

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

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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.

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

3. Appropriate funding for the following:

A. The hiring, by January 1, 1999, of 5 new probation officers and 2 support staff;

B. The provision of equipment for drug and alcohol testing to be used by probation officers to ensure compliance with the conditions of probation; and

C. To meet the requirements of the Maine Revised Statutes, Title 25, chapter 194, which requires the Chief of the State Police to collect DNA samples, and for DNA sampling of persons convicted of certain crimes.

Committee Amendment "A" (H-971) replaced the resolve. The amendment proposed to do the following:

1. Establish a study group to review procedures and consider improvements in adult and juvenile probation services. Specifically, the study group would have reviewed the current resources, assessment instruments, services provided and issues of concern within the Department of Corrections and report to the joint standing committee of the Legislature having jurisdiction over corrections and criminal justice matters by January 15, 2000;

2. Require the Commissioner of Corrections to perform an assessment of office space needs for adult and juvenile 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 joint standing committee of the Legislature having jurisdiction over criminal justice and corrections matters by January 15, 1999;

3. Appropriate funding for the following:

A. The hiring of 14 new probation officers and 2 full-time and one part-time support staff;

B. The provision of equipment for drug and alcohol testing to be used by probation officers to ensure compliance with the conditions of probation; and

C. To meet the requirements of the Maine Revised Statutes, Title 25, chapter 194, which requires the Chief of the State Police to collect DNA samples, and for DNA sampling of persons convicted of certain crimes; and

4. Add a fiscal note to the resolve.

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" (S-755) proposed to remove the General Fund appropriations that were included in the supplemental budget bill, Public Law 1997, chapter 643. Senate Amendment "A" also proposed to provide funding for alcohol and drug testing and for the legislative costs associated with the study group.

Enacted law summary

Resolve 1997, chapter 124 establishes a study group to review procedures and consider improvements in adult and juvenile probation services. The Department of Corrections shall staff the study group and report to the joint standing committee of the Legislature having jurisdiction over criminal justice and corrections matters by January 15, 2000. Resolve 1997, chapter 124 requires the Department of Corrections to perform an assessment of office space needs for adult and juvenile probation services; to address the three top needs by January 1, 1999; to develop

a plan to address the remaining needs by January 1, 2004; and to report the plan to the Criminal Justice Committee by January 15, 1999. Resolve 1997, chapter 124 also appropriates funding for the provision of equipment for drug and alcohol testing to be used by probation officers to ensure compliance with the conditions of probation and for the per diem and expenses of legislative members of a probation services study group. General Fund appropriations for 14 new probation officers and two full-time and one part-time support staff and for taking DNA samples that appeared in Committee Amendment “A” (H-971) to LD 2185 were removed and included in the supplemental budget bill, now Public Law 1997, chapter 643.

LD 2189 **Resolve, Regarding Legislative Review of Certification and Monitoring of Batterer Intervention Programs, a Major Substantive Rule of the Department of Corrections** **RESOLVE 92**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 2189 proposed to provide for legislative review of certification and monitoring of batterer intervention programs, a major substantive rule of the Department of Corrections.

Enacted law summary

Resolve 1997, chapter 92 authorizes the final adoption of rules by the Department of Corrections authorizing certification and monitoring of batterer intervention programs.

LD 2232 **An Act to Improve the Delivery and Effectiveness of State Correctional Services** **PUBLIC 752**

<u>Sponsor(s)</u> MURRAY POVICH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-603
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LD 2232 proposed to do the following:

1. Eliminate an outdated requirement that the Department of Corrections review the Maine Juvenile Code and recommend legislation;
2. Replace the reference to the Maine Youth Center as the place of commitment to a Department of Corrections juvenile correctional facility to reflect the restructuring of the juvenile system;
3. Eliminate outdated references to detention prior to the opening of the Northern Maine Regional Juvenile Detention Facility;
4. Reiterate the requirement already found in the Maine Juvenile Code that a detention hearing be held within 48 hours and put it in a place in the code where it is more likely to be found;