

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE

AUGUST 1995

Staff:

Marion Hylan Barr, Legislative Analyst

*Office of Policy and Legal Analysis
Room 101/107/135, 13 State House Station
Augusta, ME 04333
(207)287-1670*

MEMBERS:

**Sen. John W. Benoit
Sen. Stephen E. Hall
Sen. John J. O'Dea*

**Rep. Herbert E. Clark
Rep. Birger T. Johnson
Rep. George H. Bunker, Jr.
Rep. Richard H. Thompson
Rep. Edgar M. Wheeler
Rep. Dean F. Clukey
Rep. Walter R. Gooley
Rep. Michael J. McAlevey
Rep. Judith B. Peavey
Rep. G. Paul Waterhouse*

**Denotes Chair*



**Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS**

State House Station 13, Augusta, Maine 04333
Telephone (207) 287-1670
Telecopier (207) 287-1275

**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:

<i>CARRIED OVER</i>	<i>Bill carried over to Second 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 & Senate disagree; bill died</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</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT</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>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of enacted Resolve</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>VETO SUSTAINED</i>	<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

An Act to Change the Law That Determines When a Sentence in Excess of 20 Years May Be Imposed for a Class A Crime

SPONSOR(S)

COMMITTEE REPORT

AMENDMENTS ADOPTED

OTP-AM

S-44

SUMMARY

This bill amends the Maine Criminal Code to allow consideration of serious criminal histories when determining whether sentences of imprisonment for Class A crimes may exceed 20 years. The purpose of this change is to separate the statutory language from past legislative history that has been interpreted to prohibit the consideration of a defendant's serious criminal history in determining whether the sentence for a Class A crime may exceed 20 years. As used in this bill, "criminal history" normally refers to criminal convictions, but it could under less common circumstances include uncharged criminal conduct or criminal conduct initially charged but ultimately disposed of as part of a broader plea agreement.

The bill overrules State v. Hawkins and its progeny [State v. Shackelford, 634 A.2d 1292, 1295-96 (Me. 1993)] to the extent that these cases hold that determination of whether a term of imprisonment can exceed 20 years is limited solely to a consideration of the nature and seriousness of the offense (the basic period of incarceration). The court is now authorized to consider the serious criminal history of a recidivist defendant and to impose a maximum period of incarceration in excess of 20 years for a Class A offense that, based solely on the nature and seriousness of that offense, would not justify a basic period of incarceration in excess of 20 years. It is anticipated that this change in the law will apply only to a small number of cases in which the offender's prior serious criminal history, coupled with the offense for which the sentence is imposed, demonstrates a need to separate the offender from society for a more extended period of time than the offense for which the offender is being sentenced would otherwise justify.

An Act to Broaden the Crime of Criminal Mischief and to Repeal the Crime of Animal Enterprise Terrorism

SPONSOR(S)

COMMITTEE REPORT

AMENDMENTS ADOPTED

OTP-AM

S-39

SUMMARY

This bill was submitted by the Criminal Law Advisory Commission. This bill does 2 things. First, it amends the Maine Revised Statutes, Title 17-A, section 805, which defines the crime of aggravated criminal mischief, to broaden the culpable mental state element of that crime to include "recklessly." Second, this bill repeals Title 17-A, section 807, which created the crime of animal enterprise terrorism, a crime that reflects a specific instance of a combination of possible antisocial acts that are addressed more comprehensively in Title 17-A, under provisions governing the crimes of aggravated criminal mischief and criminal mischief, and in the theft provisions in Title 17-A, chapter 15, as well as in the mistreatment of animals provisions of Title 7 and Title 17.

COMMITTEE AMENDMENT "A" (S-39) adds a fiscal note to the bill.