "qualified services" is defined under the United States Internal Revenue Code, Section 457 (e)

## ***Joint Standing Committee on Criminal Justice and Public Safety***

(11) to mean "firefighting and prevention services, emergency medical services, and ambulance services." Under the program, volunteers have a program account that would be credited with an annual contribution as of the end of each year during which the volunteer participated in a minimum required level of volunteer activities set forth by the Maine Fire Protection Services Commission. Upon the attainment of 60 years of age or after having earned 20 years of service credit before 60 years of age, a volunteer who had attained a vested status in the program by having earned 5 years of service credit would be paid the contributions credited to that volunteer's program account plus the net investment income earned on those contributions. The program account balance of a participating volunteer must be paid before 60 years of age after the volunteer ceases to perform qualified services for 36 consecutive months after attaining a vested status in the program. The program account balance of a participating volunteer is also payable before 60 years of age upon death or total and permanent disablement. LD 1466 authorizes the State, political subdivisions and emergency services providers within the State as well as emergency services volunteers to participate in the funding of this program. Participation in the program funding is optional for any prospective contributor and the amount contributed may vary from year to year by a contributor based on available funds. If federal funds become available for the program, the program must accept those funds as well. The Maine Fire Protection Services Commission contracts with private sector firms to provide administration and investment services for the program. Until the United States Internal Revenue Code is amended to provide that programs under which length of service awards are paid to emergency services volunteers may be treated as United States Internal Revenue Code, Section 457 plans of deferred compensation, the program in this bill must comply with the current applicable sections of the Internal Revenue Code.

### **Committee Amendment "A" (H-348)**

This amendment, which is the minority report of the committee, adds an appropriations and allocations section to the bill.

*Joint Standing Committee on Criminal Justice and Public Safety*

**SUBJECT INDEX**

*Criminal History Record Information Act*

Not Enacted

LD 492      **An Act to More Accurately Reflect the Disposition of a Case in Criminal History Record Information**      **ONTP**

*Criminal Law*

Enacted

LD 282      **An Act Regarding the Requirement That the Treatment of a Gunshot Wound Be Reported**      **PUBLIC 49**

LD 633      **An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention**      **PUBLIC 449**

Not Enacted

LD 14      **An Act To Prohibit Air Bag Fraud**      **ONTP**

LD 186      **An Act Pertaining to the Possession of Animal Fighting Paraphernalia**      **DIED BETWEEN HOUSES**

LD 468      **An Act To Amend the Laws Concerning Terrorizing**      **ONTP**

LD 668      **An Act To Amend the Laws Concerning Disorderly Conduct**      **ONTP**

LD 727      **An Act To Protect Sports Officials**      **ONTP**

LD 1035      **An Act To Discourage Theft from and Destruction of Vending Machines**      **ONTP**

LD 1107      **An Act To Promote Personal Financial Responsibility by Allowing a Person To Make Good on Dishonored Checks Prior to the Imposition of Criminal Penalties**      **ONTP**

LD 1130      **An Act To Clarify the Crime of Obstructing Government Administration**      **ONTP**

LD 1139      **An Act To Require Internet Service Providers To Retain Records**

LD 1258      **An Act To Create a Duty To Report Serious Injuries**      **ACCEPTED ONTP REPORT**

LD 1338 An Act To Deter Graffiti ONTP

*Criminal Procedure/Bail/Sentencing*

Enacted

LD 227 An Act To Raise the Fee a Bail Commissioner May Charge PUBLIC 23

LD 483 An Act To Improve the Service of Protection from Harassment and Protection from Abuse Orders and the Collection of Restitution by the Department of Corrections PUBLIC 94

LD 1275 An Act To Implement the Recommendations of the Criminal Law Advisory Commission PUBLIC 336

Not Enacted

LD 249 An Act Regarding Bail Defaults and the Extradition Account DIED ON ADJOURNMENT

LD 284 An Act Regarding the Period of Time for Which an Incarcerated Person Is Eligible To Earn Good Time ONTP

LD 325 An Act To Authorize the Resentencing of Certain Prisoners Who Have Served Consecutive Sentences of 20 or More Years ONTP

LD 442 An Act To Require Prisoners To Perform Community Service and To Require Jails, Prisons, Nonprofit Entities, Universities and Counties To Compost Food Waste ONTP

LD 730 An Act To Allow Bail Commissioners To Access Criminal Records ONTP

LD 747 An Act To Increase Split Sentencing Alternatives ONTP

*Domestic Violence*

Enacted

LD 567 Resolve, To Establish a Working Group To Increase Protection for Victims of Domestic Violence RESOLVE 61

LD 690 Resolve, To Establish a Working Group Concerning Domestic Violence and Firearms RESOLVE 86

*Drugs*

Enacted

LD 250 An Act To Streamline and Clarify Laws Pertaining to the Civil and Criminal Possession of Marijuana PUBLIC 67

Not Enacted

LD 601	An Act To Require That the Proceeds from Property Seized through Drug Crime Forfeitures Go to the General Fund	ONTP
LD 791	An Act To Prohibit Furnishing a Place for Minors To Use Illegal Drugs	

*Juveniles*

Enacted

LD 793	An Act To Improve Juvenile Correctional Services	PUBLIC 93
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*Law Enforcement*

Enacted

LD 393	An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles	PUBLIC 421
LD 1066	Resolve, Directing the Board of Trustees of the Maine Criminal Justice Academy To Amend Its Minimum Standards for the Law Enforcement Use of Force Policy	RESOLVE 58
LD 1166	An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness	PUBLIC 451
LD 1374	An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams	PUBLIC 289
LD 1442	An Act To Create the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies	PUBLIC 353

Not Enacted

LD 69	An Act To Provide a Reward for Information Regarding the Murder of a Law Enforcement Officer	ONTP
LD 185	An Act To Ensure Public Safety during High-speed Chases by Law Enforcement Officers	ONTP
LD 595	An Act To Prevent High-speed Chases	ONTP
LD 1076	An Act To Create a Statewide Training and Protocol for Responding to Mental Health Crises	ONTP
LD 1342	Resolve, To Direct the Commissioner of Health and Human Services To Establish a Blue Ribbon Task Force To Examine the Attorney General's Report Regarding Police Shootings as It Relates to Deaths of Persons with Mental Illness	ACCEPTED ONTP REPORT

*Maine Emergency Management Agency*

Enacted

LD 847	An Act Authorizing Statewide Mutual Aid among First Responder Agencies	PUBLIC 175 EMERGENCY
LD 1391	An Act To Amend the Laws Governing Emergency Management	PUBLIC 252

*OUI/OAS/Other MV Violations*

Enacted

LD 180	An Act To Make Technical Corrections to the Operating Under the Influence Laws	PUBLIC 54 EMERGENCY
LD 441	An Act To Establish the Civil Violation of Motor Vehicle Violation Resulting in Death	PUBLIC 182
LD 1243	An Act To Amend Operating After Suspension Laws by Creating an Infraction Alternative for Certain Kinds of Operating After Suspension	PUBLIC 297
LD 1447	An Act Clarifying the Manner in Which a Person's Alcohol Level Is Determined under Maine Law	PUBLIC 447

Not Enacted

LD 187	An Act To Require a Test for Operating Under the Influence for a Driver Involved in an Accident That Caused Bodily Injury	ACCEPTED ONTP REPORT
LD 382	An Act To Clarify the Meaning of Prudent Speed	ONTP
LD 591	An Act Regarding the Granting of a Work-restricted Driver's License for Travel to and from Work for Certain Persons with Suspended Licenses	ONTP
LD 594	An Act To Require That Police Reports Be Filed in All Automobile Accidents	ONTP
LD 653	An Act To Strengthen the Penalties for Leaving the Scene of an Accident	ONTP
LD 712	An Act To Require That Prior OUI Convictions Committed with a Motor Vehicle, Watercraft, Snowmobile or All-terrain Vehicle Are Treated as Previous OUI Convictions for Purposes of Sentencing	DIED BETWEEN HOUSES

*Public Safety/Fire Safety/EMS*

Enacted

LD 53	An Act To Permit the Use of a Common Flue for Oil and Solid Fuel Burning Equipment	PUBLIC 250
LD 122	An Act To Correct the Law Concerning Private Investigators' License Qualifications	PUBLIC 20

LD 299	<b>Resolve, Regarding Legislative Review of Portions of Chapter 4: Water-based Fire Protection Systems, a Major Substantive Rule of the Office of the State Fire Marshal</b>	<b>RESOLVE 31 EMERGENCY</b>
LD 550	<b>An Act To Protect Maine Residents from Home Fires and Carbon Monoxide</b>	<b>PUBLIC 162</b>
LD 915	<b>An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety</b>	<b>PUBLIC 317</b>
LD 1242	<b>An Act To Streamline the Regulatory Process for Commercial Building Construction Projects</b>	<b>PUBLIC 364 EMERGENCY</b>

**Not Enacted**

LD 309	<b>Resolve, To Direct the Emergency Medical Services' Board To Examine the Licensure Procedures for Emergency Medical Services Persons</b>	<b>ONTP</b>
LD 433	<b>An Act To Reinstate Rules Requiring Inspection of Chimneys upon the Sale or Transfer of Property</b>	<b>ONTP</b>
LD 713	<b>An Act Regarding Assault on a Firefighter</b>	<b>ONTP</b>
LD 815	<b>An Act To Require the Collection of DNA from a Person under Certain Circumstances</b>	<b>ACCEPTED ONTP REPORT</b>
LD 1067	<b>Resolve, To Establish a Blue Ribbon Commission To Study Methods of Protecting Emergency Medical Services Personnel during the Transportation of Persons with Mental Illness</b>	<b>ONTP</b>
LD 1177	<b>An Act To Establish the Maine Emergency Services Institute</b>	<b>INDEF PP</b>
LD 1187	<b>An Act To Allow the Sale and Use of Consumer Fireworks</b>	<b>DIED IN CONCURRENCE</b>
LD 1373	<b>An Act To Increase the Safety of Maine State Troopers</b>	<b>DIED ON ADJOURNMENT</b>
LD 1466	<b>An Act To Establish the Maine Fire Protection Services Commission Length of Service Award Program</b>	<b>ACCEPTED ONTP REPORT</b>

***Sex Offender Registration and Notification***

**Enacted**

LD 1157	<b>An Act To Improve the Use of Information Regarding Sex Offenders</b>	<b>PUBLIC 365</b>
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**Not Enacted**

LD 568	<b>An Act To Amend the Sex Offender Registration Laws</b>
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*Sex Offenses -- Criminal*

Enacted

LD 385      **An Act To Ensure a Uniform Comprehensive State Policy  
Regarding Residency Restrictions for Sex Offenders**      PUBLIC 351

Not Enacted

LD 634      **An Act To Create a Mandatory Sentence for Repeat Offenders of  
Sex Offenses against Victims under 12 Years of Age**      ONTP

*State and County Corrections & State Board of Corrections*

Enacted

LD 59      **An Act To Amend the Laws Governing the Confidentiality of  
Correctional Facility Plans**      PUBLIC 339

LD 401      **An Act Creating a Probationary Period for County Corrections  
Officials**      PUBLIC 106

LD 478      **An Act To Ensure That the Membership of the State Board of  
Corrections Includes a Representative with Expertise in Issues  
Regarding Mental Illness**      PUBLIC 89

LD 481      **An Act To Allow the Department of Corrections To Certify  
Community Intervention Programs**      PUBLIC 92

LD 631      **An Act To Amend the Laws Relating to the Department of  
Corrections**      PUBLIC 142

LD 1224      **An Act Regarding the Operation of County Jails and the State  
Board of Corrections**      PUBLIC 391

Not Enacted

LD 202      **Resolve, Directing the Department of Corrections To Accept  
Bank Checks for Inmates**      ONTP

LD 283      **Resolve, Regarding the Cost of Telephone Calls Made by  
Incarcerated Persons**      ONTP

LD 384      **An Act To Amend the Laws Governing the Cap on the Tax  
Assessment for Correctional Services in Lincoln County and  
Sagadahoc County**      ONTP

LD 748      **An Act To Adjust the Assessment for Correctional Services from  
Sagadahoc County**      ONTP

LD 995      **An Act To Improve Purchasing for the Department of  
Corrections**      ONTP

*Victim Rights*

Enacted

LD 632      **An Act To Increase Payments to Victims of Crimes**      PUBLIC 79

*Weapons/Firearms/Concealed Firearms Permits*

Enacted

LD 1138      **Resolve, To Provide Assistance to Private Sellers of Firearms**      **RESOLVE 53**

Not Enacted

LD 726      **An Act To Improve the Process for Issuing Concealed Weapons Permits**      **ONTP**

LD 814      **An Act Regarding the Sale of Weapons at Gun Shows**      **ONTP**

LD 985      **An Act To Increase Public Safety by Requiring a Federally Licensed Firearms Dealer To Facilitate the Transfer of Firearms**      **ONTP**

## LD INDEX

LD #		Page #
LD 14	-----	Page 1
LD 53	-----	Page 1
LD 59	-----	Page 2
LD 69	-----	Page 3
LD 122	-----	Page 3
LD 180	-----	Page 3
LD 185	-----	Page 4
LD 186	-----	Page 4
LD 187	-----	Page 6
LD 202	-----	Page 6
LD 227	-----	Page 7
LD 249	-----	Page 7
LD 250	-----	Page 7
LD 282	-----	Page 8
LD 283	-----	Page 9
LD 284	-----	Page 9
LD 299	-----	Page 9
LD 309	-----	Page 10
LD 325	-----	Page 10
LD 382	-----	Page 10
LD 384	-----	Page 11
LD 385	-----	Page 11
LD 393	-----	Page 12
LD 401	-----	Page 13
LD 433	-----	Page 13
LD 441	-----	Page 14
LD 442	-----	Page 15
LD 468	-----	Page 15
LD 478	-----	Page 15
LD 481	-----	Page 16
LD 483	-----	Page 16
LD 492	-----	Page 17
LD 550	-----	Page 17
LD 567	-----	Page 19
LD 568	-----	Page 20
LD 591	-----	Page 21
LD 594	-----	Page 21
LD 595	-----	Page 21
LD 601	-----	Page 22
LD 631	-----	Page 22
LD 632	-----	Page 24
LD 633	-----	Page 25
LD 634	-----	Page 26
LD 653	-----	Page 26
LD 668	-----	Page 26
LD 690	-----	Page 27
LD 712	-----	Page 28
LD 713	-----	Page 28
LD 726	-----	Page 28
LD 727	-----	Page 29
LD 730	-----	Page 29
LD 747	-----	Page 29
LD 748	-----	Page 30
LD 791	-----	Page 30

LD 793	-----	Page 31
LD 814	-----	Page 32
LD 815	-----	Page 32
LD 847	-----	Page 32
LD 915	-----	Page 33
LD 985	-----	Page 34
LD 995	-----	Page 35
LD 1035	-----	Page 35
LD 1066	-----	Page 35
LD 1067	-----	Page 37
LD 1076	-----	Page 37
LD 1107	-----	Page 37
LD 1130	-----	Page 38
LD 1138	-----	Page 38
LD 1139	-----	Page 39
LD 1157	-----	Page 39
LD 1166	-----	Page 43
LD 1177	-----	Page 44
LD 1187	-----	Page 44
LD 1224	-----	Page 45
LD 1242	-----	Page 47
LD 1243	-----	Page 48
LD 1258	-----	Page 48
LD 1275	-----	Page 49
LD 1338	-----	Page 52
LD 1342	-----	Page 52
LD 1373	-----	Page 53
LD 1374	-----	Page 54
LD 1391	-----	Page 55
LD 1442	-----	Page 55
LD 1447	-----	Page 57
LD 1466	-----	Page 57