

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE**

JULY 1997

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Sen. William B. O'Gara
Sen. Betty Lou Mitchell*

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101/107/135

LD 1527

An Act to Authorize a Police Officer to Impound the Motor Vehicle of a Person Arrested for Operating Under the Influence or Driving with a Suspended or Revoked License

PUBLIC 417

Sponsor(s)
BUTLAND

Committee Report
OTP-AM

Amendments Adopted
S-304

LD 1527 proposed to allow a law enforcement officer to impound a vehicle operated by a person arrested for driving with a suspended or revoked license. The bill also would have allowed for the sale of an impounded vehicle if the person arrested were an owner of the vehicle, the vehicle was declared a nuisance, the person arrested was convicted of the underlying violation and the person had at least one prior conviction for operating under the influence or driving with a suspended or revoked license.

Committee Amendment "A" (S-304) replaced the bill. The amendment proposed to allow a law enforcement officer to impound a vehicle if the vehicle were used by a person arrested for driving with a suspended or revoked license when the suspension or revocation was for OUI or an OUI offense.

Enacted law summary

Public Law 1997, chapter 417 allows a law enforcement officer to impound a vehicle if the vehicle was used by a person arrested for driving with a suspended or revoked license when the suspension or revocation was for OUI or an OUI offense. Currently, a vehicle may be impounded if the vehicle was used by a person arrested for OUI.

LD 1533

An Act to Make Certain Changes to Post-conviction Review

PUBLIC 399

Sponsor(s)
POVICH

Committee Report
OTP-AM

Amendments Adopted
H-621

LD 1533 proposed to modify statutory post-conviction review in 2 ways. First, the bill would have eliminated the current availability of post-conviction review relative to a present restraint or impediment resulting indirectly from a challenged criminal judgment of the State. Second, this bill would have adopted a filing deadline for initiating a petition seeking relief from a criminal judgment coming within the Maine Revised Statutes, Title 15, section 2124, subsection 1 or 1-A.

Committee Amendment "A" (H-621) proposed to adopt a flat one-year filing deadline for initiating a petition seeking relief from a criminal judgment coming within the Maine Revised Statutes, Title 15, section 2124, subsection 3. The limitation period would start to run from the date the sentence was imposed for the new crime.

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

Enacted law summary

Public Law 1997, chapter 399 modifies statutory post-conviction review by eliminating the current availability of post-conviction review relative to a present restraint or impediment resulting indirectly from a challenged criminal judgment of the State. Availability of relief is not required by the Constitution of Maine, Article 1, Section 10 as in YDE v. State, 376 A.2d 465 (Me. 1977). Public Law 1997, chapter 399 also adopts a filing deadline for initiating

a petition seeking relief from a criminal judgment coming within the Maine Revised Statutes, Title 15, section 2124, subsection 1 or 1-A. That filing deadline is modeled after the federal habeas corpus statute, 28 United States Code, Section 2254. In order to ensure fairness, a grace period of the same length as the new limitation period is provided.

Public Law 1997, chapter 399 also adopts a flat one-year filing deadline for initiating a petition seeking relief from a criminal judgment coming within the Maine Revised Statutes, Title 15, section 2124, subsection 3. The limitation period starts to run from the date the sentence is imposed for the new crime.

LD 1548

An Act to Outlaw the Sale of Code Grabbers in the State

PUBLIC 372

<u>Sponsor(s)</u> PLOWMAN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-552
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LD 1548 proposed to make the sale or possession of code grabbers in the State unlawful. The sale or possession of code grabbers would have been a Class D crime.

Committee Amendment "A" (H-552) replaced the bill and proposed to do the following:

1. Prohibit the transfer of burglar's tools, in addition to possession of them;
2. List electronic devices used as code grabbers among the examples of burglar's tools;
3. Specify that possession of burglar's tools is a Class E crime and transfer of burglar's tools is a Class D crime; and
4. Prohibit the possession or transfer of theft devices, in general, rather than simply theft of services devices.

Enacted law summary

Public Law 1997, chapter 372 does the following:

1. Makes transferring or possessing with the intent to transfer burglar's tools that the person knows are designed for or are useful for the commission of a crime a Class D crime;
2. Makes possession with the intent to use a burglar's tools to commit a crime a Class E crime;
3. Lists electronic devices used as code grabbers among the examples of burglar's tools; and
4. Prohibits the possession or transfer of theft devices.

LD 1571

An Act to Amend the Maine Bail Code

PUBLIC 543

<u>Sponsor(s)</u> BENOIT WATERHOUSE	<u>Committee Report</u> OTP-AM MAJ OTP-AM MIN	<u>Amendments Adopted</u> S-423
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LD 1571 proposed to do the following:

1. Amend the definitions of the terms "bail" and "ensure the integrity of the judicial process;"