

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE

MAY 1998

MEMBERS:

Sen. Robert E. Murray, Jr., Chair

Sen. William B. O'Gara

Sen. Betty Lou Mitchell

Rep. Edward J. Povich, Chair

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Rep. James H. Tobin, Jr.

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ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
May 1998

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. 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 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:

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

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

Committee Amendment "A" (H-825) proposed that all fees collected by the Chief Medical Examiner be deposited in a dedicated account within the Office of Chief Medical Examiner. The amendment proposed to require the State Controller to transfer balances in excess of \$500 to the General Fund at the end of each fiscal year.

The amendment also proposed to add an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 598 creates a fee schedule for reports, histological slides and other services provided by the Office of the Chief Medical Examiner. Government agencies, health care providers who cared for the deceased, and next of kin are exempt from paying the fees. All fees collected must be deposited in a dedicated account within the Office of Chief Medical Examiner.

LD 2182

An Act to Create the Crime of Insurance Fraud and Require Reporting of Convictions to Licensing Authorities

PUBLIC 779

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| | OTP-AM MAJ | H-923 |
| | ONTP MIN | |

LD 2182 proposed to implement a recommendation of the Commission to Study Insurance Fraud, as established in Resolve 1997, chapter 77, and create the crime of insurance fraud. The bill also proposed to require that the court notify the appropriate licensing authority of a conviction for insurance fraud against a person licensed or registered under the laws of this State.

Committee Amendment "A" (H-923) replaced the bill and was the majority report of the Joint Standing Committee on Criminal Justice.

The amendment proposed to create a new crime of insurance deception within the Maine Criminal Code chapter on theft and a new crime of deceptive insurance practices within the Maine Criminal Code chapter on fraud.

The amendment proposed that the new crime of insurance deception apply to a person who intentionally makes a misrepresentation or written false statement relating to a material fact to any person engaged in the business of insurance concerning the following specific matters: an application for or renewal of an insurance policy, the rating of an insurance policy, payments made in accordance with an insurance policy, a claim for payment or benefit pursuant to an insurance policy or premiums paid on an insurance policy. These would have been crimes only if the person who made the representation or statement did not believe it to be true. The fact that the deception related to a matter of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception would not have been a defense. The amendment proposed that the class of crime is based on the value of the property that is the subject of the deception.

The amendment proposed that the new crime of deceptive insurance practices apply to a person engaging in the business of insurance and that there are two categories of this crime. First, the amendment proposed that it is a Class D crime if the person intentionally makes a false statement with respect to material fact concerning, or materially alters, any of the following: certain documents filed with the Superintendent of Insurance or similar insurance regulatory agency; a document submitted by an insured, claimant or applicant to an insurer, insurance producer or other person; or a document or report filed with a law enforcement agency. Second, the amendment

proposed that it is a Class D crime if the person intentionally: transacts the business of insurance without proper licensure, certification or authorization; impairs the verity or availability of any records of an insurer with the intent to deceive; or solicits or accepts new or renewal insurance risks when the person knows or should know that the insurer or other person engaged in the business of insurance is insolvent.

The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 1997, chapter 779 creates a new crime of insurance deception within the Maine Criminal Code chapter on theft and a new crime of deceptive insurance practices within the Maine Criminal Code chapter on fraud.

The new crime of insurance deception applies to a person who intentionally makes a misrepresentation or written false statement relating to a material fact to any person engaged in the business of insurance concerning the following specific matters: an application for or renewal of an insurance policy, the rating of an insurance policy, payments made in accordance with an insurance policy, a claim for payment or benefit pursuant to an insurance policy or premiums paid on an insurance policy. These are crimes only if the person who made the representation or statement does not believe it to be true. The fact that the deception related to a matter of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception if not a defense. The class of crime is based on the value of the property that is the subject of the deception.

The new crime of deceptive insurance practices applies to a person engaging in the business of insurance. There are two categories of this crime. First, it is a Class D crime if the person intentionally makes a false statement with respect to material fact concerning, or materially alters, any of the following: certain documents filed with the Superintendent of Insurance or similar insurance regulator agency; a document submitted by an insured, claimant or applicant to an insurer, insurance producer or other person; or a document or report filed with a law enforcement agency. Second, it is a Class D crime if the person intentionally: transacts the business of insurance without proper licensure, certification or authorization; impairs the verity or availability of any records of an insurer with the intent to deceive; or solicits or accepts new or renewal insurance risks when the person knows or should know that the insurer or other person engaged in the business of insurance is insolvent.

LD 2185

Resolve, to Provide Accountability in the Probation System

**RESOLVE 124
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|----------------------|-------------------------|---------------------------|
| SAXL M MITCHELL B | OTP-AM | H-971 S-755 MICHAUD |

LD 2185 proposed to affect the Division of Probation and Parole within the Department of Corrections in the following manner:

1. Establish a probation system review panel to review the probation system, to develop a plan for restructuring the probation system and to report to the Legislature the panel's findings and recommendations;
2. Require the Commissioner of Corrections to perform an assessment of office space needs within probation services, to address the 3 top needs by January 1, 1999, and to develop a plan to address the remaining needs by January 1, 2004. The commissioner would have reported this plan to the Legislature by January 15, 1999; and