

*Joint Standing Committee on Criminal Justice and Public Safety*

**LD 18**

**An Act to Make Corrections to Laws in Conflict with MCJUSTIS  
Changes**

**PUBLIC 1  
EMERGENCY**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-5

LD 18 proposed to amend the Maine Criminal Code to correct conflicts with Public Law 2001, chapter 667, legislation enacted in the 120th Legislature, pursuant to recommendations by the Maine Criminal Justice Information System Policy Board, in the following manner:

1. Repeal 3 sections of law that were incorporated into the Maine Criminal Code elsewhere by Public Law 2001, chapter 667;
2. Include the correct classification of crime for 2 forms of aggravated trafficking and aggravated furnishing of scheduled drugs;
3. Correct a cross-reference concerning the theft of scheduled drugs;
4. Correct the application of general language concerning prior convictions by providing that prior convictions for sexual assaults may be used as sentencing enhancers even if the prior convictions were entered more than 10 years earlier; and
5. Provide a retroactive effective date of January 31, 2003 to be consistent with the effective date of Public Law 2001, chapter 667, Part D.

**Committee Amendment "A" (H-5)** proposed to repeal sections of law involving classification of theft offenses that were incorporated elsewhere in the Maine Criminal Code in the MCJUSTIS changes. This amendment also proposed to remove the retroactivity clause from the bill.

***Enacted Law Summary***

Public Law 2003, chapter 1 amends the Maine Criminal Code to correct conflicts with Public Law 2001, chapter 667, legislation enacted in the 120th Legislature, pursuant to recommendations by the Maine Criminal Justice Information System Policy Board. Public Law 2003, chapter 1 does the following.

1. It repeals sections of law that were incorporated into the Maine Criminal Code elsewhere by Public Law 2001, chapter 667.
2. It includes the correct classification of crime for 2 forms of aggravated trafficking and aggravated furnishing of scheduled drugs.
3. It corrects a cross-reference concerning the theft of scheduled drugs.

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4. It corrects the application of general language concerning prior convictions by providing that prior convictions for sexual assaults may be used as sentencing enhancers even if the prior convictions were entered more than 10 years earlier.

Public Law 2003, chapter 1 was enacted as an emergency measure effective January 30, 2003.

**LD 31**                      **An Act to Establish a Seamless Strategic Drug Abuse Model for Addressing Criminal Enforcement, Treatment, Education and Public Advocacy within Washington County**                      **CARRIED OVER**

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

LD 31 was a concept draft pursuant to Joint Rule 208.

This bill proposed to establish a seamless strategic drug abuse model for addressing issues surrounding criminal enforcement, substance abuse treatment and education and public advocacy in Washington County.

LD 31 was carried over to the Second Regular Session of the 121st Legislature.

**LD 48**                      **An Act to Reduce Jail Overcrowding**                      **DIED ON  
ADJOURNMENT**

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

LD 48 proposed to require that a person whose probation was revoked be resentenced to the place of imprisonment to which that person was originally sentenced.

**Committee Amendment "A" (H-52)** proposed to add an appropriation section and a fiscal note to the bill.

**LD 72**                      **An Act to Improve Juvenile Rehabilitation**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO MITCHELL	ONTP	

LD 72 proposed to allow a court, as a condition of probation, to require a juvenile to attend a residential special-purpose private school or similar private facility approved by either the Department of Education or the Department of Human Services. The bill proposed that the State would pay for the school or similar private facility, minus any parental support ordered.

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**LD 79**

**An Act Regarding the Enforcement Powers of the Office of the State Fire Marshal**

**PUBLIC 42  
EMERGENCY**

<u>Sponsor(s)</u> DAVIS P		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-3
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LD 79

Under current law, the State Fire Marshal and the State Fire Marshal's deputy and investigators are granted the same enforcement power and duties as sheriffs have in their respective counties, except that those powers are limited to enforcement of laws, rules and ordinances concerned with issues such as fire prevention and arson. This bill proposed to remove this limitation.

**Committee Amendment "A" (S-3)** proposed to add an emergency preamble and emergency clause, which would immediately allow the State Fire Marshal and the State Fire Marshal's deputy and investigators to exercise their law enforcement powers for issues other than fire prevention and arson.

***Enacted Law Summary***

Public Law 2003, chapter 42 removes the limitation on the State Fire Marshal and the State Fire Marshal's deputy and investigators to enforcement of laws, rules and ordinances concerned only with issues such as fire prevention and arson. Public Law 2003, chapter 42 specifies that the State Fire Marshal and the State Fire Marshal's deputy and investigators have the same law enforcement powers and duties as sheriffs have in their respective counties.

Public Law 2003, chapter 42 was enacted as an emergency measure effective April 15, 2003.

**LD 105**

**An Act to Further the Productive Use of Land Held by the Department of Corrections**

**CARRIED OVER**

<u>Sponsor(s)</u> USHER BLANCHETTE		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 105 was a concept draft pursuant to Joint Rule 208.

This bill proposes to require that land in Windham held by the State under the direction of the Department of Corrections be put to productive use. For example, the bill proposed that the land could be farmed, as it was in the past.

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**LD 145**                      **An Act To Clarify That Possession of More Than 1 1/4 Ounces of Marijuana is a Crime**                      **DIED BETWEEN BODIES**

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

LD 145 proposed to specify that possession of more than 1 1/4 ounces of marijuana is a Class E crime under the Maine Revised Statutes, Title 17-A, section 1107-A. Possession of an amount equal to or less than 1 1/4 ounces of marijuana is a civil violation.

**LD 151**                      **An Act Concerning Full-time Law Enforcement and Corrections Officers**                      **PUBLIC 19**

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

LD 151 proposed to change the method of determining who is a full-time law enforcement or corrections officer for purposes of required training from one based on compensation to one based on hours worked in the course of a year. The bill proposed to make the training law consistent with Title 30-A, section 386, which deals with compensation of a deputy sheriff based on hours worked.

***Enacted Law Summary***

Public Law 2003, chapter 19 changes the method of determining who is a full-time law enforcement or corrections officer for purposes of required training from one based on compensation to one based on hours worked in the course of a year. Current law defines a full time officer as one who has a reasonable expectation of earning at least \$10,000 per year. Public Law 2003, chapter 19 makes the training law consistent with Title 30-A, section 386, which deals with compensation of a deputy sheriff based on hours worked. Title 30-A and Public Law 2003, chapter 19 specify that a part-time law enforcement or corrections officer may not be compensated for more than 1040 hours of work in any one calendar or fiscal year.

**LD 223**                      **An Act To Amend the Maine Juvenile Code as Recommended by the Criminal Law Advisory Commission**                      **PUBLIC 16**

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

LD 223 proposed to clarify the authority of a juvenile community corrections officer to issue and serve a summons. The bill proposed that the Commissioner of Corrections, at the commissioner's discretion, must authorize any issuance or service by a juvenile community corrections officer. The bill further proposed to allow the commissioner to impose conditions as to when and under what circumstances such authority could be

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exercised. The primary responsibility for issuing and serving summonses would continue to rest with law enforcement officers.

### ***Enacted Law Summary***

Public Law 2003, chapter 16 clarifies the authority of a juvenile community corrections officer to issue and serve a summons. The Commissioner of Corrections, at the commissioner's discretion, must authorize any issuance or service by a juvenile community corrections officer. Public Law 2003, chapter 16 further allows the commissioner to impose conditions as to when and under what circumstances such authority may be exercised. The primary responsibility for issuing and serving summonses continues to rest with law enforcement officers.

**LD 224**

**An Act to Amend the Maine Bail Code as Recommended by the  
Criminal Law Advisory Commission**

**PUBLIC 15**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 224 proposed to amend the definition of "failure to appear" to include a failure to surrender into custody at the time and place required under the Maine Rules of Criminal Procedure, Rule 32(a)(1).

The bill also proposed to prohibit an attorney in a criminal matter, while representing a defendant, from providing cash bail or acting as surety for the client. This same prohibition is found in the Maine Rules of Criminal Procedure, Rule 26(d).

### ***Enacted Law Summary***

Public Law 2003, chapter 15 amends the definition of "failure to appear" to include a failure to surrender into custody at the time and place required under the Maine Rules of Criminal Procedure, Rule 32(a)(1).

Public Law 2003, chapter 15 also prohibits an attorney in a criminal matter, while representing a defendant, from providing cash bail or acting as surety for the client. This same prohibition is found in the Maine Rules of Criminal Procedure, Rule 26(d).

**LD 249**

**An Act to Aid Law Enforcement in Complying with Maine's  
Freedom of Access Laws**

**PUBLIC 185**

Sponsor(s)  
KOFFMAN  
MARTIN

Committee Report  
OTP-AM

Amendments Adopted  
H-186

LD 249 proposed to require that all law enforcement agencies add to their existing collection of mandatory written policies one that addresses compliance with Maine's freedom of access laws, which govern citizen access to public records and proceedings. It further proposed to provide that the Board of Trustees of the Maine Criminal Justice Academy establish, by June 2004, minimum standards that each agency policy would have to meet and proposed to establish deadlines in 2005 by which each law enforcement agency would have to adopt a policy and provide training and orientation to its personnel regarding the policy.

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**Committee Amendment "A" (H-186)** proposed to replace the bill. The amendment proposed to require the chief administrative officer of each municipal, county and state law enforcement agency to certify to the board of trustees of the Maine Criminal Justice Academy annually that the agency had adopted a written policy regarding procedures to deal with freedom of access requests and that the chief had designated a person who was trained to respond to freedom of access requests received by the agency. The amendment proposed to add a mandate preamble and a fiscal note to the bill.

### *Enacted Law Summary*

Public Law 2003, chapter 185 requires the chief administrative officer of each municipal, county and state law enforcement agency to certify to the board of trustees of the Maine Criminal Justice Academy annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief has designated a person who is trained to respond to freedom of access requests received by the agency.

### **LD 311                      An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole                      PUBLIC 495**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J	OTP-AM	H-210 S-293 CATHCART

LD 311 proposed to create the Interstate Compact for Adult Offender Supervision. The bill proposed to enter Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of adult offenders who are on probation or parole. The compact creates a governing body called the Interstate Commission for Adult Offender Supervision made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact currently is in effect in over 40 states.

**Committee Amendment "A" (H-210)** proposed to incorporate a fiscal note.

**Senate Amendment "A" (S-293 )** proposed to add an appropriations and allocations section to the bill that proposed to deappropriate \$23,000 in fiscal years 2003-2004 and 2004-2005 from the Adult Community Corrections program within the Department of Corrections, and to appropriate \$23,000 from the General Fund in fiscal years 2003-2004 and 2004-2005 to cover association dues and transportation costs.

### *Enacted Law Summary*

Public Law 2003, chapter 495 creates the Interstate Compact for Adult Offender Supervision. The law enters Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of adult offenders who are on probation or parole. The compact creates a governing body called the Interstate Commission for Adult Offender Supervision made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact currently is in effect in over 40 states. The law deappropriates \$23,000 in fiscal years 2003-2004 and 2004-2005 from the Adult Community Corrections program within the Department of Corrections, and appropriates \$23,000 from the General Fund in fiscal years 2003-2004 and 2004-2005 to cover association dues and transportation costs.

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**LD 324**

**An Act to Create a Crime of Refusing an Alcohol Test in Operating-under-the-influence Cases**

**ONTP**

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

LD 324 proposed to subject a person who failed to submit to mandatory testing to determine whether the person was under the influence of intoxicants to the same penalties as if the person were convicted of operating under the influence. This bill proposed to make a conviction for failure to submit to mandatory testing equivalent to a conviction for operating under the influence of intoxicants. The bill proposed to specify that a person who had no previous OUI offenses and failed to submit to a test at the request of a law enforcement officer would have to be sentenced to at least 48 hours of incarceration, which is the same mandatory penalty that is imposed for a person convicted of a first OUI offense. This bill also proposed to remove the enhanced penalties for a refusing to submit to testing since such refusal would have been a separate offense.

**Committee Amendment "A" (H-314)** proposed to replace the bill and was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to create a new Class D crime of failure to submit to a chemical test. A person would commit this new crime if a law enforcement officer had probable cause to believe that person had operated a motor vehicle while under the influence of intoxicants; the law enforcement officer had warned the person of the consequences of failing to submit to a chemical test pursuant to Title 29-A, section 2521, subsection 3; and the person in fact failed to submit to and complete a chemical test to determine blood-alcohol level and drug concentration by analysis of blood, breath or urine. The amendment proposed that a person who was convicted of failure to submit to a chemical test would be subject to the same mandatory penalties as a person convicted of criminal OUI under Title 29-A, section 2411.

**LD 372**

**Resolve, to Improve Community Safety and Sex Offender Accountability**

**RESOLVE 75  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLWELL ROTUNDO	OTP-AM	H-158 S-267 GAGNON

LD 372, proposed to establish the Commission to Improve Community Safety and Sex Offender Accountability. The resolve proposed that the commission's duties include gathering information from public and private entities to examine and recommend changes to current laws governing sentencing, registration, release and placement of sex offenders.

**Committee Amendment "A" (H-158)** proposed to make the following changes to the resolve:

1. Expand the makeup of the Commission to Improve Community Safety and Sex Offender Accountability by adding members representing the Judicial Department, district attorneys, psychiatrists or psychologists who treat sex offenders, direct providers of services for sex offenders, the Maine Civil Liberties Union, the Maine Council of Churches and a 2nd local law enforcement officer;

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2. Change the reporting date of the commission from January 2, 2004 to December 1, 2003;
3. Authorize the Joint Standing Committee on Criminal Justice and Public Safety to report out legislation to the Second Regular Session of the 121st Legislature;
4. Add an emergency preamble and clause; and
5. Incorporate an appropriation and allocation section and add fiscal note.

### **Senate Amendment "A" to Committee Amendment "A" (S-267)** proposed to do the following:

1. Alter the language that allows the Chief Justice of the Supreme Judicial Court to designate a judge or justice to serve on the commission;
2. Require the commission chairs, rather than the Executive Director of the Legislative Council, to convene the commission;
3. Reduce from 6 to 4 the number of meetings authorized for the commission;
4. Authorize reimbursement of expenses to public members upon a showing of financial hardship;
5. Authorize the commission to submit its report to the Legislature, rather than to the Joint Standing Committee on Criminal Justice and Public Safety;
6. Change the reporting date from December 1, 2003 to December 3, 2003; and
7. Authorize the Joint Standing Committee on Criminal Justice and Public Safety to report out a single bill related to the study.

### ***Enacted Law Summary***

Resolve 2003, chapter 75 establishes the Commission to Improve Community Safety and Sex Offender Accountability. The resolve directs the commission to gather information from public and private entities to examine and recommend changes to current laws governing sentencing, registration, release and placement of sex offenders. The commission is composed of 18 members, and the group has 4 meetings in which to complete its work. The commission shall submit its report to the Legislature, and the Joint Standing Committee on Criminal Justice and Public Safety may report out a single bill related to the study.

Resolve 2003, chapter 75 was passed as an emergency measure effective June 17, 2003.

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**LD 375**

**An Act To Amend the Law Regarding Security Officer Qualifications**

**PUBLIC 12**

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

LD 375 proposed to remove from the list of screening criteria for security guard employment the automatic disqualifier of having been adjudicated of committing 3 civil violations within 5 years.

***Enacted Law Summary***

Public Law 2003, chapter 12 removes from the list of screening criteria for security guard employment the automatic disqualifier of having been adjudicated of committing 3 civil violations within 5 years.

**LD 380**

**An Act To Protect Public Safety Using DNA Data of Juvenile Violent Offenders**

**PUBLIC 393**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH BRENNAN	OTP-AM MAJ ONTP MIN	H-313

LD 380 proposed to subject a juvenile to DNA testing requirements if the juvenile were adjudicated of committing a juvenile crime that, if committed by an adult, would constitute an offense listed in the DNA Data Base and Data Bank Act.

**Committee Amendment "A" (H-313)** proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to narrow the scope of the bill by subjecting a juvenile to DNA testing if the juvenile were adjudicated of committing a specific juvenile crime that, if committed by an adult, would constitute an offense listed in Title 25, section 1574, subsection 6. This proposed change would subject juveniles to DNA testing for only the most violent crimes, the list of which is more limited than the list of crimes for which adults must submit to DNA testing.

This amendment also proposed to allow for the collection of biological samples, instead of only blood draws, for DNA testing. The process for collection of biological samples other than blood draws is less complicated, less expensive and less invasive. This proposed change would apply to both juvenile and adult offenders subject to DNA testing requirements.

***Enacted Law Summary***

Public Law 2003, chapter 393 subjects a juvenile to DNA testing if the juvenile is adjudicated of committing a specific juvenile crime that, if committed by an adult, would constitute an offense listed in the Title 25, section 1574, subsection 6. This change would subject juveniles to DNA testing for only the most violent crimes, the list of which is more limited than the list of crimes for which adults must submit to DNA testing. Public Law 2003, chapter 393 also allows for the collection of biological samples, instead of only blood draws, for DNA testing.

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The process for collection of biological samples other than blood draws is less complicated, less expensive and less invasive. This change would apply to both juvenile and adult offenders subject to DNA testing requirements.

**LD 404**                      **An Act To Limit the Transfer of Handguns to Minors**                      **PUBLIC 188**

<u>Sponsor(s)</u> EDMONDS GERZOFSKY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-86
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LD 404 proposed to amend Maine law to be consistent with federal law governing the transfer of handguns to minors. Specifically, the bill proposed to follow the 2-tiered approach of federal law: individuals may not transfer handguns to those under 18 years of age and federally licensed commercial dealers may not sell handguns to those under 21 years of age. The bill proposed to provide that unlawful transfer or sales to minors are Class C crimes.

**Committee Amendment "A" (S-86)** proposed to lower the penalty for unlawful transfer of a handgun to a minor from a Class C crime in all cases to a Class D crime for the first offense and a Class C crime for a 2nd and all subsequent offenses. The amendment also proposed to make technical changes to clarify that possession of a handgun by a minor is not covered within the bill's scope. Finally, the amendment proposed to add a fiscal note and delete the portion of the bill regarding commercial firearms dealers. Licensed commercial firearms dealers currently are prohibited by federal law from transferring handguns to persons under 21 years of age.

***Enacted Law Summary***

Public Law 2003, chapter 188 prohibits an individual who is not a federally licensed commercial firearms dealer from transferring a handgun to a person under the age of 18, making that provision of State law consistent with federal law. Federal law also prohibits licensed commercial firearms dealers from transferring handguns to persons under 21 years of age. Public law 2003, chapter 188 provides that unlawful transfer or sale to a minor is a Class D crime for the first offense and a Class C crime for any subsequent offense. Public Law 2003, chapter 188 also makes technical changes to clarify that possession of a handgun by a minor is not covered under the law's provisions.

**LD 413**                      **An Act To Amend the Laws Governing Penalties for Writing Bad Checks**                      **ONTP**

<u>Sponsor(s)</u> PEAVEY-HASKELL NASS	<u>Committee Report</u> ONTP      MAJ OTP      MIN	<u>Amendments Adopted</u>
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LD 413 proposed to provide that a person who negotiated a worthless instrument with a face value of \$500 or less committed a Class D crime. Currently, such conduct is a Class E crime.

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**LD 427**

**An Act To Clarify That the Maine Juvenile Code Does Not Preclude Sharing Information with School Administrators for Purposes of School Safety**

**PUBLIC 190**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WESTON SYKES	OTP-AM	S-29 S-95 WESTON

LD 427 proposed to specify that the Maine Juvenile Code's confidentiality provisions do not preclude law enforcement officers or criminal justice agencies from sharing information pertaining to juveniles with school administrators in order to maintain safety, order and discipline in the schools and to prevent harm to persons or property.

**Committee Amendment "A" (S-29)** proposed to change the title, replace the bill and was the majority report. The amendment proposed to narrow the scope of information that may be shared by law enforcement with school administrators to that information that was credible and indicated an impending danger to the safety of students and school personnel. The amendment also proposed to control the dissemination of information by requiring the superintendent who received student information from a law enforcement officer to set up a notification team pursuant to Title 20-A, section 1055, subsection 11. The amendment also proposed to add a fiscal note and to clarify that information received pursuant to this new provision could not become part of a student's education record.

**Senate Amendment "A" to Committee Amendment "A" (S-95)** proposed to clarify that the information contained in the notice from a law enforcement officer pertaining to an alleged juvenile offense must indicate an "imminent" danger to the safety of students or school personnel pursuant to Title 15, section 3301-A.

***Enacted Law Summary***

Public Law 2003, chapter 190 specifies that the Maine Juvenile Code's confidentiality provisions authorize law enforcement officers or criminal justice agencies to share information pertaining to juveniles with school administrators if that information is credible and indicates an imminent danger to the safety of students or school personnel. Public Law 2003, chapter 190 also controls the dissemination of this information by requiring the superintendent who receives student information from a law enforcement officer to set up a notification team pursuant to Title 20-A, section 1055, subsection 11. Any information received pursuant to Public Law 2003, chapter 190 may not become part of a student's education record.

**LD 461**

**Resolve, Requiring the State Police To Develop a Form for Use in Private Firearm Sales**

**ONTP**

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

LD 461 proposed to require the State Police to develop a form for a purchaser of a firearm to complete prior to a private firearm sale and to make the form available to municipalities and the general public and through downloading from the Internet.

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LD 469

**An Act To Enhance the Powers of Law Enforcement Officers  
Authorized To Make Out-of-county or Out-of-municipality Arrests**

**PUBLIC 233**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY STRIMLING	OTP-AM	H-123 H-290 DUNLAP

LD 469 proposed to clarify that the arrest powers of a law enforcement officer are limited to the powers authorized by the municipality or county in which the officer is appointed unless the officer meets the law enforcement training requirements of the Maine Revised Statutes, Title 25, section 2804-C.

**Committee Amendment "A" (H-123)** proposed to replace the bill. The amendment proposed to:

1. Retain the authority of counties and municipalities to determine whether their officers are empowered to make out-of-county or out-of-municipality arrests;
2. Limit who may exercise these powers to only those officers who meet the training requirements of the Maine Revised Statutes, Title 25, section 2804-C;
3. Expand these arrest powers for officers who meet the training requirements to include all powers listed in Title 17-A, section 15;
4. Retain liability protection for officers with these arrest powers under the county or municipality of their appointment;
5. Retain the duty of these officers to notify the county or municipality in which they are making the arrest that the arrest will be or has been made; and
6. Authorize the trustees of the University of Maine System to empower the university system's full-time police officers to make arrests described in Title 17-A, section 15 outside university property, subject to the same training requirements, liability protection and notification requirements governing counties and municipalities for this purpose.

**House Amendment "A" to Committee Amendment "A" (H-290)** proposed to authorize the trustees of the University of Maine System to empower the university system's full-time police officers to make certain arrests outside university property only if the municipality in which an arrest is to be made had requested assistance in advance by cooperative agreement.

**Senate Amendment "A" (S-111)**, which was not adopted, proposed to eliminate that provision of Committee Amendment "A" that proposed to authorize the trustees of the University of Maine System to empower the university system's full-time police officers to make arrests described in the Maine Revised Statutes, Title 17-A, section 15 outside university property, subject to the same training requirements, liability protection and notification requirements governing counties and municipalities for this purpose.

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### Enacted Law Summary

Public Law 2003, chapter 233 enhances the powers of law enforcement officers in the following ways.

1. The law limits the authority to make out-of-county or out-of-municipality arrests to only those officers who meet the training requirements of Title 25, section 2804-C.
2. The law expands these arrest powers for officers who meet the training requirements to include all powers listed in Title 17-A, section 15.
3. The law authorizes the trustees of the University of Maine System to empower the university system's full-time police officers to make certain arrests outside university property if the municipality in which an arrest is to be made has requested assistance in advance by cooperative agreement.

**LD 475**

**An Act To Improve Conditions for Inmates with Mental Illness**

**PUBLIC 482**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY DAGGETT	OTP-AM	H-548 S-260 STRIMLING

LD 475 proposed to do the following:

1. Direct the Department of Behavioral and Developmental Services to add no more than 20 beds to the capacity of the Riverview Psychiatric Center to be used as swing beds to accommodate the forensic and civil commitment needs of the State;
2. Appropriate \$300,000 for county mental illness treatment pilot programs;
3. Direct the Department of Corrections to establish a training program to provide specialized training to case management and community support providers and providers of mental health services;
4. Direct the board of visitors for each correctional facility to report annually to the Commissioner of Corrections, the Governor and the Legislature. It would require that all uses of lengthy administrative segregation for certain inmates be reported to the appropriate board of visitors;
5. Establish boards of visitors for county correctional facilities; and
6. Require that an inmate in a county jail determined by a medical or mental health professional to need inpatient treatment be placed in a forensic hospital bed.

**Committee Amendment "A" (H-548)** proposed to replace the bill. Part A of the amendment proposed to direct sheriffs to establish boards of visitors for county jails. Part A also proposed to direct that a Justice of the Superior Court, upon being notified by the sheriff of a county in which an inmate had been determined by a competent medical authority to require inpatient treatment for mental illness, could issue an order transferring the inmate to a forensic hospital for treatment. An inmate with respect to whom an application and a certification under the Maine

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Revised Statutes, Title 34-B, section 3863 were made would have had to be admitted to either state mental health forensic institute.

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Part B of the amendment proposed to reword a provision of Title 34-A to clarify that a chief administrative officer would have to make an application for involuntary hospitalization of an inmate when that inmate had been determined by a competent medical authority to require inpatient treatment for mental illness.

Part C of the amendment proposed to require the Department of Behavioral and Developmental Services to review the use of seclusion and restraint with prisoners with major mental illness and annually report findings and recommendations to the Commissioner of Corrections and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Part C of the amendment also proposed to direct the Department of Corrections to assist the department's correctional officers assigned to inmate discharge planning in increasing their understanding of the services and supports available in the State for inmates with mental illness or substance abuse diagnoses.

Part D proposed to direct the Department of Behavioral and Developmental Services to absorb within existing resources any costs involved in the implementation of the department's responsibilities under this bill, as amended.

The amendment also proposed to add a mandate preamble and a fiscal note.

**House Amendment "A" to Committee Amendment "A" (H-550)** proposed to remove from the committee amendment language that directed that a Justice of the Superior Court, upon being notified by the sheriff of a county in which an inmate had been determined by a competent medical authority to require inpatient treatment for mental illness, could issue an order transferring the inmate to a forensic hospital for treatment. This amendment also proposed to strike language that directed that an inmate with respect to whom an application and a certification under Title 34-B, section 3863 were made must be admitted to either state mental health forensic institute. This amendment was not adopted.

**House Amendment "B" to Committee Amendment "A" (H-559)** proposed to do the same as House Amendment "A" to Committee Amendment "A." This amendment was not adopted.

**Senate Amendment "A" to Committee Amendment "A" (S-260)** proposed to do the same as House Amendment "A" to Committee Amendment "A."

### *Enacted Law Summary*

Public Law 2003, chapter 482 accomplishes the following.

1. It directs sheriffs to establish boards of visitors for county jails.
2. It rewords a provision of Title 34-A to clarify that a chief administrative officer shall make an application for involuntary hospitalization of an inmate when that inmate has been determined by a competent medical authority to require inpatient treatment for mental illness.
3. It requires the Department of Behavioral and Developmental Services to review the use of seclusion and restraint with prisoners with major mental illness and annually report findings and recommendations to the Commissioner of Corrections and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

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- 4. It directs the Department of Corrections to assist the department's correctional officers assigned to inmate discharge planning in increasing their understanding of the services and supports available in the State for inmates with mental illness or substance abuse diagnoses.

**LD 478                      An Act Requiring Lifetime Probation for Dangerous Sexual Offenders                      ONTP**

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

LD 478 proposed to require a court to impose lifetime probation for a person sentenced as a dangerous sexual offender. "Dangerous sexual offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for gross sexual assault, rape, attempted murder accompanied by sexual assault, murder accompanied by sexual assault or conduct substantially similar to one of these crimes that is a crime under the laws of the United States or any other state.

The bill also proposed to require a court to impose lifetime probation for a person convicted of a sexually violent offense as defined in the Maine Revised Statutes, Title 34-A, section 11203. A "sexually violent offense" means a conviction for certain offenses or for an attempt to commit certain offenses under Title 17-A, sections 253 and 255-A.

**Committee Amendment "A" (H-215)** was the minority report. The amendment proposed to incorporate a fiscal note. This amendment was not adopted.

**LD 495                      An Act To Amend the Law Regarding Revocation of Probation                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN O'NEIL	ONTP	

LD 495 proposed to allow prosecuting attorneys to file motions to revoke probation.

**LD 496                      An Act To Amend the Period of Probation for Class D Crimes                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN O'NEIL	ONTP	

LD 496 proposed to increase the period of probation for all Class D crimes to a period not to exceed 2 years. Current law provides for a period of probation not to exceed one year for a Class D crime, except the period of probation for a person convicted of a Class D crime involving domestic violence must be 2 years or until the probationer completes a certified batterers' intervention program, unless there is another condition of probation that has not yet been met.

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**LD 529**                      **An Act To Clearly Define the State Fire Marshal's Powers**                      **ONTP**

<u>Sponsor(s)</u> CRESSEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 529 proposed to require the State Fire Marshal to adopt major substantive rules pertaining to all aspects of review of construction permits and require the State Fire Marshal to adopt as rule the national building code of the Building Officials Code Administrators International, Inc., the international plumbing code of the International Code Council and the National Fire Code of the National Fire Protection Association. The bill proposed to require the effective date of a rule adopted by the State Fire Marshal to be 90 days after public comment is closed and exempt from the rule any building permit filed before the effective date of the rule. This bill also proposed to exempt townhouses, apartment buildings and condominiums that are subject to a permit for new construction from the requirement of having 2 means of egress other than a window for each story above the first story.

**LD 610**                      **An Act To Establish a Schedule for Mandatory Sentencing for a Motor Vehicle Operator Found Guilty of Negligence that Caused the Death of a Motorcycle Rider**                      **ONTP**

<u>Sponsor(s)</u> SAVAGE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 610, which was a concept draft pursuant to Joint Rule 208, proposed to establish a schedule for mandatory sentencing for a motor vehicle operator found guilty of negligence that caused the death of a motorcycle rider. The bill proposed to mandate that this schedule reflect the penalties currently provided by law for manslaughter.

**LD 617**                      **An Act Amending the Time by Which a Sex Offender or Sexually Violent Predator Must Register**                      **CARRIED OVER**

<u>Sponsor(s)</u> ROTUNDO WALCOTT		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 617 proposes to reduce from 10 days to 48 hours the time within which a sex offender or sexually violent predator must register with the Department of Public Safety, State Bureau of Identification to comply with the Sex Offender Registration and Notification Act of 1999.

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**LD 618**                      **An Act To Allow Municipalities To Hire Full-time Humane Law Enforcement Officers**                      **ONTP**

<u>Sponsor(s)</u> LAFOUNTAIN SULLIVAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 618 proposed to allow municipalities to hire full-time humane law enforcement officers whose responsibilities would be investigating and enforcing the animal welfare laws. The bill proposed to allow these officers to serve civil and criminal summons, to make arrests and to carry firearms. The bill also proposed to require that humane law enforcement officers undergo the same law enforcement training as harbor masters and municipal shellfish conservation wardens.

**LD 635**                      **An Act Creating Residency Requirements for Sexually Violent Predators**                      **ONTP**

<u>Sponsor(s)</u> O'BRIEN J DAGGETT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 635 proposed to prohibit sexually violent predators from residing within 500 feet of an elementary school, licensed day care center, playground or any other place where children are likely to gather.

**LD 636**                      **An Act To Improve Highway Safety Regarding Methadone**                      **ONTP**

<u>Sponsor(s)</u> MAIETTA		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 636 proposed to affirm that methadone is a drug under the criminal operating-under-the-influence statutes and require a person taking methadone to inform a law enforcement officer if the officer stops that person while the person is driving.

**LD 638**                      **An Act To Discourage Driving While under the Influence of Methadone**                      **ONTP**

<u>Sponsor(s)</u> MAIETTA		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 638 proposed to make a methadone clinic civilly and criminally liable for the bodily injury or death of a person resulting from an accident caused by a driver under the influence of methadone issued to that driver by the clinic.

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**LD 646**                      **An Act To Allow the Secretary of State To Issue Restricted Licenses for Work Purposes for Drivers with 2 or Fewer Operating-under-the-Influence Convictions**                      **ONTP**

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

LD 646 proposed to give the Secretary of State discretion to issue a restricted license to a person who has been convicted of criminally operating under the influence 2 or fewer times. The restricted license would not be available until 2/3 of the suspension period had passed and the Secretary of State had received notice that the person had committed no motor vehicle offenses since the imposition of the suspension; had completed an alcohol and drug program as defined in the Maine Revised Statutes, Title 29-A, section 2401, subsection 1; and, for the most recent OUI conviction, the person did not refuse a breath or other test and pled guilty to the OUI charge. The bill also proposed that restrictions on the license must include that the license may be used only for travel to and from a treatment program or to employment for the remaining term of the original suspension, and that the Secretary of State could also consider any other conditions or restrictions advisable for the safety of the public or welfare of the operator.

**LD 689**                      **An Act To Require Periodic In-person Meetings Between a Probationer and a Probation Officer**                      **ONTP**

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

LD 689 proposed to require a probation officer to meet at least once every 3 months in person with a probationer. At these meetings, both the probation officer and the probationer would have had to sign a report verifying the meeting occurred, and both would have had to forward a copy of the report to the court. The bill proposed that the Department of Corrections reprimand a probation officer who failed to comply with these requirements.

**LD 694**                      **An Act Regarding Criminal Liability in an OUI Case When the Passenger Is Also under the Influence of Alcohol or Drugs**                      **ONTP**

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

LD 694 proposed to require a court, in determining the sentence of a person convicted of aggravated OUI when another person suffered serious bodily injury or death, to assign special weight to the fact that there was a passenger in the driver's motor vehicle at the time of the accident, and the passenger was also under the influence of intoxicating liquor or drugs and knew or reasonably should have known that the driver was under the influence of intoxicating liquor or drugs. The bill also proposed to create a new Class E crime for a person who was a passenger in a motor vehicle, was under the influence of intoxicating liquor or drugs, knew or reasonably should

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have known that the driver of that motor vehicle was under the influence of intoxicating liquor or drugs, took no action to prevent the driver from operating that motor vehicle and that motor vehicle was involved in an accident that causes serious bodily injury or death. The bill proposed to limit this new crime to persons 18 years of age or older.

**LD 705**                      **Resolve, To Streamline and Encourage Use of the Suspension Process to Combat Reckless Driving**                      **RESOLVE 33**

<u>Sponsor(s)</u> BENNETT R		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-110
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LD 705 proposed to provide that the driver's license of a person cited twice for driving to endanger within a year would be immediately suspended pending final disposition by the court.

**Committee Amendment "A" (S-110)** proposed to replace the bill with a resolve. The resolve proposed to direct the Secretary of State to develop a form for use by law enforcement officers to transmit adverse reports, which enable the Secretary of State to suspend licenses for reckless driving pursuant to the Maine Revised Statutes, Title 29-A, section 2458. The resolve also proposed to direct the Maine Criminal Justice Academy and law enforcement agencies to make officers aware and encourage use of the form.

### *Enacted Law Summary*

Resolve 2003, chapter 33 directs the Secretary of State to develop a form for use by law enforcement officers to transmit adverse reports, which enables the Secretary of State to suspend licenses for reckless driving pursuant to Title 29-A, section 2458. The resolve also directs the Maine Criminal Justice Academy and law enforcement agencies to make officers aware and encourage use of the form.

**LD 722**                      **An Act to Protect Against Unlawful Sexual Touching**                      **PUBLIC 138**

<u>Sponsor(s)</u> SMITH N		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-155 H-257 SMITH N
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LD 722 proposed to criminalize intentional sexual contact with a person who is either 14 or 15 years of age and is not the actor's spouse when the actor is at least 10 years older than the other person. The bill proposed that this form of sexual abuse of a minor is a Class D crime. The bill proposed that it would be a defense to a prosecution for the new crime that the actor reasonably believed the other person to be at least 16 years of age.

**Committee Amendment "A" (H-155)** proposed to change the title of the bill and create the new crime of unlawful sexual touching. The amendment proposed that "sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. The crime of unlawful sexual touching was modeled after the current crime of unlawful sexual contact. The amendment also proposed to add a fiscal note.

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**House Amendment "A" to Committee Amendment "A" (H-257)** proposed to change the title of Committee Amendment "A" and to remove from the definition of "sexual touching" touching for the purpose of causing offensive physical contact. The amendment also proposed to add a fiscal note.

### *Enacted Law Summary*

Public Law 2003, chapter 138 criminalizes intentional sexual contact with a person who is either 14 or 15 years of age who is not the actor's spouse when the actor is at least 10 years older than the other person. This form of sexual abuse of a minor is a Class D crime. It is a defense to a prosecution for the new crime that the actor reasonably believed the other person to be at least 16 years of age.

Public Law 2003, chapter 138 also creates the new crime of unlawful sexual touching. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire. The crime of unlawful sexual touching is modeled after the current crime of unlawful sexual contact.

**LD 728**

**An Act To Repeal the Crime of Plundering at Fires as Larceny**

**PUBLIC 24**

Sponsor(s)  
MILLS J

Committee Report  
OTP

Amendments Adopted

LD 728 proposed to repeal the crime of "plundering at fires," which is larceny that occurs when a person "takes, carries away or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards." This crime may be prosecuted under the Maine Criminal Code as theft.

### *Enacted Law Summary*

Public Law 2003, chapter 24 repeals the crime of "plundering at fires," which is larceny that occurs when a person "takes, carries away or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one of the fire wards." This crime may be prosecuted under the Maine Criminal Code as theft.

**LD 729**

**An Act To Clarify the Standard for Review of Preconviction Bail**

**PUBLIC 66**

Sponsor(s)  
MILLS P

Committee Report  
OTP-AM

Amendments Adopted  
H-71

LD 729 proposed to clarify that a Superior Court Justice petitioned to review a District Court Judge's or bail commissioner's determination of bail has the authority to reduce bail to personal recognizance, increase or lower bail to a different amount, eliminate bail conditions or impose new bail conditions.

**Committee Amendment "A" (H-71)** proposed to replace the bill. The amendment proposed to clarify the process for review of preconviction bail by clearly stating that, upon receiving a petition for review of preconviction bail from a defendant who was in custody as a result of a decision of a District Court Judge or a

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bail commissioner or a defendant who is not in custody but who was aggrieved by a decision of a District Court Judge or a bail commissioner, a Superior Court Justice would have to make an entirely new or de novo determination of bail. The bill proposed that the Superior Court could not increase or decrease or otherwise modify the bail that was set but instead would hear argument and make an entirely new bail determination. This determination could include bail in any manner authorized by Title 15, section 1026; therefore, the Superior Court's de novo determination of bail could be the same, could be higher or lower or could have different conditions than the bail previously set.

### ***Enacted Law Summary***

Public Law 2003, chapter 66 clarifies the process for review of preconviction bail by clearly stating that, upon receiving a petition for review of preconviction bail from a defendant who is in custody as a result of a decision of a District Court Judge or a bail commissioner or a defendant who is not in custody but who is aggrieved by a decision of a District Court Judge or a bail commissioner, a Superior Court Justice shall make an entirely new or de novo determination of bail. The Superior Court does not increase or decrease or otherwise modify the bail that is set but instead hears argument and makes an entirely new bail determination. This determination may include bail in any manner authorized by Title 15, section 1026; therefore, the Superior Court's de novo determination of bail may be the same, may be higher or lower or may have different conditions than the bail previously set.

**LD 747**                      **An Act to Provide Funding for the Maine Computer Crimes Program**                      **ONTP**

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

LD 747 proposed to appropriate additional funding for the Maine Computer Crimes program.

**LD 758**                      **Resolve, Directing the Department of Public Safety, Bureau of State Police to Provide On-line Access to Sex Offender and Sexually Violent Predator Registration Information**                      **ONTP**

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

LD 758 proposed to direct the Department of Public Safety, Bureau of State Police to develop and implement a plan to provide public on-line access to sex offender and sexually violent predator registration information. The bill proposed that the Department of Public Safety, Bureau of State Police present a report, including its on-line public access plan, what information may be accessed and a schedule for implementation of the plan, to the Joint Standing Committee on Criminal Justice and Public Safety by May 1, 2003.

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**LD 762**                      **An Act To Require a Juvenile to Pay Restitution after Attaining 18 Years of Age**                      **ONTP**

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

LD 762 proposed to require a court to order a juvenile to pay restitution for damages resulting from a crime committed by a juvenile if the order of restitution fell within statutory criteria and proposed to require a juvenile to pay any unpaid restitution upon the juvenile's 18th birthday.

**LD 792**                      **An Act To Make the Use of Scheduled Drugs without a Prescription a Crime**                      **ONTP**

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

LD 792 proposed to prohibit the unauthorized use of scheduled drugs.

**LD 807**                      **An Act To Permit the Use of Videoconferencing for the Purpose of Jail Visitation**                      **ONTP**

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

LD 807 proposed to authorize a county sheriff to allow a county jail to provide a prisoner with visitation with friends or family by videoconferencing, rather than in person, with the prisoner's consent. The bill also proposed that visitation by a prisoner's attorney or religious advisor must be in person.

**LD 808**                      **An Act to Control County Jail and Correctional Facility Health Care Expenses Incurred outside the Facilities**                      **PUBLIC 461**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER CARPENTER	OTP-AM	H-365

LD 808 proposed to limit the amount a county could pay a health care provider for health care services, goods, prescriptions and medications supplied to a prisoner only to the amount equal to the reimbursement rate applicable to that provider and that service as established by rule of the Department of Human Services for the MaineCare program under the Maine Revised Statutes, Title 22.

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**Committee Amendment "A" (H-365)** proposed to clarify that the reimbursement rate applied only to services and medications provided to an inmate outside a county jail. The reimbursement rate would not have applied to any contracts for services within county jails. This amendment also proposed to add a mandate preamble and a fiscal note to the bill.

**Senate Amendment "A" (S-167)** proposed to add, effective July 1, 2004, state correctional and detention facilities to the applicable medical services and medications reimbursement rate and to clarify that this reimbursement rate applied only to services and medications provided to prisoners outside corrections and detention facilities. This reimbursement rate would not have applied to contracts for medical services provided within correctional and detention facilities. This amendment was not adopted.

**Senate Amendment "B" (S-242)** proposed to remove the mandate preamble and make it optional for a county to link its payment for medical services provided to a prisoner of that county to the reimbursement rate established by rule of the Department of Human Services for the MaineCare program. A medical service provider could not require the county to pay an amount greater than that reimbursement rate.

This amendment also proposed to add, effective July 1, 2004, state correctional and detention facilities to the applicable medical services and medications reimbursement rate and to clarify that this reimbursement rate applied only to services and medications provided to prisoners outside corrections and detention facilities. This reimbursement rate would not have applied to contracts for medical services provided within correctional and detention facilities. This amendment was not adopted.

### *Enacted Law Summary*

Public Law 2003, chapter 461 limits the amount a county may pay a health care provider for health care services, goods, prescriptions and medications supplied to a prisoner only to the amount equal to the reimbursement rate applicable to that provider and that service as established by rule of the Department of Human Services for the MaineCare program under the Maine Revised Statutes, Title 22. The reimbursement rate applies only to services and medications provided to an inmate outside a county jail. The reimbursement rate does not apply to any contracts for services within county jails.

### **LD 815                      An Act To Exclude Voluntary Intoxication as a Criminal Defense                      DIED BETWEEN BODIES**

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

LD 815 proposed to remove the exception to the statute that allows the defense of self-induced intoxication to a criminal charge.

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**LD 838**

**An Act Regarding Bail and Fines**

**PUBLIC 87**

<u>Sponsor(s)</u> SHERMAN WOODCOCK	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-90
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Current law authorizes the setoff of bail against criminal fines, forfeitures, fees, restitution, attorney's fees and expenses and surcharges arising from the criminal proceeding for which the bail has been posted. LD 838 proposed to allow for the bail to be set off against the same expenses associated with other proceedings involving the same defendant.

**Committee Amendment "A" (H-90)** proposed to direct the court to apply any bail owned by a defendant that has not been forfeited to restitution first.

***Enacted Law Summary***

Public Law 2003, chapter 87 allows for bail previously posted to be set off against the same expenses associated with other proceedings involving the same defendant. Current law authorizes the setoff of bail against criminal fines, forfeitures, fees, restitution, attorney's fees and expenses and surcharges arising from the criminal proceeding for which the bail has been posted. Public Law 2003, chapter 87 also directs the court to apply any bail collected pursuant to this subsection first to restitution.

**LD 856**

**An Act To Change Mandatory Minimum Sentences in Certain Cases**

**PUBLIC 232**

<u>Sponsor(s)</u> MILLS P	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-311
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LD 856 proposed to affect sentences in criminal cases in the following ways:

1. Decrease the minimum sentence of imprisonment for murder to 20 years;
2. Grant the sentencing court the authority to deviate from a mandatory minimum sentence and mandatory minimum fine in those circumstances when the court determined that the mandatory fine or sentence would create a substantial injustice and the deviation would not diminish the gravity of the offense or adversely affect the public safety. The court would have had to consider specific factors before deviating from the mandatory minimum;
3. Remove the cap on fines for operating under the influence and instead allow the court to impose the maximum fine allowed for that specific class of crime. Currently, the maximum penalty that may be imposed for a Class D crime is \$2,000; for a Class C crime, the maximum is \$5,000; and for a Class B crime, the maximum is \$20,000; and

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4. Change the class of crime for a 3rd OUI conviction in less than 10 years from a Class D to a Class C crime. It also proposed to change the class of crime for 4 or more OUI convictions in a 10-year period from a Class C crime to a Class B crime.

**Committee Amendment "A" (H-311)** proposed to replace the bill. The amendment proposed to repeal the sentencing provision that required that a person have no prior criminal history in order to be considered for a sentence that is other than a minimum mandatory term of imprisonment for a violation of Title 17-A, section 1105-A, 1105-B, 1105-C or 1105-D.

### ***Enacted Law Summary***

Public Law 2003, chapter 232 repeals the sentencing provision that requires that a person have no prior criminal history in order to be considered for a sentence that is other than a minimum mandatory term of imprisonment for a violation of Title 17-A, section 1105-A, 1105-B, 1105-C or 1105-D.

**LD 863**                      **An Act To Require State Reimbursement to Counties for Health Expenses Incurred For Prisoners in County Jails**                      **ONTP**

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

LD 863 proposed to require the State to reimburse each county for all remaining medical care expenses that county incurred caring for a prisoner in a county jail after the county had exercised all other methods for obtaining reimbursement from the prisoner.

**LD 876**                      **An Act To Make Changes to the Sex Offender Notification Provisions**                      **ONTP**

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

LD 876 proposed to amend the notification provisions of the Sex Offender Registration and Notification Act of 1999 as follows:

1. Include county jails and state mental health institutes with the Department of Corrections as required parties to give notice of conditional release or discharge of a sex offender or sexually violent predator to the Department of Public Safety, State Bureau of Identification and all law enforcement agencies that have jurisdiction in those areas where the sex offender or sexually violent predator may reside, work or attend college or school if the sex offender or sexually violent predator were being conditionally released or discharged from a county jail or state mental health institute; and
2. Include county jails and state mental health institutes with the Department of Corrections as entities required to give notice of conditional release or discharge of a sex offender or sexually violent predator from a county

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3. jail or state mental health institute to members of the public the county jail or state mental health institute determined appropriate to ensure public safety.

**LD 884**                      **An Act To Expand the Definition of "Juvenile Crime" To Include the Offenses of Possession and Use of Drug Paraphernalia, Illegal Transportation of Alcohol by a Minor and Transportation of Illegal Drugs by a Minor**                      **PUBLIC 305**

<u>Sponsor(s)</u> NORBERT PENDLETON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-366
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LD 884 proposed to amend the Maine Juvenile Code to add to the definition of "juvenile crime" the civil violations of possessing and using drug paraphernalia, transportation of alcohol or illegal drugs by a minor and violation of a condition of release imposed by a juvenile correction officer. The bill proposed to clarify jurisdiction and enforcement of closely related violations, such as possession of drugs and possession and use of drug paraphernalia and possession of alcohol and transportation of alcohol by a minor. Under current law, for example, a juvenile who is in possession of illegal drugs and drug paraphernalia is required to appear in juvenile court for the drug possession charge and district court for the civil paraphernalia charge.

**Committee Amendment "A" (H-366)** proposed to:

1. Make a technical correction by adding to the provision defining juvenile crimes a reference to Title 15, section 393, subsection 1, paragraph C;
2. Correct an oversight by adding Title 15, section 3103, subsection 1, paragraph G to the list of juvenile crimes for which a juvenile may be arrested without a warrant;
3. Remove sections 5, 6 and 7 of the bill that created the new juvenile crime of violation of a condition of release and related provisions; and
4. Clarify the process by which the juvenile community corrections officer ensures that the Secretary of State receives notice of violations of Title 28-A, section 2052 and Title 22, section 2389, subsection 2 when no juvenile petition will be filed. The amendment proposed to require the Secretary of State to suspend a juvenile's driver's license for 30 days upon receiving notice of a violation. The amendment also proposed to specify that the court may suspend a juvenile's license for up to 6 months when a juvenile violates Title 17-A, chapter 45; Title 22, section 2383; Title 22, section 2383-B, subsection 5; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated to have committed a juvenile crime.

***Enacted Law Summary***

Public Law 2003, chapter 305 amends the Maine Juvenile Code to add to the definition of "juvenile crime" the civil violations of possessing and using drug paraphernalia and transportation of alcohol or illegal drugs by a minor. Public Law 2003, chapter 305 corrects previous oversights in the law by adding to the provision defining juvenile crimes a reference to Title 15, section 393, subsection 1, paragraph C and by adding Title 15, section 3103, subsection 1, paragraph G to the list of juvenile crimes for which a juvenile may be arrested without a warrant.

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Public Law 2003, chapter 305 clarifies the process by which the juvenile community corrections officer ensures that the Secretary of State receives notice of violations of Title 28-A, section 2052 and Title 22, section 2389, subsection 2 when no juvenile petition will be filed. Public Law 2003, chapter 305 requires the Secretary of State to suspend a juvenile's driver's license for 30 days upon receiving notice of a violation. Public Law 2003, chapter 305 also specifies that the court may suspend a juvenile's license for up to 6 months when a juvenile violates Title 17-A, chapter 45; Title 22, section 2383; Title 22, section 2383-B, subsection 5; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated to have committed a juvenile crime.

### **LD 891                      An Act To Require the Videotaping of Police Interrogations                      CARRIED OVER**

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

LD 891 proposes to require police departments and other law enforcement agencies to videotape examinations that concern the commission of a crime and that are conducted within police departments or other law enforcement facilities.

### **LD 893                      An Act To Authorize County Jails To Purchase Prescription Drugs                      ONTP and Other Medications in Bulk for Prisoners**

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

LD 893 proposed to authorize sheriffs to purchase and store prescription drugs and other medications in bulk quantities to be administered to prisoners in county jails.

### **LD 895                      An Act To Clarify the Responsibilities of Contract Law                      PUBLIC 80 Enforcement Officers**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE	OTP-AM	S-25

LD 895 proposed to clarify that, if a municipality contracts with a sheriff's department or the State Police to provide law enforcement for the municipality, officers of that sheriff's department or the State Police have the full powers of municipal police officers within the municipality, including authority to enforce local parking ordinances.

**Committee Amendment "A" (S-25)** proposed to replace the bill. The amendment proposed to clarify that a municipality lacking an organized police department may contract with the State Police or a sheriff's department to enforce municipal ordinances and give the officers or deputy sheriffs the authority to enforce the ordinances.

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### ***Enacted Law Summary***

Public Law 2003, chapter 80 clarifies that a municipality lacking an organized police department may contract with the State Police or a sheriff's department to enforce municipal ordinances and give the officers or deputy sheriffs the authority to enforce the ordinances.

**LD 907**                      **Resolve, Directing the Department of Corrections To Develop a Plan To Improve Transitional Services for Sex Offenders and Sexually Violent Predators and To Improve Communications with Law Enforcement Agencies Regarding the Release of Sex Offenders**                      **ONTP**

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

LD 907 proposed to direct the Department of Corrections to develop a plan to establish transitional services for sex offenders and sexually violent predators released from incarceration, including community support for housing and employment and necessary counseling and treatment, and to improve communications between the department and law enforcement agencies regarding the conditional release and discharge of sex offenders and sexually violent predators. The bill proposed that the Department of Corrections report to the Joint Standing Committee on Criminal Justice and Public Safety by May 1, 2003, and that the committee has authority to report out any necessary legislation to implement recommendations.

**LD 917**                      **An Act Regarding the Sale of Weapons at Gun Shows**                      **CARRIED OVER**

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

LD 917 proposes to close the “gun show loophole” by requiring that a national instant criminal background check be performed prior to the sale or transfer of a firearm at a gun show. The bill proposes to make 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 proposes to require 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 would undertake the required background checks.

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**LD 922**                      **An Act To Clarify the Bind-over Provisions of the Maine Juvenile Code**                      **ONTP**

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

LD 922 proposed to direct the Juvenile Court to bind a juvenile over to the Superior Court if the court found that there were probable cause to believe the juvenile committed a crime that would constitute murder or a Class A, B or C crime if the juvenile were an adult and if it were appropriate to prosecute the juvenile as if the juvenile were an adult. This bill proposed that the presence of only one of these 2 factors would be sufficient to bind a juvenile over to Superior Court.

**LD 941**                      **An Act To Strengthen the Criminal Laws by Expanding the Definition of Trafficking and Furnishing Prescription Narcotic Drugs To Include Illegal Possession of a Large Number of Pills**                      **DIED BETWEEN BODIES**

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

LD 941 proposed to make the treatment of illegally possessed prescription narcotic pills consistent with the treatment of heroin under the Maine Criminal Code. The bill proposed to expand the definition of "trafficking" to include the possession of 90 or more pills or other units of narcotic prescription drugs with no further proof of intent needed to prove trafficking.

The bill also proposed to amend the definition of "furnishing" to include the possession of at least 45 but fewer than 90 pills or other units of narcotic prescription drugs with no further proof of intent required to prove furnishing.

The bill did not propose to change current law that provides that possession of any amount of narcotic prescription pills with the intent to traffic is a violation of Title 17-A, section 1101, subsection 17, paragraph C ("trafficking"), and possession of any amount of narcotic prescription pills with the intent to furnish is a violation of Title 17-A, section 1101, subsection 18, paragraph A ("furnishing").

**Committee Amendment "A" (H-212)** was the majority report of the committee. The amendment proposed to clarify that the bill addressed the "unlawful" possession of drugs and proposed to add a fiscal note. This amendment was not adopted.

**House Amendment "A" (H-291)** proposed to establish as a Class C crime the unlawful possession of pills or units that in the aggregate contain not less than 400 milligrams of oxycodone or not less than 50 milligrams of hydromorphone or units. The amendment also proposed to add a fiscal note. This amendment was not adopted.

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**LD 944**

**An Act To Increase Penalties for Furnishing or Trafficking  
Scheduled Drugs That Cause Death or Serious Bodily Injury**

**PUBLIC 476**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUNKER HATCH PH	OTP-AM	H-157 S-93 MARTIN

LD 944 proposed to increase the penalties for trafficking or furnishing schedule W drugs or a counterfeit scheduled drug when death or serious bodily injury resulted from the use of the drug, as in cases of accidental overdoses. Specifically, the bill proposed to:

1. Make it a Class A crime with the possibility of a 4-year mandatory minimum sentence when death occurred from the aggravated trafficking of a schedule W drug;
2. Make it a Class B crime with the possibility of a 2-year mandatory minimum sentence when death occurred from the aggravated furnishing of a schedule W drug, when serious bodily injury occurred from aggravated trafficking of a schedule W drug or when death or serious bodily injury occurred from the aggravated trafficking or aggravated furnishing of a counterfeit scheduled drug; and
3. Make it a Class C crime when serious bodily injury occurred from the aggravated furnishing of a schedule W drug.

Schedule W drugs include those whose use is most likely to result in a fatal overdose, such as heroin, cocaine and prescription narcotic pills. Counterfeit drugs are those substances, sometimes sold as illegal drugs that are capable of causing death or serious bodily injury, such as poisons or chemical agents. The bill's proposed changes would have been added to the list of existing aggravating circumstance that already provide for increased penalties (i.e., furnishing or trafficking within 1,000 feet of a school or to a child under 18 years of age). The death or serious bodily injury need not have been reasonably foreseeable by the defendant; it would have been sufficient if the death would not have happened but for the use of the drug, either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result, and the conduct of the defendant was clearly insufficient.

**Committee Amendment "A " (H-157)** proposed to provide for an affirmative defense if the defendant believed that death or serious bodily injury was not reasonably foreseeable from the use of the lawfully possessed scheduled drug that was unlawfully furnished. The affirmative defense would have been available only when a prescription medication was lawfully prescribed to the defendant, the defendant unlawfully furnished the medication without payment or other consideration and death or serious bodily injury resulted that was not reasonably foreseeable. In assessing whether the death or serious bodily injury was foreseeable, a jury would have had to consider the factual circumstances surrounding the furnishing, the total quantity of the drug furnished, the dosage of the units furnished, the nature of the drug, the overdose risk presented by its use and any safety warnings provided to the defendant at the time of dispensing.

This amendment also proposed to add a fiscal note.

**Senate Amendment "A " (S-93)** was proposed on behalf of the Committee on Engrossed Bills. It proposed to change the provision regarding an affirmative defense for a defendant who believed that death was not

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reasonably foreseeable from the use of a lawfully possessed scheduled drug that was unlawfully furnished in order to be consistent with the legislative intent.

### ***Enacted Law Summary***

Public Law 2003, chapter 476 increases the penalties for trafficking or furnishing schedule W drugs or a counterfeit scheduled drug when death or serious bodily injury results from the use of the drug, as in cases of accidental overdoses. The law does the following:

1. Makes it a Class A crime with the possibility of a 4-year mandatory minimum sentence when death occurs from the aggravated trafficking of a schedule W drug;
2. Makes it a Class B crime with the possibility of a 2-year mandatory minimum sentence when death occurs from the aggravated furnishing of a schedule W drug, when serious bodily injury occurs from aggravated trafficking of a schedule W drug or when death or serious bodily injury occurs from the aggravated trafficking or aggravated furnishing of a counterfeit scheduled drug; and
3. Makes it a Class C crime when serious bodily injury occurs from the aggravated furnishing of a schedule W drug.

The changes add such situations to the existing list of aggravating circumstances that already provide for increased penalties, such as furnishing or trafficking within 1,000 feet of a school or to a child under 18 years of age. The death or serious bodily injury need not be reasonably foreseeable by the defendant; it is sufficient if the death would not have happened but for the use of the drug, either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result, and the conduct of the defendant was clearly insufficient.

Public Law 2003, chapter 476 provides for an affirmative defense if the defendant believed that death or serious bodily injury was not reasonably foreseeable from the use of the lawfully possessed scheduled drug that was unlawfully furnished. The affirmative defense would be available only when a prescription medication was lawfully prescribed to the defendant, the defendant unlawfully furnished the medication without payment or other consideration and death or serious bodily injury resulted that was not reasonably foreseeable. In assessing whether the death or serious bodily injury was foreseeable, a jury shall consider the factual circumstances surrounding the furnishing, the total quantity of the drug furnished, the dosage of the units furnished, the nature of the drug, the overdose risk presented by its use and any safety warnings provided to the defendant at the time of dispensing.

**LD 949**

**An Act To Eliminate the 6 Regional Emergency Medical Services Councils and To Transfer Authority and Funding to the Technical Colleges in Each Region**

**ONTP**

Sponsor(s)  
BLANCHETTE  
CARPENTER

Committee Report  
ONTP

Amendments Adopted

LD 949 proposed to eliminate the current 6 regional emergency medical services councils and transfer the authority and funding to the technical colleges in each region.

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**LD 956**

**An Act To Improve the Procedure for Locating Runaway Children**

**PUBLIC 443**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N MARTIN	ONTP MAJ OTP-AM MIN	H-367

LD 956 proposed that if a juvenile in the custody of the Department of Human Services ran away from an interim care placement that included temporary shelter, the law enforcement agency in the jurisdiction from which the juvenile had run away would be responsible for finding that juvenile. The bill further proposed that, if that law enforcement agency did not locate the juvenile within 48 hours, the responsibility would revert to the law enforcement agency in the jurisdiction of the juvenile's legal residence.

**Committee Amendment "A" (H-367)** proposed to replace the bill and was the minority report. The amendment proposed to allow a law enforcement agency having original responsibility over a missing child report involving a child who was a runaway from the Department of Human Services interim care that included temporary shelter to transfer responsibility for investigating the case to the law enforcement agency that had jurisdiction over a location in this State that was believed to be the permanent residence of the runaway child. A transfer of responsibility would be made after the child had been a missing child for at least 48 hours, but no more than 60 days, if the chief administrative officer of the law enforcement agency determined that it was in the best interest of finding the child. This amendment also proposed to repeal this new subsection July 1, 2005.

***Enacted Law Summary***

Public Law 2003, chapter 443 allows a law enforcement agency having original responsibility over a missing child report involving a child who is a runaway from the Department of Human Services interim care that includes temporary shelter to transfer responsibility for investigating the case to the law enforcement agency having jurisdiction over a location in this State that is believed to be the permanent residence of the runaway child. A transfer of responsibility may be made after the child has been a missing child for at least 48 hours, but no more than 60 days, if the chief administrative officer of the law enforcement agency determines that it is in the best interest of finding the child.

Public Law 2003, chapter 443 is repealed July 1, 2005.

**LD 970**

**An Act To Allow a Judge To Assess a Fee on a Defendant To Reimburse a Municipality for a Drug Test**

**PUBLIC 182**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN BUNKER	OTP-AM	S-76

LD 970 proposed to authorize a court to include in a sentence for a crime the costs of drug tests administered by a law enforcement agency to the defendant. The bill proposed that the court would then have to pay over any amounts collected to the municipality, county or law enforcement agency that incurred the costs. This bill would not apply to a test administered under Title 29-A for OUI.

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**Committee Amendment "A" (S-76)** proposed to add state agencies to those who could be reimbursed for the costs of administering drug tests and to clarify that the court could order costs paid as part of a defendant's restitution. The amendment also proposed to add a fiscal note to the bill.

### *Enacted Law Summary*

Public Law 2003, chapter 182 authorizes a court, as part of a defendant's restitution, to include in a sentence for a crime the costs of drug tests administered by a law enforcement agency to the defendant. The court must then pay over any amounts collected to the state, municipal or county law enforcement agency that incurred the costs. Public Law 2003, chapter 182 does not apply to a test administered under the Maine Revised Statutes, Title 29-A for OUI.

**LD 976**

**An Act To Ensure Effective Prosecution of Certain Repeat Offenders**

**PUBLIC 475**

Sponsor(s)  
SAVAGE

Committee Report  
OTP-AM

Amendments Adopted  
S-33

LD 976 proposed to amend the provision of the Maine Criminal Code that allows enhanced prosecution of persons for certain crimes who have at least 2 previous convictions for certain offenses by adding references to a crime that is not in chapter 9, 11, 13 or 27 of the Maine Criminal Code. Aggravated criminal trespass in the Maine Revised Statutes, Title 17-A, section 402-A, subsection 1, paragraph A always includes within its proof the commission of a crime in chapters 9 or 11 of the Maine Criminal Code, but aggravated criminal trespass is in chapter 17 and therefore currently does not raise the sentencing category for certain subsequent crimes. This bill also proposed to add aggravated criminal trespass to the list of crimes for which enhanced prosecution may be sought in the case of a defendant who has prior convictions for certain crimes.

**Committee Amendment "A" (S-33)** also proposed to incorporate a fiscal note.

### *Enacted Law Summary*

Public Law 2003, chapter 475 amends the provision of the Maine Criminal Code that allows enhanced prosecution of persons for certain crimes who have at least 2 previous convictions for certain offenses by adding references to a crime that is not in chapter 9, 11, 13 or 27 of the Maine Criminal Code. Aggravated criminal trespass in the Maine Revised Statutes, Title 17-A, section 402-A, subsection 1, paragraph A always includes within its proof the commission of a crime in chapters 9 or 11 of the Maine Criminal Code, but aggravated criminal trespass is in chapter 17 and therefore currently does not raise the sentencing category for certain subsequent crimes. Public Law 2003, chapter 475 also adds aggravated criminal trespass to the list of crimes for which enhanced prosecution may be sought in the case of a defendant who has prior convictions for certain crimes.

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**LD 1005**                      **An Act To Increase the Class of Crime of Unlawful Sexual Contact**                      **ONTP**

<u>Sponsor(s)</u> LEMONT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1005 proposed to make all forms of unlawful sexual contact a Class B crime.

**LD 1014**                      **An Act To Enhance Professionalism of Private Investigators in this State**                      **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u> BUNKER CARPENTER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-249
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LD 1014 proposed to make several changes to the current licensing requirements for private investigators. The bill proposed to allow, under certain circumstances, a private investigator licensed in a state or territory that has a reciprocal agreement with Maine to conduct an investigation in Maine without a Maine private investigator's license. The bill also proposed to require a private investigative assistant to complete 1,700 hours of employment, under the supervision of a licensed private investigator and within 18 months of receiving an investigative assistant license, to be eligible for a private investigator's license. Additionally, the bill proposed to require that a licensed private investigator complete 40 hours of continuing professional education within each 2-year license renewal period, and clarify that use of a badge to suggest that a private investigator is a sworn peace officer of the State is unlawful.

**Committee Amendment "A" (H-249)** proposed to replace the bill. The amendment proposed to do the following:

1. Change the time when a private investigator's license may be renewed after initial licensure from every 2 to every 4 years and double the renewal fee to \$400;
2. Change the term of an investigative assistant's license from one year with a possibility of a 6-month extension to 2 years and double the fee to \$600;
3. Clarify that presentation of a badge by a private investigator or an investigative assistant to cause another person to believe that the private investigator or investigative assistant is a sworn peace officer is a Class D crime; and
4. Clarify that a private investigator or investigative assistant who contracts with a state law enforcement agency is bound by that agency's confidentiality obligations.

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LD 1020

**An Act To Amend the Maine Criminal Code as Recommended by  
the Criminal Law Advisory Commission**

**PUBLIC 143**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-153

LD 1020 proposed to do the following:

1. Define "reasonable degree of force" in the context of the use of physical force by a parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a person, as limited to applying physical force to a person that at most results in transient pain or minor temporary marks on that person. As enacted, Title 17-A, section 106, subsection 1-A reflects current Maine case law respecting use of physical force by a parent to prevent or punish a child's misconduct. See State v. York, 2001 ME 30, 766 A.2d 570. In light of this new Title 17-A, section 106, subsection 1-A definition, the bill proposed to remove the reference to subsection 1 from Title 17-A, section 106, subsection 4. The bill proposed that the word "purposeful" be replaced with the equivalent word "intentional" in Title 17-A, section 106, subsection 4 to reflect Maine Criminal Code language usage;
2. Amend the law regarding the use of physical force in law enforcement in 3 ways. First, it proposed to add the word "unlawful" to the law to specify that a law enforcement officer or private person may use force upon another when the law enforcement officer or private person reasonably believes that there exists an imminent use of "unlawful" force by another. The addition of "unlawful" would have made this law consistent with other use of force provisions in Chapter 5 of the Maine Criminal Code;
3. Strike an outdated reference to the Maine Correctional Institution – Warren;
4. Make Title 17-A, section 107 gender neutral in conformance with drafting standards;
5. Add the phrase "in fact" before the word "communicates" in Title 17-A, section 210, subsection 1 to clarify that no culpable mental state need be proved. The proposed addition mirrors Maine case law. See State v. Porter, 384 A.2d 429, 433-434 (Me. 1978);
6. Repeal Title 17-A, section 451, subsection 3-A and section 452, subsection 2-A. Each subsection was intended to continue in effect the traditional "2 witness" rule as set forth in State v. Farrington, 411 A.2d 396, 401 (Me. 1980). See State v. Anthoine, 2002 ME 22, ¶8, 789 A.2d 1277, 1279, n.2. However, neither section of law accurately expresses the rule or any exception to the rule. The bill proposed to delete both provisions in favor of allowing State v. Farrington and subsequent cases to speak to the rule and any exception to it;
7. Clarify Title 17-A, section 454, subsection 1, paragraph A, which concerns tampering with a witness, informant, juror or victim, by specifying that the actor must be aware at the time the actor induces or otherwise causes, or attempts to cause, a witness or informant to testify or inform falsely that such testimony or information is false;

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8. Amend Title 17-A, section 1108, subsection 5, which concerns acquiring drugs by deception, to clarify that the trier of fact is permitted, as authorized by the Maine Rules of Evidence, Rule 303(b), to infer the causation element of "acquiring" from the act of deception described in Title 17-A, section 1108, subsection 2, paragraph A or B. The proposed change is not intended to create a conclusive presumption;
9. Strike from Title 17-A, section 1158, which concerns the forfeiture of firearms, the reference to the "judgment of conviction" to eliminate confusion. The forfeiture of a firearm is part of the sentence while the sentence is part of the judgment. See the Maine Rules of Criminal Procedure, Rule 32(b);
10. Provide for the tolling of a Maine sentence involving imprisonment in the event the person in execution of that sentence is a recalcitrant witness in a grand jury or criminal proceeding in a Maine court of record and has been ordered into coercive imprisonment as a remedial sanction for refusing to comply with an order of the court to testify or to provide evidence;
11. Enact a new Title 17-A, section 1252, subsection 2, paragraph A and eliminate constitutional doubts by replacing the 2-tier Class A sentencing system with a single sentencing range, while preserving the Supreme Judicial Court's discretion to establish and enforce, through appellate review, sentencing factors that avoid excessively harsh sentences. The proposed change is not intended that this change modify current sentencing practices.

In 1988 the Legislature doubled the maximum sentence of imprisonment for Class A crimes from 20 years to 40 years. See Public Law 1987, chapter 808, codified as Title 17-A, section 1252, subsection 2, paragraph A. In 1991 the Law Court examined the legislative history of that Act and determined that the legislative intent was to "make available two discrete ranges of sentences for Class A crimes." See *State v. Lewis*, 590 A.2d 149, 151 (Me. 1991). Most Class A crime sentences were intended to remain in the original 0 to 20 year range, while the "expanded range" of 20-40 year sentences was reserved "only for the most heinous and violent crimes committed against a person" (590 A.2d at 151). The sentencing court was to apply this "heinousness" standard "in its discretion" as a sentencing factor, subject to appellate review (590 A.2d at 151).

This two-tier system has been placed under a constitutional cloud by the decision of the United States Supreme Court in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), which held that sentencing factors increasing punishment beyond the maximum authorized must be treated as elements of crimes to be pleaded and proved beyond a reasonable doubt rather than as sentencing factors. Since the "heinousness" standard can be interpreted as increasing the maximum punishment of up to 20 years to the "expanded range" of 20 to 40 years, it is potentially unconstitutional absent legislative correction;

12. Clarify that if the State pleads and proves that an actor has 2 or more prior convictions for stalking under Title 17-A, section 210-A, the State may not plead and prove further sentencing class enhancement under Title 17-A, section 1252;
13. Effective January 1, 2004, eliminate the current requirement under Title 17-A, section 1252-B that deductions for good time and meritorious good time be taken into consideration when a sentencing alternative involving imprisonment is requested or recommended by a party or imposed by a court.

In 1988 the 113th Legislature enacted Title 17-A, section 1252-B, which for the first time expressly precluded a sentencing court from ignoring administrative awards for good time and meritorious good time in the sentencing decision and instead required that such awards be considered. See Public Law 1987, chapter 808, section 2.

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Seven years later, in 1995, the 117th Legislature enacted Title 17-A, section 1253, subsection 8, which on or after October 1, 1995 markedly reduced the statutory deductions for good time and meritorious good time authorized under that same section. See Public Law 1995, chapter 433, section 4. The resulting disparity in an administrative award of good time and meritorious good time for persons committing crimes prior to October 1, 1995 and for persons committing crimes on and after that date is illustrated by the following: A person who committed a crime before October 1, 1995, and subsequently was sentenced to a term of imprisonment of more than 6 months, and receives maximum deductions under section 1253, subsections 3, 4 and 5, or about 180 days a year, will serve about 57% of the term of imprisonment. A person who commits a crime on or after October 1, 1995, and subsequently is sentenced to a term of imprisonment of more than 6 months, receiving maximum deductions under section 1253, subsection 8, or about 60 days a year, will serve about 85% of the term of imprisonment. At the same time that the Legislature prospectively sharply reduced good time and meritorious good time awards, because sentencing courts since 1988 had been required to take good time and meritorious good time deductions into consideration in their sentencing decisions, the Legislature repealed and replaced Title 17-A, section 1252-B to address the disparity. As replaced, Title 17-A, section 1252-B designated the existing provisions as subsection 1 with added specific reference to the deductions applicable to crimes committed prior to October 1, 1995, namely section 1253, subsections 3, 3-B, 4 and 5, and added a subsection 2 that addressed the disparity in deductions created by section 1253, subsection 8. See Public Law 1995, chapter 433, section 1. The Legislature directed in subsection 2 that to the extent that longer terms of imprisonment have previously been imposed in an effort to compensate for the impact of substantial good time and meritorious good time deductions, an adjustment must be made in the sentencing process for crimes committed on or after October 1, 1995 in view of the substantially reduced deduction under subsection 8.

By January 1, 2004, Title 17-A, section 1252-B, subsection 2 will have been law for over 8 years. During this transitional period, a large number of sentences subject to adjustment for the substantially reduced deductions have been imposed. That body of sentences serves to inform a court's sentencing decision rather than the pre-1995 sentences. With its intended legislative purpose accomplished, this directive is no longer necessary. Repealing Title 17-A, section 1252-B is necessary to accomplish the intended fundamental policy change of allowing both the parties and the sentencing court to ignore administrative awards for good time and meritorious good time when a sentencing alternative involving imprisonment is requested or recommended by a party or imposed by a court;

14. Amend the criteria for imposing fines to expressly recognize the existing limitation upon the court's discretion in the event the fine amount is mandatory and thus the convicted offender must be sentenced to pay the fine amounts required under Title 17-A, sections 1201 and 1301;
15. Amend Title 17-A, chapter 55, which concerns the Criminal Law Advisory Commission, to make section 1352, subsection 3 gender neutral; and
16. Amend provisions regarding the Criminal Law Advisory Commission to make the provisions gender neutral.

**Committee Amendment "A" (H-153)** proposed to strike language that would repeal the statutory provisions regarding the "2 witness" rule and that would eliminate the current 2-tier system for sentencing in Class A crimes. The amendment also proposed to add a fiscal note to the bill.

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### ***Enacted Law Summary***

Public Law 2003, chapter 143 does the following.

1. It defines "reasonable degree of force" in the context of the use of physical force by a parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a person, as limited to applying physical force to a person that at most results in transient pain or minor temporary marks on that person.
2. It amends the law regarding the use of physical force in law enforcement in 3 ways. First, it adds the word "unlawful" to the law to specify that a law enforcement officer or private person may use force upon another when the law enforcement officer or private person reasonably believes that there exists an imminent use of "unlawful" force by another. The addition of "unlawful" makes this law consistent with other use of force provisions in Chapter 5 of the Maine Criminal Code. Second, it strikes an outdated reference to the Maine Correctional Institution - Warren. Third, it makes Title 17-A, section 107 gender neutral in conformance with drafting standards.
3. It adds the phrase "in fact" before the word "communicates" in Title 17-A, section 210, subsection 1 to clarify that no culpable mental state need be proved. The addition mirrors Maine case law. See State v. Porter, 384 A.2d 429, 433-434 (Me. 1978).
4. It clarifies Title 17-A, section 454, subsection 1, paragraph A, which concerns tampering with a witness, informant, juror or victim, by specifying that the actor must be aware at the time the actor induces or otherwise causes, or attempts to cause, a witness or informant to testify or inform falsely that such testimony or information is false.
5. It amends Title 17-A, section 1108, subsection 5, which concerns acquiring drugs by deception, to clarify that the trier of fact is permitted, as authorized by the Maine Rules of Evidence, Rule 303(b), to infer the causation element of "acquiring" from the act of deception described in Title 17-A, section 1108, subsection 2, paragraph A or B. This change is not intended to create a conclusive presumption.
6. It strikes from Title 17-A, section 1158, which concerns the forfeiture of firearms, the reference to the "judgment of conviction" to eliminate confusion. The forfeiture of a firearm is part of the sentence while the sentence is part of the judgment. See the Maine Rules of Criminal Procedure, Rule 32(b).
7. It provides for the tolling of a Maine sentence involving imprisonment in the event the person in execution of that sentence is a recalcitrant witness in a grand jury or criminal proceeding in a Maine court of record and has been ordered into coercive imprisonment as a remedial sanction for refusing to comply with an order of the court to testify or to provide evidence.
8. It clarifies that if the State pleads and proves that an actor has 2 or more prior convictions for stalking under Title 17-A, section 210-A, the State may not plead and prove further sentencing class enhancement under Title 17-A, section 1252.
9. Effective January 1, 2004, it eliminates the current requirement under Title 17-A, section 1252-B that deductions for good time and meritorious good time be taken into consideration when a sentencing alternative involving imprisonment is requested or recommended by a party or imposed by a court.

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- 10. It amends the criteria for imposing fines to expressly recognize the existing limitation upon the court's discretion in the event the fine amount is mandatory and thus the convicted offender must be sentenced to pay the fine amounts required under Title 17-A, sections 1201 and 1301.
- 11. It amends provisions regarding the Criminal Law Advisory Commission to make them gender neutral.

**LD 1023                      An Act To Criminalize Noncompliance with an Interstate Compact                      PUBLIC 158  
for Adult Offender Supervision**

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

LD 1023 proposed that a person commits a Class D crime if that person is released on probation or parole by a state that is a member of an interstate compact for adult offender supervision and the person resides in Maine without complying with the requirements of the interstate compact.

***Enacted Law Summary***

Public Law 2003, chapter 158 specifies that a person commits a Class D crime if that person is released on probation or parole by a state that is a member of an interstate compact for adult offender supervision and the person resides in Maine without complying with the requirements of the interstate compact.

**LD 1026                      An Act To Broaden the Law Enforcement Authority of University                      ONTP  
of Maine System Public Safety Officers**

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

LD 1026 proposed to broaden the powers of University of Maine System police officers to include enforcement authority throughout the State, rather than within the limits of university property only.

**LD 1065                      Resolve, Directing the Commissioner of Public Safety To Study the                      RESOLVE 23  
Emergency Medical Services System**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL NASS	OTP-AM	H-187 H-208 BULL

LD 1065 was a resolve that proposed to direct the Commissioner of Public Safety to study the emergency medical services system. The resolve proposed that the commissioner's study of the emergency medical services system would include, but not be limited to, an examination of the following issues:

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1. Consolidating the emergency medical services regions;
2. Streamlining the administration of emergency medical services at the state level;
3. Clarifying the role of the Emergency Medical Services' Board; and
4. Standardizing protocols.

**Committee Amendment "A" (H-187)** proposed to replace the resolve. The amendment proposed to direct the Commissioner of Public Safety to commission a study of the emergency medical services system, including the following components:

1. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the regional level;
2. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the state level; and
3. An independent assessment of the fiscal resources necessary to deliver emergency medical services at the regional and state levels.

The amendment also proposed to direct that the study include input and information from various interested parties, to enable the commissioner to accept public or private funds and grants for the study, to direct the commissioner to report back to the Joint Standing Committee on Criminal Justice and Public Safety and to enable that committee to report out legislation concerning the report.

**House Amendment "A" to Committee Amendment "A" (H-208)** proposed to clarify that the costs of the study are intended to be funded by Other Special Revenue funds. This amendment proposed to replace the General Fund appropriation with an Other Special Revenue funds allocation.

### ***Enacted Law Summary***

Resolve 2003, chapter 23 directs the Commissioner of Public Safety to conduct a study of the emergency medical services system that includes the following components:

1. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the regional level;
2. An independent assessment of the needs, design and structure of the organization and administration of the emergency medical services system at the state level; and
3. An independent assessment of the fiscal resources necessary to deliver emergency medical services at the regional and state levels.

The resolve also directs that the study include input and information from various interested parties, enables the commissioner to accept public or private funds and grants for the study, directs the commissioner to report back to the Joint Standing Committee on Criminal Justice and Public Safety and enables that committee to report out

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legislation concerning the report. The resolve notes that costs of the study are intended to be funded by Other Special Revenue funds and makes an Other Special Revenue funds allocation for this purpose.

**LD 1091**                      **An Act To Amend the Not Guilty by Reason of Insanity Verdict**                      **ONTP**

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

LD 1091 proposed to change the verdict of "not criminally responsible by reason of insanity" to "guilty but insane."

**LD 1109**                      **An Act Regarding Passing Bad Checks**                      **ONTP**

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

LD 1109 was a concept draft pursuant to Joint Rule 208. The bill proposed to treat passing a bad check in exchange for merchandise, regardless of the amount of the check, the same as the theft of merchandise of a similar value after 3 failed attempts by the merchant to collect the amount of the check. After these 3 attempts, the merchant could have reported a theft. The bill also proposed to permit a merchant to make a black-and-white photocopy of a person's driver's license when that person paid by check.

**Committee Amendment "A" (H-213)** proposed to replace the bill and was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. This amendment proposed to allow a merchant to make a black-and-white photocopy of a driver's license when the merchant accepted payment by check or draft. The merchant then would have had to file the photocopy in a secure, nonpublic location and destroy the photocopy once the check or draft had been paid. The amendment also proposed to add a fiscal note. This amendment was not adopted.

**LD 1110**                      **An Act Creating an Alternate Concealed Weapons Permit Process**                      **ONTP**

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

LD 1110 proposed to provide an appeal process for a person who was denied a concealed weapons permit through the local application process. Under the bill the Chief of the State Police would have had to review the application anew. The bill also proposed to authorize the Commissioner of Public Safety to adopt rules as necessary.

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**LD 1111**                      **An Act To Implement Full Reciprocity of Concealed Weapons Requirements**                      **ONTP**

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

LD 1111 proposed to allow a person to carry a concealed weapon if the person meet all the requirements for carrying a concealed weapon in another state.

**Committee Amendment "A" (H-312)**, which was not adopted, was the minority report of the committee. The amendment proposed to incorporate a fiscal note.

**LD 1125**                      **An Act To Eliminate the Concealed Weapons Permit**                      **ONTP**

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

LD 1125 proposed to repeal the chapter that requires permits to carry concealed weapons in this State. The bill also proposed to clearly articulate that it is not the intent of the Legislature to override Title 15, section 393, which prohibits firearm possession by persons convicted of certain violent crimes or under court order because of certain violent behaviors.

**LD 1139**                      **An Act To Increase Parental Responsibility for Restitution**                      **ONTP**

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

LD 1139 proposed to increase the limit of liability from \$800 to \$10,000 for a parent or guardian for damage caused by that parent or guardian's minor child. The bill proposed that when a juvenile had been adjudicated as having committed a juvenile crime and the court ordered restitution and subsequently found that the earning capacity of the juvenile was insufficient to pay restitution to the victim, the court could order a custodial parent or legal guardian to make restitution to the victim of the offense for which the juvenile was adjudicated. It also proposed to provide that a court could order the parents or legal guardian of a juvenile who had been adjudicated as having committed a juvenile crime to personally participate in counseling, education and treatment reasonably available in the parents' or legal guardian's area. Finally, the bill proposed to permit a court to invoke its contempt powers to enforce an order entered regarding dispositional alternatives for juveniles.

**Committee Amendment "A" (H-132)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to decrease the limit of civil liability imposed by the bill from \$10,000 to \$3,000 for a parent or guardian for damage caused by that parent or guardian's minor child.

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Like the bill, this amendment also proposed to provide that when a juvenile had been adjudicated as having committed a juvenile crime and the court ordered restitution and subsequently found that the earning capacity of the juvenile was insufficient to pay restitution to the victim, the court could order a custodial parent or legal guardian to make restitution to the victim of the offense for which the juvenile was adjudicated.

This amendment also proposed to strike provisions of the bill that authorized a court to order the parents or legal guardian of a juvenile to personally participate in counseling or treatment and to allow a court to invoke its contempt powers to enforce any order entered regarding dispositional alternatives.

This amendment was not adopted.

**LD 1160**                      **An Act To Amend the Membership of the Maine Fire Protection Services Commission**                      **PUBLIC 160 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-156

LD 1160 proposed to add to the members of the Maine Fire Protection Services Commission the Director of Maine Emergency Medical Services and the Director of the Maine Emergency Management Agency. The bill also proposed to authorize the President of the Senate and the Speaker of the House of Representatives to appoint any Legislators to the Maine Fire Protection Services Commission, instead of limiting legislative members to those serving on the committee having jurisdiction over fire protection matters.

**Committee Amendment "A" (H-156)** proposed to add an emergency preamble, an emergency clause and a fiscal note to the bill.

### *Enacted Law Summary*

Public Law 2003, chapter 160 adds to the members of the Maine Fire Protection Services Commission the Director of Maine Emergency Medical Services and the Director of the Maine Emergency Management Agency. Public Law 2003, chapter 160 also authorizes the President of the Senate and the Speaker of the House of Representatives to appoint any Legislators to the Maine Fire Protection Services Commission, instead of limiting legislative members to those serving on the committee having jurisdiction over fire protection matters.

Public Law 2003, chapter 160 was enacted as an emergency measure effective May 14, 2003.

**LD 1164**                      **An Act To Allow a Victim of Domestic Violence To Carry a Firearm without a Concealed Firearm Permit**                      **ONTP**

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

LD 1164 proposed to allow a person who has been the victim of a crime of domestic violence to carry a concealed firearm without obtaining a permit. The bill proposed to require that the person carry proof of

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successful completion of a handgun safety course, and to exclude a person convicted of murder or a Class A, B or C crime in this State, from eligibility.

**LD 1182                      An Act To Change the Definition of Family or Household Members                      PUBLIC 102  
for Purposes of Criminal Statutes**

<u>Sponsor(s)</u> LAFOUNTAIN O'NEIL		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 1182 proposed to change the definition of "family or household members" in the laws governing when a law enforcement officer may arrest a person without a warrant for certain crimes between family or household members to include individuals presently or formerly living together and individuals who are or were sexual partners.

***Enacted Law Summary***

Public Law 2003, chapter 102 changes the definition of "family or household members" in the laws governing when a law enforcement officer may arrest a person without a warrant for certain crimes between family or household members to include individuals presently or formerly living together and individuals who are or were sexual partners.

**LD 1186                      An Act to Revise the Reimbursement by the County Jail Prisoner                      CARRIED  
Support and Community Corrections Fund and To Provide                      OVER  
Additional Support to County Jails**

<u>Sponsor(s)</u> STRIMLING		<u>Committee Report</u>		<u>Amendments Adopted</u>
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The Maine Revised Statutes, Title 34-A, section 1210-A currently provides for a subsidy to counties for the support of prisoners detained or sentenced to county jails and to maintain community corrections programs. LD 1186 proposes to change the section to reimburse a percentage of the actual costs of those programs. The bill proposes that the percentage would start at 10% beginning July 1, 2005 and increase in annual increments of 5% to a maximum of 30% of actual costs reimbursed.

**Committee Amendment "A" (S-227)**, which was not adopted, proposed to strike and replace the distribution formula in the bill. This amendment proposed to create a new 10% surcharge on all fines, forfeitures and penalties, except the new surcharge could not be imposed on fines collected for violations of the Maine Revised Statutes, Title 29-A, chapter 21. The money collected pursuant to the surcharge would have been distributed annually to each county based on that county's total jail operating costs as a percentage of the expenditures to operate all jails. The amendment also proposed to strike the effective date, as this distribution would have begun in the next fiscal year, and proposed to add an appropriation section and fiscal note to the bill.

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LD 1192

An Act To Enhance Juvenile Rehabilitation

PUBLIC 142

<u>Sponsor(s)</u> EDMONDS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-77
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LD 1192 proposed to amend the Maine Juvenile Code to allow the juvenile court to require that the parent, guardian or custodian of a juvenile charged with committing a juvenile crime attend all juvenile court proceedings, unless the court excused attendance for good cause. The bill proposed to amend the Maine Juvenile Code to allow a court to order the parent, guardian or custodian of a juvenile adjudicated as having committed a juvenile crime to participate in and pay all or part of the reasonable costs of counseling, treatment, education and supervision as determined by the court. LD 1192 also proposed to affirm that the court could invoke its contempt powers to enforce such attendance and court orders.

**Committee Amendment "A" (S-77)** proposed to replace the bill and to make the following changes:

1. Amend the Maine Juvenile Code to allow the juvenile court to require that the parent, guardian or legal custodian of a juvenile charged with committing a juvenile crime attend all juvenile court proceedings, unless the court excused attendance for good cause; however, it would have clarified that the failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, would not prevent the court from continuing with the proceedings against a juvenile who was before the court, except as required in the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraphs C-1 and C-2;
2. Amend the Maine Juvenile Code to allow a court to order the parent, guardian or legal custodian of a juvenile adjudicated as having committed a juvenile crime to participate in and pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court;
3. Affirm that the court could invoke its contempt powers to enforce such attendance and court orders;
4. Specify that the court could not revoke a juvenile's probation because of the failure of the juvenile's parent, guardian or legal custodian to comply with an order to participate in or pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court; and
5. Add a fiscal note.

***Enacted Law Summary***

Public Law 2003, chapter 142 amends the Maine Juvenile Code to allow the juvenile court to require that the parent, guardian or legal custodian of a juvenile charged with committing a juvenile crime attend all juvenile court proceedings, unless the court excuses attendance for good cause; however, it clarifies that the failure of a parent, guardian or legal custodian to appear in response to the summons or for a later hearing, or the inability to serve such a party, may not prevent the court from continuing with the proceedings against a juvenile who is before the court, except as required in the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraphs C-1 and C-2.

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Public Law 2003, chapter 142 amends the Maine Juvenile Code to allow a court to order the parent, guardian or legal custodian of a juvenile adjudicated as having committed a juvenile crime to participate in and pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court.

Public Law 2003, chapter 142 affirms that the court may invoke its contempt powers to enforce such attendance and court orders.

Public Law 2003, chapter 142 specifies that the court may not revoke a juvenile's probation because of the failure of the juvenile's parent, guardian or legal custodian to comply with an order to participate in or pay all or part of the reasonable costs of counseling, treatment, education and case management as determined by the court.

### **LD 1224                      An Act To Increase Requirements for Notification of Release to                      PUBLIC 186** **Victims of Stalkers**

<u>Sponsor(s)</u> CUMMINGS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-188
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LD 1224 proposed to expand the laws governing the notification of a defendant's release from jail or an institution. This bill proposed to add "stalking" to the list of crimes for which a victim must be informed of the release of the defendant. This bill also proposed to require notification of the defendant's release to a victim when the defendant was institutionalized after being found incompetent to stand trial.

**Committee Amendment "A" (H-188)** proposed to add a mandate preamble and a fiscal note to the bill.

#### *Enacted Law Summary*

Public Law 2003, chapter 186 expands the laws governing the notification of a defendant's release from jail or an institution. Public Law 2003, chapter 186 adds "stalking" to the list of crimes for which a victim must be informed of the release of the defendant. Public Law 2003, chapter 186 also requires notification of the defendant's release to a victim when the defendant is institutionalized after being found incompetent to stand trial.

### **LD 1230                      An Act To Amend the Law Regarding Juvenile Restitution                      PUBLIC 239**

<u>Sponsor(s)</u> SNOWE-MELLO		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-278
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LD 1230 proposed to prohibit the removal or destruction of street signs or traffic control signs. The bill proposed to require that a person who is at least 18 years of age and was convicted of removing or destroying a street or traffic control sign would be subject to a minimum penalty of \$500. The bill proposed that a juvenile who was adjudicated to have committed the crime would be required to pay restitution to the municipality for the street sign or traffic control sign and perform at least 8 hours of community service in the affected municipality.

**Committee Amendment "A" (H-278)** proposed to change the title and to replace the bill. The amendment proposed that for purposes of a juvenile disposition involving restitution, the court could enter a separate order

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for income withholding if the juvenile was employed. This is consistent with the process of collecting restitution paid by adult offenders.

### Enacted Law Summary

Public Law 2003, chapter 239 specifies that for purposes of a juvenile disposition involving restitution, the court may enter a separate order for income withholding if the juvenile is employed. This is consistent with the process of collecting restitution paid by adult offenders.

**LD 1237**                      **An Act To Promote Justice for Those Not Guilty of Crimes Due to Mental Disease or Defect**                      **ONTP**

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

LD 1237 proposed that proper use of prescribed medications could be a condition of release for a person found not criminally responsible by reason of mental disease or mental defeat. This bill proposed to lessen the burden of proof for a petitioner seeking the release or discharge of a person hospitalized after having been found not criminally responsible by reason of mental disease or mental defect for committing a Class B, C, D or E crime. For discharge or release, a petitioner would have had to demonstrate by a preponderance of the evidence that the modified release treatment program, release on conditions or discharge could be granted without likelihood that the person would cause injury to that person or to others due to mental disease or mental defect. The petitioner's burden of proof in a case for release or discharge where a person was found not criminally responsible by reason of mental disease or defect for murder or a Class A crime would have remained proof by clear and convincing evidence. (Taylor v. Commissioner of Mental Health and Mental Retardation, 481 A.2d 139 (1984)). The bill also proposed to make technical changes to the statutes.

**LD 1244**                      **An Act To Increase the Penalties for a Person Who Vandalizes Cemetery Property**                      **ONTP**

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

LD 1244 proposed to provide mandatory penalties that a court would have to impose on a person convicted of vandalizing a cemetery. If the violator is a minor, the bill proposed that the court require the violator or the violator's family to pay restitution and require the violator to perform 8 hours of community service per week for the cemetery for 2 consecutive summers following the conviction. If the violator is an adult, the bill proposed that the court require the violator to pay restitution and to perform 5 hours of community service for the cemetery per week for one year.

**Committee Amendment "A" (H-214)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. This amendment proposed to strike provisions of the bill that provide mandatory penalties that a court shall impose on a juvenile adjudicated of vandalizing a cemetery. The amendment proposed to maintain mandatory penalties for adults convicted of vandalizing a cemetery. In addition to any

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other penalty allowed by law, the court would have had to require the violator to pay restitution and to perform community service for the owner of the cemetery if the owner requested that community service work be performed.

This amendment was not adopted.

### LD 1266                      **An Act To Clarify Sentencing for Persons Convicted of Class D and Class E Crimes Involving Domestic Violence**                      **PUBLIC 154**

<u>Sponsor(s)</u> COLWELL STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-154
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LD 1266 proposed that the period of probation for a person convicted of a Class D or Class E crime involving domestic violence would be 2 years, except that the term of probation would terminate when the probationer had served at least one year, had completed a certified batterers' intervention program and had met all other conditions of probation.

**Committee Amendment "A" (H-154)** proposed to amend the title to accurately reflect the intent of the bill and to add a fiscal note.

#### *Enacted Law Summary*

Public Law 2003, chapter 154 specifies that the period of probation for a person convicted of a Class D or Class E crime involving domestic violence is 2 years, except that the term of probation terminates when the probationer has served at least one year, has completed a certified batterers' intervention program and has met all other conditions of probation.

### LD 1323                      **An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole**                      **PUBLIC 500**

<u>Sponsor(s)</u> O'BRIEN J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-209
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LD 1323 proposed to create the Interstate Compact for Juveniles. The bill proposed to enter Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of juveniles who are on probation or parole. The compact creates a governing body called the Interstate Commission for Juveniles made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact would become effective upon enactment by the 35th state.

**Committee Amendment "A" (H-209)** proposed to incorporate a fiscal note.

#### *Enacted Law Summary*

Public Law 2003, chapter 500 creates the Interstate Compact for Juveniles. The law enters Maine into a compact among enacting states to oversee, supervise and coordinate the interstate movement of juveniles who are on

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probation or parole. The compact creates a governing body called the Interstate Commission for Juveniles made up of representatives from the enacting states, which has rulemaking, enforcement and other powers. The compact becomes effective upon enactment by the 35th state.

**LD 1401                      An Act To Provide the Office of the State Fire Marshal with                      PUBLIC 358**  
**Adequate Funding for Construction Plans Review**

<u>Sponsor(s)</u> BUNKER STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-472
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LD 1401 proposed to allow the Commissioner of Public Safety to establish a fee schedule for the review of plans for construction, reconstruction or repairs to structures submitted to the Office of the State Fire Marshal that would cover the cost of providing the service so long as the fee did not exceed \$10,000.

**Committee Amendment "A" (H-472)** proposed to replace the bill. The amendment proposed to authorize the Commissioner of Public Safety to establish a fee schedule for the review of plans for construction, reconstruction or repairs to structures submitted to the Office of the State Fire Marshal. The amendment proposed that the fee schedule for new construction or new use would be 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school could not exceed \$450. The amendment proposed that the fee schedule for reconstruction, repairs or renovations would be based on the cost of the project and could not exceed \$450. The amendment also proposed to add a fiscal note.

***Enacted Law Summary***

Public Law 2003, chapter 358 authorizes the Commissioner of Public Safety to establish a fee schedule for the review of plans for construction, reconstruction or repairs to structures submitted to the Office of the State Fire Marshal. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed \$450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed \$450.

**LD 1405                      An Act To Adjust Fees Charged for Licenses Issued by the Bureau                      ONTP**  
**of State Police Licensing Division**

<u>Sponsor(s)</u> BLANCHETTE MAYO	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1405 proposed to adjust fees collected for issuance of licenses and permits issued by the Department of Public Safety, Bureau of State Police, Licensing Division for games of chance and beano, contract security guard companies, private investigators and firearms permits.

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**LD 1434**                      **An Act To Ensure Basic Standards for Death Investigations by Law Enforcement Agencies**                      **PUBLIC 370**

<u>Sponsor(s)</u> BUNKER STRIMLING		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-474
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LD 1434 proposed to require law enforcement agencies to adopt a written policy to deal with death investigations, including the minimum standard protocol for death investigations published by the Department of the Attorney General.

**Committee Amendment "A" (H-474)** proposed to direct the Board of Trustees of the Maine Criminal Justice Academy to establish by January 1, 2004 the new model policy for death investigations that the bill required. The amendment also proposed to require that each law enforcement agency certify by June 1, 2004 to the board that the agency has adopted a death investigation policy and to require a law enforcement agency to certify by June 1, 2005 that the law enforcement agency has adopted orientation and training regarding the new policy.

This amendment also proposed to add a mandate preamble and a fiscal note to the bill.

***Enacted Law Summary***

Public Law 2003, chapter 370 requires law enforcement agencies to adopt a written policy to deal with death investigations, including the minimum standard protocol for death investigations published by the Department of the Attorney General. Public Law 2003, chapter 370 directs the Board of Trustees of the Maine Criminal Justice Academy to establish by January 1, 2004 the new model policy for death investigations. Public Law 2003, chapter 370 also requires that each law enforcement agency certify by June 1, 2004 to the board that the agency has adopted a death investigation policy and requires a law enforcement agency to certify by June 1, 2005 that the law enforcement agency has adopted orientation and training regarding the new policy.

**LD 1436**                      **An Act To Clarify That an Individual Requestor of a State Bureau of Identification Record Check Must Pay a Fee**                      **ONTP**

<u>Sponsor(s)</u> STRIMLING JODREY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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The Department of Public Safety, State Bureau of Identification has historically charged individuals, as well as organizations, to conduct criminal history record checks. LD 1436 proposed to clarify the language of the enabling statute to reflect that practice by adding individuals to the list of entities that could be charged a fee.

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LD 1449

An Act Regarding the State Police Command Staff

PUBLIC 360

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM MAJ	S-211
JODREY	OTP-AM MIN	

The Chief of the State Police may appoint lieutenant colonels and majors to assist the chief. An appointee who is either removed by the chief for a reason other than malfeasance of office or is not reappointed by a new chief may return to the appointee's previous rank in the State Police if the appointee is not eligible to collect retirement benefits. LD 1449 proposed to reflect that the number of years of creditable service for a full service retirement benefit has increased from 20 years to 25 years.

**Committee Amendment "A" (S-211)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to replace the bill. The amendment proposed to maintain the language from the bill that reflects the number of years of creditable service for a full service retirement benefit has increased from 20 to 25 years. The amendment also proposed to amend the law to reflect that only one chief deputy may be appointed, instead of 2, which the law now authorizes. The amendment also proposed to make technical changes.

**Committee Amendment "B" (S-212)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to replace the bill. The amendment proposed to maintain the language from the bill that reflects the number of years of creditable service for a full service retirement benefit has increased from 20 to 25 years. The amendment also proposed to amend the law to reflect that only one chief deputy may be hired and that the chief deputy and 2 majors are to be hired based on merit, instead of being appointed by the Chief of the State Police. The bill intended that the change from an appointment process to one of promotions based on merit would apply to the next officers hired to these positions and not to the current chief deputy and majors. The amendment also proposed to make technical changes. This amendment was not adopted.

***Enacted Law Summary***

Public Law 2003, chapter 360 amends the laws concerning State Police command staff. Under current law, the Chief of the State Police may appoint lieutenant colonels and majors to assist the chief. An appointee who is either removed by the chief for a reason other than malfeasance of office or is not reappointed by a new chief may return to the appointee's previous rank in the State Police if the appointee is not eligible to collect retirement benefits. Public Law 2003, chapter 360 reflects that the number of years of creditable service for a full service retirement benefit has increased from 20 years to 25 years. Public Law 2003, chapter 360 also amends the law to reflect that only one chief deputy may be appointed, instead of 2, which the law now authorizes.

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**LD 1450**

**An Act Regarding Railroad Police Training**

**PUBLIC 199**

<u>Sponsor(s)</u> STRIMLING JODREY	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1450 proposed to bring the references in the statutes that specifically address the training requirements for a railroad police officer up to date and into compliance with the current training requirements established for law enforcement officers through the Maine Criminal Justice Academy.

***Enacted Law Summary***

Public Law 2003, chapter 199 brings the references in the statutes that specifically address the training requirements for a railroad police officer up to date and into compliance with the current training requirements established for law enforcement officers through the Maine Criminal Justice Academy.

**LD 1496**

**An Act To Amend the Maine Juvenile Code**

**PUBLIC 180**

<u>Sponsor(s)</u> BUNKER CARPENTER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-189
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LD 1496 proposed to require the Juvenile Court to determine within 48 hours after a juvenile had been arrested if there were probable cause to believe that the juvenile had committed a juvenile crime. The bill proposed to require the Chief Judge of the District Court to have a Juvenile Court Judge available on Saturdays, Sundays and legal holidays. The bill also proposed to move the section of law that deals with detention of juveniles charged as adults from Title 15, section 1102 to section 3206.

**Committee Amendment "A" (H-189)** proposed to authorize justices of the peace to determine if there were probable cause to believe that a juvenile had committed a juvenile crime when a juvenile was arrested without a warrant for a juvenile crime or a violation of conditional release and was not released from custody or did not receive a detention hearing within 48 hours after arrest. In the bill, only Juvenile Court Judges had that authorization. The amendment proposed to remove the requirement that the Chief Judge of the District Court provide that a Juvenile Court Judge be available on all days, including Saturdays, Sundays and legal holidays, since justices of the peace would now also have authority to make these probable cause determinations. This amendment also proposed to strike "testimony" from the types of evidence that could be used to establish probable cause and to add a fiscal note to the bill.

***Enacted Law Summary***

Public Law 2003, chapter 180 requires that a Juvenile Court Judge or a justice of the peace determine whether there is probable cause to believe that a juvenile has committed a juvenile crime when a juvenile is arrested without a warrant for a juvenile crime or a violation of conditional release and is not released from custody or does not receive a detention hearing within 48 hours after arrest. Public Law 2003, chapter 180 also moves the

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section of law that deals with detention of juveniles charged as adults from Title 15, section 1102 to section 3206.

**LD 1497**

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

**PUBLIC 205**

<u>Sponsor(s)</u> BUNKER STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-248
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LD 1497 proposed to:

1. Provide that, upon the request of the Department of Corrections, an adult in the drug court be required to pay a substance testing fee. This is similar to a provision that applies to adult probationers under Title 17-A, section 1204;
2. Amend the supervised community confinement program to allow release to a hospice when medically appropriate;
3. Specify that the sheriff must directly provide all jail time credits to the department. Currently, post-sentencing jail time credits are provided by the sheriff, but presentence jail time credits are provided by the prosecutor, who receives this information from the sheriff and relays the information to the correctional facility. This change would eliminate a step in the process and make the flow of information more efficient and timely;
4. Replace Title 34-A, section 3003 with Title 34-A, section 1216. This provision applies to probationers as well as prisoners, so it did not belong in the Part of the Title that covers only correctional facilities. The language of the provision was not changed;
5. Delete Title 34-A, section 3036 pertaining to halfway houses, as this section is obsolete and unnecessary; and
6. Fix cross-references to reflect the sections of law repealed by this bill.

**Committee Amendment "A" (H-248)** proposed that, upon the request of the Department of Corrections, the court may order a defendant to pay a substance abuse testing fee as a requirement of participation in the alcohol or drug treatment program. This amendment also proposed to give the attorney for the State an opportunity to review calculations of presentence detention for purposes of determining when a defendant may be released from incarceration. The amendment also proposed to add an appropriation and allocation section and fiscal note to the bill.

***Enacted Law Summary***

Public Law 2003, chapter 205 does the following.

1. It provides that, upon the request of the Department of Corrections, a court may order a defendant to pay a substance testing fee as a requirement of participation in an alcohol or drug treatment program.

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2. It amends the supervised community confinement program to allow release to a hospice when medically appropriate.
3. It updates language in the crime of assault against a corrections officer.
4. It clarifies the process for revocation of a period of supervised release of sex offenders pursuant to Title 17-A, subchapter 50. Public Law 2003, chapter 205 clarifies that when a person's supervised release is revoked, the remaining period of supervised release that is not required to be served in prison remains in effect to be served after the person is released and is subject to revocation again. This clarification is consistent with the process for revocation of probation.
5. It clarifies the process for sheriffs communicating information regarding presentence jail time credits. It requires a sheriff to provide all presentence jail time credits to the department and to the attorney for the State for the attorney's review. The attorney for the State then has a 15-day opportunity to review calculations of presentence detention for purposes of determining when a defendant may be released from incarceration.
6. It also fixes cross-references, repeals obsolete language and makes technical corrections.

**LD 1498**

**An Act To Improve Access by the Department of Corrections to  
Federal Funds under Title IV-E of the Federal Social Security Act**

**PUBLIC 503**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING GERZOFKY	OTP-AM	S-118 S-301 CATHCART

LD 1498 proposed to amend Title 15, section 3314, subsection 1, paragraph H so that when a juvenile was given a "shock" sentence, or 30-day short term sentence, the court would have to make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. This bill also proposed to amend Title 15, section 3314, subsection 2 to add a provision so that whenever a probation revocation resulted in a juvenile's being committed to a department facility, whether for an indeterminate time or for a "shock" sentence, the court would have to make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Similarly, Title 15, section 3314 would be amended so that the determination was made whenever a court orders continued detention pending a probation revocation. Compliance with the requirements of Title IV-E is necessary to receive federal funds for juveniles who are placed outside of their homes. Finally, this bill proposed to amend Title 15, section 3315, subsection 3 to end the reviews of these reasonable-efforts determinations once a juvenile reached 18 years of age, when eligibility for federal funding would cease.

**Committee Amendment "A" (S-118)** proposed to add an appropriation and allocation section to the bill.

**Senate Amendment "A" to Committee Amendment "A" (S-301)** proposed to remove the General Fund appropriation to the Judicial Department.

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### **Enacted Law Summary**

Public Law 2003, chapter 503 amends the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph H so that when a juvenile is given a "shock" sentence, or 30-day short term sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Public Law 2003, chapter 503 also amends Title 15, section 3314, subsection 2 to add a provision so that whenever a probation revocation results in a juvenile's being committed to a department facility, whether for an indeterminate time or for a "shock" sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Similarly, Public Law 2003, chapter 503 amends Title 15, section 3314 so that the determination is made whenever a court orders continued detention pending a probation revocation. Compliance with the requirements of Title IV-E is necessary to receive federal funds for juveniles who are placed outside of their homes. Finally, Public Law 2003, chapter 503 amends Title 15, section 3315, subsection 3 to end the reviews of these reasonable-efforts determinations once a juvenile reaches 18 years of age, when eligibility for federal funding ceases.

**LD 1510**

**An Act To Improve Access to the Victims' Compensation Fund**

**PUBLIC 243**

<u>Sponsor(s)</u> BUNKER STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-277
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LD 1510 proposed to make the following changes to the laws regarding the Victims' Compensation Fund:

1. Expand the definition of family or household member to include other individuals "who bear an equally significant relationship to the victim";
2. Add leaving the scene of a motor vehicle accident to the list of covered crimes if the crime results in personal injury or death;
3. Add to eligible expenses repair or replacement of locks or other security devices;
4. Extend the application filing deadline from one year to 3 years;
5. Require disclosure of relevant health care information to the Victims' Compensation Board pursuant to a victim's signed application to the board; and
6. Provide for reimbursement to the Victims' Compensation Fund from restitution payments made by the offender after the victim's actual losses are covered.

**Committee Amendment "A" (H-277)** proposed to clarify the definition of "family or household member" in section 3 of the bill. This amendment proposed to clarify the process by which providers and others who pay the costs of health care must submit to the board any information that is required to support a claimant's application or that is necessary to process a claim for payment. This amendment also proposed to clarify that restitution collected for the benefit of victims includes restitution collected at a county jail or prison.

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### ***Enacted Law Summary***

Public Law 2003, chapter 243 makes the following changes to the laws regarding the Victims' Compensation Fund.

1. It expands the definition of family or household member to include other individuals "who bear an equally significant relationship to the victim."
2. It adds leaving the scene of a motor vehicle accident to the list of covered crimes if the crime results in personal injury or death.
3. It adds to eligible expenses repair or replacement of locks or other security devices.
4. It extends the application filing deadline from one year to 3 years.
5. It requires disclosure of relevant health care information to the Victims' Compensation Board pursuant to a victim's signed application to the board.
6. It provides for reimbursement to the Victims' Compensation Fund from restitution payments made by the offender after the victim's actual losses are covered.

**LD 1514**

### **An Act To Amend the Sex Offender Registration and Notification Laws**

**PUBLIC 371**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN J CARPENTER	OTP-AM MAJ ONTP MIN	H-420

LD 1514 proposed to make several changes to the sex offender registration and notification laws. Specifically, the bill proposed to do the following:

1. Expand the definition of "sex offense" to include 2 crimes regarding sexual exploitation of minors. The bill proposed to add the crimes of dissemination of sexually explicit materials and possession of sexually explicit materials to the definition of "sex offense;"
2. Repeal a provision of law that requires the Department of Public Safety, State Bureau of Identification to maintain a directory of sexually violent predators. This provision is redundant, since the Maine Revised Statutes, Title 34-A, section 11221, subsection 1 requires the bureau to maintain a registry of all persons required to register under the chapter;
3. Clarify the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarify what access to that information the public and sex offenders or sexually violent predators have;
4. Clarify that a sex offender or sexually violent predator shall notify the Department of Public Safety, State Bureau of Identification in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile;

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5. Specify that a person required under another jurisdiction to register pursuant to that jurisdiction's registration statute shall register in this State when establishing domicile here or when employed or attending school here, since every state does not use the terms "sex offender" and "sexually violent predator"; and
6. Add county jails and state mental health institutes to the list of entities required to provide notification to the Department of Public Safety, State Bureau of Identification of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.

**Committee Amendment "A" (H-420)** was the majority report. The amendment proposed to address an evidentiary issue by creating a provision that is similar to that authorizing the Secretary of State to use computer transcripts as evidence. This amendment proposed to specify that a signed and sworn certificate by the custodian of the records of the Department of Public Safety, Bureau of State Police, State Bureau of Identification would be 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. This change would eliminate the need to bring the custodian of the records to the court. The amendment also proposed to clarify that a court determines at the time of sentencing whether a person is a sex offender or sexually violent predator. The amendment also proposed to add a mandate preamble and fiscal note to the bill.

### *Enacted Law Summary*

Public Law 2003, chapter 371 makes several changes to the sex offender registration and notification laws. Public Law 2003, chapter 371 does the following.

1. It expands the definition of "sex offense" to include 2 crimes regarding sexual exploitation of minors. The crimes of dissemination of sexually explicit materials and possession of sexually explicit materials are added to the definition of "sex offense."
2. It repeals a provision of law that requires the Department of Public Safety, State Bureau of Identification to maintain a directory of sexually violent predators. This provision is redundant, since Title 34-A, section 11221, subsection 1 requires the bureau to maintain a registry of all persons required to register under the chapter.
3. It clarifies the process for distribution of sex offender and sexually violent predator registration information to the Department of Corrections and law enforcement agencies and clarifies what access to that information the public and sex offenders or sexually violent predators have.
4. It clarifies that a sex offender or sexually violent predator shall notify the Department of Public Safety, State Bureau of Identification in writing when that person's place of employment or college or school changes, as a sex offender or sexually violent predator is required to do for a change in domicile.
5. Since every state does not use the terms "sex offender" and "sexually violent predator," this law specifies that a person required under another jurisdiction to register pursuant to that jurisdiction's registration statute shall register in this State when establishing domicile here or when employed or attending school here.
6. It adds county jails and state mental health institutes to the list of entities required to provide notification to the Department of Public Safety, State Bureau of Identification of a sex offender's or sexually violent predator's conditional release or discharge from that entity's facility.

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- 7. It addresses an evidentiary issue by creating a provision that is similar to that authorizing the Secretary of State to use computer transcripts as evidence. Public Law 2003, chapter 371 specifies that a signed and sworn certificate by the custodian of the records of the Department of Public Safety, Bureau of State Police, State Bureau of Identification 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. This change eliminates the need to bring the custodian of the records to the court.
- 8. It also clarifies that a court determines at the time of sentencing whether a person is a sex offender or sexually violent predator.

**LD 1524                      An Act To Conform to Federal Standards Maine's Law Regarding                      PUBLIC 196**  
**Strip Searches of Persons in Custody**

<u>Sponsor(s)</u> BUNKER STRIMLING	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-232
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LD 1524 proposed to seek to conform the law on strip searches to developments in case law since the initial enactment of this statute. Before a law enforcement officer authorizes a strip or body cavity search of any person arrested for a Class D or E crime or a traffic violation not punishable by more than 30 days in jail, that officer must have, at a minimum, a reasonable suspicion that the person is concealing a weapon, contraband or evidence of a crime. The fact that the person was about to come into contact with the inmate population of a detention facility was no longer justification for dispensing with the reasonable suspicion requirement for persons arrested for minor crimes, traffic violations and ordinance violations.

**Committee Amendment "A" (H-232)** proposed to replace the bill. The law in this area is insufficiently precise to be codified in statute, so the amendment proposed to repeal the law. The rules provided for in Title 5, section 200-G, subsection 1 are a sufficient means to provide guidance to law enforcement officers in this area and are much easier to amend if case law developments warrant such a change.

***Enacted Law Summary***

Public Law 2003, chapter 196 repeals Title 5 section 200-G, subsection 2, paragraph A, which governed the use of strip searches. Because the law is insufficiently precise to be codified in statute, the rules provided for in the Title 5, section 200-G, subsection 1 are a sufficient means to provide guidance to law enforcement officers in this area and are much easier to amend if case law developments warrant such a change.



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**LD 1573**                      **An Act To Make Minor Changes to the Required Law Enforcement Policies**                      **PUBLIC 361**

<u>Sponsor(s)</u> STRIMLING JODREY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-203
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LD 1573 proposed to make minor changes to the requirements contained within the mandatory law enforcement policy on domestic violence. Law enforcement agencies must have policies that require the collection of certain information by an officer that is to be provided to the bail commissioner after the arrest of a person involved in a domestic violence incident. The bill proposed to change a reference to a risk assessment to the collection of information, since the arresting officers do not perform risk assessments. Secondly, the bill proposed to amend requirements regarding retrieval of personal property to allow for, rather than require, a neutral location for the exchange and to give the victim the option of 24 hours' notice to each party prior to retrieval rather than requiring it.

**Committee Amendment "A" (S-203)** proposed to add a mandate preamble and a fiscal note to the bill.

*Enacted Law Summary*

Public Law 2003, chapter 361 makes minor changes to the requirements contained within the mandatory law enforcement policy on domestic violence. Law enforcement agencies must have policies that require the collection of certain information by an officer that is to be provided to the bail commissioner after the arrest of a person involved in a domestic violence incident. A reference to a risk assessment is changed to the collection of information. The arresting officer does not perform a risk assessment. Secondly, the requirements regarding retrieval of personal property are modified slightly to allow for, rather than require, a neutral location for the exchange and to give the victim the option of 24 hours' notice to each party prior to retrieval rather than requiring it.

**LD 1592**                      **An Act To Amend the Department of Corrections' Laws Pertaining to Juvenile Offenders**                      **PUBLIC 410**

<u>Sponsor(s)</u> BUNKER HATCH PH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-473
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LD 1592 proposed to eliminate terms of imprisonment in county jails for juveniles who committed adult offenses under Titles 12 and 29-A, such as operating after suspension, night hunting and operating an ATV on a public way, but would have provided, if the juvenile did not comply with the sentence given, that the juvenile committed a new juvenile crime.

The bill proposed to amend the purposes of juvenile institutions to eliminate the references to preliminary hearings since these are no longer held for juveniles. The bill proposed to amend the definition of "juvenile detainee" to include a juvenile detained for a drug court sanction under Title 15, section 3312, subsection 3, paragraph D. This would clarify that juveniles sanctioned by a drug court are considered detainees under the

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provisions of Title 34-A. The bill proposed to clarify that the Long Creek Youth Development Center and the Mountain View Youth Development Center are both detention and correctional facilities. The bill also proposed to replace references to "aftercare" with "community reintegration" throughout Title 34-A to reflect current terminology and to allow a juvenile detainee to be hospitalized in a nonstate psychiatric hospital if ordered by the court by way of a procedure known as the "blue paper" process.

**Committee Amendment "A" (H-473)** proposed to make a technical correction and replace another reference to "after-care" in Title 34-A with "community reintegration."

### ***Enacted Law Summary***

Public Law 2003, chapter 410 eliminates terms of imprisonment in county jails for juveniles who commit adult offenses under Titles 12 and 29-A, such as operating after suspension, night hunting and operating an ATV on a public way, but provides, if the juvenile doesn't comply with the sentence given, the juvenile commits a juvenile crime.

Public Law 2003, chapter 410 amends the purposes of juvenile institutions to eliminate the references to preliminary hearings since these are no longer held for juveniles. Public Law 2003, chapter 410 amends the definition of "juvenile detainee" to include a juvenile detained for a drug court sanction under Title 15, section 3312, subsection 3, paragraph D. This clarifies that juveniles sanctioned by a drug court are considered detainees under the provisions of Title 34-A. Public Law 2003, chapter 410 clarifies that the Long Creek Youth Development Center and the Mountain View Youth Development Center are both detention and correctional facilities. Public Law 2003, chapter 410 also replaces references to "aftercare" with "community reintegration" throughout Title 34-A to reflect current terminology. Finally, Public Law 2003, chapter 410 allows a juvenile detainee to be hospitalized in a nonstate psychiatric hospital if ordered by the court by way of a procedure known as the "blue paper" process.

**LD 1622**

**An Act To Amend the Laws Regarding Prisoner Participation in Public Works Projects**

**PUBLIC 413**

Sponsor(s)

Committee Report

Amendments Adopted

H-513 BUNKER

Public Law 2001, chapter 171 authorized county sheriffs instead of a court to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. However, the law repeals that authorization 90 days after the adjournment of the First Regular Session of the 121st Legislature. LD 1622 proposed to repeal the reversion to the courts so that county sheriffs could continue to make decisions regarding prisoner participation in employment, public works, electronic monitoring and intensive supervision.

**House Amendment "A" (H-513)** proposed to direct that the wages or salaries of employed prisoners and employment income of self-employed prisoners must be disbursed by the sheriff for fines, forfeitures and penalties, attorney's fees and surcharges after the wages or salaries are disbursed for the prisoner's board, the prisoner's work-related expenses, the prisoner's support of that prisoner's dependents and for restitution to victims.

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### ***Enacted Law Summary***

Public Law 2003, chapter 413 amends the laws regarding prisoner participation in public works projects.

Public Law 2001, chapter 171 authorized county sheriffs instead of a court to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. However, the law repeals that authorization 90 days after the adjournment of the First Regular Session of the 121st Legislature. Public Law 2003, chapter 413 repeals the reversion to the courts so that county sheriffs will continue to make decisions regarding prisoner participation in employment, public works, electronic monitoring and intensive supervision. Public Law 2003, chapter 413 also directs that the wages or salaries of employed prisoners and employment income of self-employed prisoners must be disbursed by the sheriff for fines, forfeitures and penalties, attorney's fees and surcharges after the wages or salaries are disbursed for the prisoner's board, the prisoner's work-related expenses, the prisoner's support of that prisoner's dependents and for restitution to victims.