

# 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**

**MEMBERS:**

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

*Rep. Edward J. Povich, Chair*  
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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](http://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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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 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

arranged or that a petition should be filed. The bill also proposed to allow for confidentiality in relation to the family group conferences and would have clarified several other juvenile confidentiality provisions.

Part B of this bill proposed that on recommendation of the Department of Corrections, a probationer would have to appear before and abide by the requirements of a community reparations board. Appearance would not be required if the court found it inappropriate or if the person were given a term of unsuspended imprisonment in a department facility. The bill also would have provided for the establishment of community reparations boards.

**Committee Amendment "A" (S-303)** was the majority report of the committee. It proposed to do the following:

1. Limit restorative justice to a pilot program that does not extend past May 1, 1999;
2. Change the name of the restorative justice boards for juveniles from "family group conferences" to "community resolution teams;"
3. Allow community reparations boards to be established only when federal funding or other special revenue is secured;
4. Exclude persons who have been convicted of a sexual assault or of a crime of domestic violence from participating in community reparations boards;
5. Require the Commissioner of Corrections to confer with local officials when appointing members of community reparations boards;
6. Require the Department of Corrections to report on the progress of both the community resolution teams and the community reparations boards to the joint standing committee having jurisdiction over criminal justice matters by January 1st of every year;
7. Require the Department of Corrections to make a final report on the effectiveness of both community resolution teams and community reparations boards to the joint standing committee of the Legislature having jurisdiction over criminal justice matters by March 1, 1999. Victims, the law enforcement community, attorneys and other parties who have been involved in the programs could also address the committee at that time; and
8. Add an allocation and a fiscal note to the bill.

#### ***Enacted law summary***

Public Law 1997, chapter 421 does the following:

1. Limits restorative justice to a pilot program that does not extend past May 1, 1999;
2. Changes the name of the restorative justice boards for juveniles from "family group conferences" to "community resolution teams;"
3. Allows community reparations boards to be established only when federal funding or other special revenue is secured;
4. Excludes persons who have been convicted of a sexual assault or of a crime of domestic violence from participating in community reparations boards;

5. Requires the Commissioner of Corrections to confer with local officials when appointing members of community reparations boards;
6. Requires the Department of Corrections to report on the progress of both the community resolution teams and the community reparations boards to the joint standing committee having jurisdiction over criminal justice matters by January 1st of every year; and
7. Requires the Department of Corrections to make a final report on the effectiveness of both community resolution teams and community reparations boards to the joint standing committee of the Legislature having jurisdiction over criminal justice matters by March 1, 1999. Victims, the law enforcement community, attorneys and other parties who have been involved in the programs may also address the committee at that time.

**LD 1789**

**An Act Regarding Illegal Transportation of Drugs by a Minor**

**PUBLIC 382**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BODWELL HARRIMAN	OTP-AM	H-514

LD 1789 proposed to provide for a minor who transports drugs or marijuana similar penalties to those applicable to a minor who transports alcohol. These penalties would have included a fine and a mandatory operator's license suspension.

**Committee Amendment "A" (H-514)** replaced the bill. The amendment proposed to create the civil violation of transporting scheduled drugs, including marijuana, by a person who is under 21 years of age. A person who violated this section would have to be adjudged a forfeiture of no more than \$500 and no less than \$200 for a 2nd offense and no less than \$400 for a 3rd or subsequent offense. The court also would have to suspend the operator's license of a person who violated this section. The amendment also would add a fiscal note.

***Enacted law summary***

Public Law 1997, chapter 382 creates the civil violation of transporting scheduled drugs, including marijuana, by a person who is under 21 years of age. A person who violates this section must be adjudged a forfeiture of no more than \$500 and no less than \$200 for a 2nd offense and no less than \$400 for a 3rd or subsequent offense. The court also must suspend the operator's license of a person who violates this section.

A person charged with this civil violation may not also be charged with trafficking, furnishing or possession of scheduled drugs pursuant to the Maine Revised Statutes, Title 17-A, chapter 45 or Title 22, section 2383.