

MAINE STATE LEGISLATURE

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STATE OF MAINE
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

MAY 1992

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1992

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the far right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	Chapter # of enacted Public Law
P&S XXX	Chapter # of enacted Private & Special Law
RESOLVE XXX	Chapter # of enacted Resolve
CON RES XXX	Chapter # of Constitutional Resolution passed by both Houses
EMERGENCY	Enacted law takes effect sooner than 90 days
CARRIED OVER	Bill carried over to Special Session
ONTP	Ought Not to Pass report accepted
LVWD	Leave to Withdraw report accepted
INDEF PP	Bill Indefinitely Postponed
FAILED EMERGENCY ENACTMENT	Emergency bill failed to get 2/3 vote
DIED BETWEEN BODIES	House and Senate disagree; bill died
CONF CMTE UNABLE TO AGREE	Committee of Conference formed but unable to agree
VETO SUSTAINED	Legislature filed to override Governor's Veto
UNSIGNED	Not signed by Governor within 10 days
DIED ON ADJOURNMENT	Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

7. Section 2-1516 is amended to permit a lessee in a consumer lease to preserve remedies by notifying either the lessor or any assignee of the lessor of any default.
8. The amendment also adds the Uniform Comments that apply to each section and Maine Comments as appropriate.

LD 1812 An Act to Discourage Motor Vehicle Theft ONTP

SPONSOR(S) TWITCHELL	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

The bill established the Motor Vehicle Chop Shop, Stolen and Altered Property Act.

LD 1822 An Act to Allow Admissible Evidence Concerning the Physical or Sexual Assault or Abuse of a Minor ONTP

SPONSOR(S) BOUTILIER BERUBE HOLLOWAY FARNSWORTH	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

The bill allowed the prosecution, in a case when the charge is the physical or sexual assault or abuse of a minor, to put before the factfinder evidence of similar acts by the defendant, before or after the act in question, to prove the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or absence of accident.

LD 1834 An Act Creating the Victims' Compensation Fund PUBLIC 806

SPONSOR(S) MACBRIDE COLLINS RICHARDS KETTERER	COMMITTEE REPORT OTP-AM MAJ ONTP MIN	AMENDMENTS ADOPTED H-1233 PARADIS P H-965 MAJ REP
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SUMMARY

The bill established the Victims' Compensation Board and the Victims' Compensation Fund.

The Victims' Compensation Fund is not funded from the General Fund, but from assessments added to the fine imposed on individuals convicted of crimes or adjudicated to have committed traffic infractions. The schedule of those assessments is as follows: \$20 for each felony; \$10 for each misdemeanor; and \$5 for each civil violation and traffic infraction. The bill provides that any excess funds in the Victims' Compensation Fund will be transferred to the General Fund on a quarterly basis.

The bill establishes a \$5,000 maximum award to provide a reasonable amount of compensation, while ensuring the availability of funds for as many victims as possible.

Federal legislation requires the Federal Government to reimburse a state 40% of the victim compensation payments actually made to victims, but only if the state law or the victim compensation plan meets

certain federal criteria. Certain provisions of the bill, including the provisions for compensation of victims of federal crimes and compensation for Maine residents victimized out of State, are necessary to qualify for the federal reimbursement.

In order to have sufficient money to make the compensation awards without an appropriation from the General Fund, it is necessary to delay implementation of awards to July 1, 1992. Crimes committed after October 1, 1991 are subject to the Victims' Compensation Fund assessment.

Committee Amendment "A" (H-965) - Majority Report: The amendment replaces the bill but carries out the original intent of creating a Victims' Compensation Fund. It makes the following changes.

1. The amendment changes the title to correctly depict the emphasis of the bill as creating a fund to compensate victims of crimes. It also changes the assessment schedule. The court will assess each person convicted of murder or Class A, Class B or Class C crimes \$25, and each person convicted of Class D or Class E crimes, \$10. There is no assessment on civil violations or traffic infractions. Any excess funds in the Victims' Compensation Fund will be transferred to the General Fund on a quarterly basis. The \$5,000 maximum award provides a reasonable amount of compensation while ensuring the availability of funds for as many victims as possible.
2. The amendment provides for a 3-person board to decide on payment of claims. The board is not permitted to meet more than once a month. All decisions on claims must be made with at least 2 members in attendance and with the unanimous concurrence of all members present. The amendment establishes a 7.5% limit on administrative expenses.
3. The assessments apply to crimes committed on or after January 1, 1993. Claimants may submit claims for crimes that occurred on or after January 1, 1993. The board is not required to begin processing or paying claims before June 1, 1993. This will allow an initial amount of assessments to be credited to the fund before payments are made.
4. This amendment provides clear authority for the courts to treat the victims' compensation assessment as part of the fine for enforcement and collection purposes.

Senate Amendment "A" to Committee Amendment "A" (S-591): The amendment differed from the Committee Amendment in the following ways.

1. The amendment transferred the Victims' Compensation Fund and the Victims' Compensation Board from the Department of Public Safety to the Department of the Attorney General. The amendment established the Victims' Compensation Board as being composed of 9 victim advocates, one from each prosecutorial district appointed by each district attorney, and one from the Attorney General's office. They would be eligible for expenses only. The advocate from the prosecutorial district in which the crime took place could not participate in the decision on a claim based on that crime.
2. If a victim received an award from the fund and restitution or other settlement or award, the victim would have to repay to the fund any amount that is in excess of the actual loss, up to the amount of the award from the fund.
3. The amendment provided for the one-time computer programming costs for the Judicial Department to be paid from the Victims' Compensation Fund rather than the General Fund.

[not adopted]

Senate Amendment "B" to Committee Amendment "A" (S-599): The amendment differs from Senate Amendment "A" to Committee Amendment "A" in that it required that the compensation awarded be paid directly to the claimants and not to service providers. [not adopted]

House Amendment "A" to Committee Amendment "A" (H-984): The amendment allowed the one-time expense of reprogramming the Judicial Department's computer system to handle victim's compensation assessments to be paid from the Victims' Compensation Fund rather than from the General Fund. [not adopted]

House Amendment "B" to Committee Amendment "A" (H-989): The amendment corrected an allocation to the Maine Revised Statutes and faulty section numbering. [not adopted]

House Amendment "C" to Committee Amendment "A" (H-1074): The amendment differs from Senate Amendment "B" to Committee Amendment "A" in that it established a 3 member board consisting of a physician, a lawyer and a person experienced in working with victims of crimes. [not adopted]

House Amendment "D" to Committee Amendment "A" (H-1233): The amendment differs from House Amendment "C" to Committee Amendment "A" in that it deletes the definition of "unreimbursed loss" and use of the term "unreimbursed because they are unnecessary."

LD 1838 An Act Amending the Definition of Murder in the First Degree ONTP
to Include Homicide by Pattern or Practice of Assault or
Torture of a Child under the Age of 16

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
BOUTILIER HOLLOWAY CATHCART	ONTP	

SUMMARY

The bill amended the current murder statute. It addressed the situation where there exists a pattern of assault or torture of a child under 16 years of age resulting in the death of the child. The bill provided that if this occurs under circumstances manifesting a depraved indifference to the value of human life, the assailant may be convicted of murder even though the assailant did not intend to cause the death of the child.

LD 1857 An Act Concerning Authorization to Consent to Powers of PUBLIC 719
Attorney

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
MARSANO GAUVREAU PFEIFFER OTT	OTP-AM	H-964 S-572 GAUVREAU

SUMMARY

The bill amends the Probate Code regarding powers of guardians and regarding durable powers of attorney. It adopts changes made by the National Conference of Commissioners on Uniform Laws.

Committee Amendment "A" (H-964): The amendment carries out the intent of the bill, which is to clarify and make more specific the powers of guardians with regard to medical and other services for the ward, and to revise the Probate Code provisions concerning powers of attorney. This latest revision of the Uniform Probate Code includes a separate section on health care powers of attorney. In addition, this amendment revises the Uniform Rights of the Terminally Ill Act to fully carry out the Maine amendments made in 1991 regarding persistent vegetative state. Amendments regarding persistent vegetative state are added to the guardianship and powers-of-attorney provision to be consistent with the 1991 living will amendments.