

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE

AUGUST 1995

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**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing 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. The publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, the committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various categories of final action are abbreviated as follows:

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

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

COMMITTEE AMENDMENT "A" (H-205) replaces the original bill. It enacts a new section of law that defines when certain federal immigration and customs employees and officers of the Department of Justice and the Department of the Treasury, who are authorized to carry firearms, may enforce state law.

The amendment also grants federal officers the same protections against liability as apply to the State Police and requires federal officers to receive from the Department of the Attorney General training in Maine criminal law and the use of force before the federal officers may enforce state law. The Immigration and Naturalization Service of the Department of Justice and the United States Customs Service of the Department of the Treasury shall also adopt training policies and other policies, including whether the power to enforce state law may be exercised when an officer is off duty or out of uniform, to implement the amendment. Policies must be approved by and filed with the Board of Trustees of the Maine Criminal Justice Academy.

The amendment further authorizes the Attorney General, at the Attorney General's discretion, or the Board of Trustees of the Maine Criminal Justice Academy to suspend or revoke, without hearing, the powers of any federal officer authorized by this amendment to enforce state law. Because the suspension or revocation of state law enforcement powers of a federal officer does not typically result in the denial of employment of that officer, a hearing need not be provided. Empowering the Attorney General to suspend and revoke such powers is in keeping with the Attorney General's constitutional role as the chief law enforcement officer of the State and appropriate when the employer is a separate sovereign. A suspension or revocation of state powers does not affect the legality of any state law enforcement action made prior to notification to the officer of that suspension or revocation.

The amendment also prohibits federal law enforcement officers from exercising state law enforcement powers as part of a task force unless those officers are assigned to a joint federal-state task force in which certain state prosecutors play an equal role with federal prosecutors in the affairs of the task force. The participating role of certain state prosecutors in such a task force must be by specific designation of the Attorney General or, where appropriate, a district attorney. Federal officers would be empowered with state powers if they were assigned to a task force of the Maine Drug Enforcement Agency. A federal law enforcement officer enforcing state law as part of or relating to a task force investigation can only be authorized or cross-deputized as a state law enforcement officer with the consent of the Attorney General.

The amendment also adds a fiscal note.

LD 110

An Act to Increase the County Share and Change the Name of the Government Operations Surcharge Fund

INDEF PP

SPONSOR(S)

ROWE

COMMITTEE REPORT

OTP-AM

AMENDMENTS ADOPTED

H-48

SUMMARY

This bill would have changed the name of the Government Operations Surcharge Fund back to the Jail Operations Surcharge Fund, as it was named before 1991.

The current 10% surcharge on court fines would have remained in place. Those funds are paid into the Jail Operations Surcharge Fund. Currently 2% of the total funds collected through fines and the surcharge are paid out of the fund to the counties each month. This bill would have increased the percentage of total collections returned to the counties by 1% each year, beginning July 1, 1996, until all the money collected through the surcharge was returned to the counties.

This bill would have changed the method of determining the counties' shares of the fund. Currently, 1991 is used as the base year and each county receives the same percentage of the fund as it received in 1991. This bill would have based the distribution of current funds on the percentage of court collections received by each county in the previous year.

4 Criminal Justice-

COMMITTEE AMENDMENT "A" (H-48) would have added an allocation section and a fiscal note to the bill.

LD 112 An Act to Require that Notification be Distributed Prior to the Release of a Convicted Child Molester ONTP

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
JOY ONTP

SUMMARY

This bill would have required notification to persons residing in a neighborhood where a discharged sex offender, whose victim was less than 16 years of age, intended to reside. Notification would have had to include a picture of the sex offender.

The issue of public notification of sex offenders released from jail has been carried over into the 2nd Regular Session. LD 1510, "An Act to Make Comprehensive Changes to the Sex Offender Laws," will be used to incorporate all potential changes.

LD 117 An Act to Require Mandatory HIV Testing for Assailants of Law Enforcement Officers ONTP

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
CLUKEY ONTP

SUMMARY

This bill would have created a court procedure through which a law enforcement officer who had been exposed to the blood or body fluids of a person in custody could have sought to have that person submit to HIV testing.

If a law enforcement officer were exposed to the blood or body fluids of a person in the law enforcement officer's custody, or of a person the law enforcement officer was taking into custody or attempting to take into custody, and the person in custody refused to voluntarily consent to testing, the law enforcement officer could have petitioned the court to have the court order the person in custody to submit to HIV testing.

The law enforcement officer would not have been able to petition the court unless the following conditions were met:

1. The law enforcement officer obtained an HIV test immediately following that exposure;
2. The exposure as alleged created a significant risk of HIV infection as defined by the rules of the Department of Human Services;
3. Written consent from the person in custody was properly sought; and
4. Written informed consent was not given by the person in custody.

The court would have had to then hold a hearing, and if it determined that the conditions were met, the court would have had discretion to order the person in custody to submit to HIV testing. The results would have then been given to the law enforcement officer. Pretest and post-test counseling would have been required for the law enforcement officer; counseling for the person in custody would also have had to be offered.