

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

Public Law 1997, chapter 402 allows the Board of Trustees of the Maine Criminal Justice Academy to suspend or revoke the certification of a law enforcement officer who engaged in a sexual act or sexual contact with an alleged victim of abuse when the law enforcement officer is involved in the investigation or purported investigation of that alleged abuse and the alleged victim is not the law enforcement officer's spouse. Certification may not be suspended or revoked if the law enforcement officer and the alleged victim had a preexisting sexual relationship or if the sexual act or sexual contact occurred at least 60 days after the law enforcement officer first became involved in the investigation.

LD 1714

An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly

PUBLIC 453

Sponsor(s)
MCALEVEY

Committee Report
OTP-AM

Amendments Adopted
H-622

LD 1714 proposed to implement the recommendations of the Study Group on Prosecution of Crimes Against the Elderly. The bill proposed to do the following:

1. Require people who work in the financial services field and unlicensed assistive personnel to report suspected abuse pursuant to the Adult Protective Services Act;
2. Require all court-appointed conservators of estates in excess of \$10,000 to provide a bond to protect against fund mismanagement; and
3. Require durable financial powers of attorney to be notarized and include notice of agent's duties and responsibilities and liability for neglect or violation of duties.

Committee Amendment "A" (H-622) proposed to require that court-appointed conservators of estates in excess of \$25,000 provide a bond to protect the estate against the possibility of loss and mismanagement. The amendment would establish standards for Probate Courts to consider when determining whether a bond should be furnished. The amendment also would exempt from bonding requirements spouses, financial institutions and those persons who are already bonded in the course of their business.

The amendment proposed to remove language directing a person acting under a durable financial power of attorney to act with the utmost faith and loyalty. The amendment proposed to remove from the mandatory reporting law under the Maine Revised Statutes, Title 22, section 3477 Christian Science practitioners, employees and representatives of financial institutions, financial planners and stockbrokers and credit union employees.

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

Enacted law summary

During the last legislative session, the Legislature directed the Department of Human Services to convene a "Study Group on Prosecution of Crimes Against the Elderly," for the purpose of reviewing case histories on crimes against the elderly, identifying barriers to successful investigation and prosecution of such crimes and reviewing the criminal code.

Public Law 1997, chapter 453 implements the study group's recommendations and does the following:

1. Requires unlicensed assistive personnel to report suspected abuse pursuant to the Adult Protective Services Act;
2. Requires all court-appointed conservators of estates in excess of \$25,000 to provide a bond to protect against fund mismanagement;
3. Requires durable financial powers of attorney be notarized and include notice of agent's duties and responsibilities and liability for neglect or violation of duties;
4. Establishes the following standards for Probate Courts to consider when determining whether a bond should be furnished: creditworthiness, financial solvency or past financial management;
5. Exempts from bonding requirements spouses, financial institutions and those persons who are already bonded in the course of their business if the bond is sufficient to cover the duties of conservator; and
6. Removes from the mandatory reporting law under the Maine Revised Statutes, Title 22, section 3477 Christian Science practitioners, employees and representatives of financial institutions, financial planners and stockbrokers and credit union employees.

LD 1719 An Act Concerning Firearm Purchase Background Checks CARRIED OVER

<u>Sponsor(s)</u> HALL		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1719 makes it mandatory that a background check, pursuant to the federal Brady Handgun Violence Prevention Act, be done before a permit to carry a concealed weapon may be issued. The bill also exempts a person from the "Brady" law if that person had a concealed weapon permit issued within the past 5 years and at that time submitted to a background check.

LD 1719 was carried over to the Second Regular Session of the 118th Legislature.

LD 1727 An Act to Establish and Implement a Pilot Program for Restorative Justice PUBLIC 421

<u>Sponsor(s)</u> MURRAY POVICH		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> S-303
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Part A of LD 1727 proposed to permit a juvenile caseworker, after completing a preliminary investigation of a juvenile accused of having committed a juvenile crime, to initiate a family group conference in order to bring about an agreement for an informal adjustment or to receive a recommendation as to whether the juvenile caseworker should decide that no further action is required regarding the juvenile, that an informal adjustment should be