

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**STATE OF MAINE
115TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

AUGUST 1991

MEMBERS:

**Sen. N. Paul Gauvreau
Sen. Georgette B. Berube
Sen. Muriel D. Holloway*

**Rep. Patrick E. Paradis
Rep. Constance D. Cote
Rep. Patricia M. Stevens
Rep. Cushman D. Anthony
Rep. Susan Farnsworth
Rep. Mary R. Cathcart
Rep. Andrew Ketterer
Rep. Dana C. Hanley
Rep. John H. Richards
Rep. David N. Ott*

Staff:

Margaret J. Reinsch, Legislative Analyst

*Office of Policy and Legal Analysis
Room 101, State House Station 13
Augusta, ME 04333
(207) 289-1670*

**Denotes Chair*

MARTHA E. FREEMAN, DIRECTOR
WILLIAM T. GLIDDEN, JR., PRINCIPAL ANALYST
ULIE S. JONES, PRINCIPAL ANALYST
DAVID C. ELLIOTT, PRINCIPAL ANALYST
RON CLARK
RYAN M. DYTTER
BRO FLATEBO
DEBORAH C. FRIEDMAN
MICHAEL D. HIGGINS
KANE ORBETON



KAREN L. HRUBY
JILL IPPOLITI
JOHN B. KNOX
PATRICK NORTON
MARGARET J. REINSCH
PAUL J. SAUCIER
HAVEN WHITESIDE
MILA M. DWELLEY, RES. ASST.
ROY W. LENARDSON, RES. ASST.
BRET A. PRESTON, RES. ASST.

STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS
ROOM 101/107/135
STATE HOUSE STATION 13
AUGUSTA, MAINE 04333
TEL.: (207) 289-1670

**ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION
JOINT STANDING COMMITTEE
BILL SUMMARIES
AUGUST 1991**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H - 584 or S - 222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	<i>Chapter # of enacted Public Law</i>
P&S XXX	<i>Chapter # of enacted Private & Special Law</i>
RESOLVE XXX	<i>Chapter # of enacted Resolve</i>
CON RES XXX	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
EMERGENCY	<i>Enacted law takes effect sooner than 90 days</i>
CARRIED OVER	<i>Bill carried over to 2nd Session</i>
FAILED EMERGENCY ENACTMENT	<i>Bill failed to get 2/3 vote</i>
ONTP	<i>Ought Not to Pass report accepted</i>
LVWD	<i>Leave to Withdraw report accepted</i>
INDEF PP	<i>Bill Indefinitely Postponed</i>
DIED BETWEEN BODIES	<i>House & Senate disagree; bill died</i>
VETO SUSTAINED	<i>Legislature failed to override Governor's Veto</i>
UNSIGNED	<i>Not signed by Governor within 10 days</i>
DIED ON ADJOURNMENT	<i>Action incomplete when 1st session ended</i>

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

LD 1932 An Act to Correct a Conflict in the Law Relating to Sentencing Considerations and Appellate Review

**PUBLIC 525
EMERGENCY**

SPONSOR(S)
PARADIS P
MARTIN J
CAHILL P
CLARK N

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-662

SUMMARY

The purpose of this bill is to modify the sentencing review procedure to resolve conflicting sentencing criteria in the Maine Revised Statutes, Title 17-A, section 1151; Title 17-A, section 1252-B; Title 17-A, section 1257, subsection 2; and Title 17-A, section 1323 and other locations within Title 17-A with the appellate review provisions in Title 15, chapter 306-A. The bill specifies that the Supreme Judicial Court, sitting as a reviewing court, is required to consider the same statutorily mandated criteria as the original sentencing court. In addition, the bill specifies that the sentencing court, which has had the opportunity to view the defendant through the course of a trial or other court proceeding and has had the opportunity to view the victim of the defendant's crime, may not have its judgment substituted by an appellate court unless the sentencing court has abused its discretion by failing to adequately consider the statutorily mandated criteria. The bill provides for the remanding of cases for resentencing in those cases when the Law Court finds that an abuse of discretion has occurred. The bill also clarifies that the full range of sentencing must be available to a sentencing court in every case.

Committee Amendment "A" (H-662) replaces the bill. The amendment includes factors that a sentencing judge considers as the factors the Supreme Judicial Court, sitting as a reviewing court, is required to consider. In addition to the nature of the offense, the character of the offender and the protection of the public interest, the amendment requires the court to consider the effect of the offense on the victim and any other relevant sentencing factors recognized under law. The term "law" is used to refer to not only statutorily required factors, but also considerations that have been developed through case law. The amendment requires the Supreme Judicial Court to remand the case to the sentencing court for resentencing if relief from the original sentence is necessary. The Supreme Judicial Court is not authorized to substitute its own sentence for the trial court sentence. The Maine Rules of Criminal Procedure, Rule 40A already addresses which judge or justice conducts proceedings or resentences on remand.

LD 1944 An Act Appropriating Funds to Provide Civil Rights Liability Insurance Coverage to the Department of the Attorney General

INDEF PP

SPONSOR(S)
PRAY
MARSANO
CLARK N
MAYO

COMMITTEE REPORT

AMENDMENTS ADOPTED

SUMMARY

The bill would have provided funds to the Department of the Attorney General to purchase civil rights liability coverage and to pay the deductible on an existing claim for payment of attorney's fees in Auburn Police Union v. Tierney. Payment of the premium and the deductible would have enabled the Risk Management Division to cover the payment of court-awarded attorney's fees in that case. (Not referred to Committee.)