

MAINE STATE LEGISLATURE

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**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE**

JUNE 1996

MEMBERS:

Sen. John W. Benoit, Chair

Sen. Stephen E. Hall

Sen. John J. O'Dea

Rep. Herbert E. Clark, Chair

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Rep. George H. Bunker, Jr.

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Rep. Edgar Wheeler

Rep. William F. Reed

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ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
June 1996

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. 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 alphabetically 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.

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:

<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 finally passed 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>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

3. Limit provisions concerning juvenile delinquency prevention to youths who are not alleged to have committed crimes and are placed in the chapter dealing with child and family services in the Maine Revised Statutes, Title 22;
4. Place the remainder of the juvenile corrections functions in the Bureau of Juvenile Corrections, which would be moved from the Department of Corrections to the Department of Human Services;
5. Create divisions for planning, probation, aftercare and facilities;
6. Give the Juvenile Justice Advisory Group the total planning function for juvenile corrections and clarify that the group's implementation authority and the bureau's supervisory authority over planning would be limited to the 3-year comprehensive state plan required by federal law and that the bureau's expenditure authority relative to outside funds would be subject to the group's approval; and
7. Require funding to the Maine Youth Center from the Department of Human Services be reduced by 25% in the first fiscal year and 25% in the second fiscal year from the level of funding in fiscal year 1995-1996 and that the department expend the resulting funds on community services for youths to increase efforts in delinquency prevention, probation and aftercare.

Part D of LD 1235 proposed to:

1. Transfer from the Department of Corrections to the Department of Human Services all expenditures, assets, liabilities, appropriations and allocations, rules, contracts and agreements, records, property and employees to the extent attributable to functions transferred in the bill;
2. Direct the Department of Human Services to review juvenile corrections and report its findings to the Joint Standing Committee on Human Resources by December 1, 1995;
3. Direct transitional activities concerning the budget and the functions of the departments involved; and
4. Direct the Joint Standing Committee on Human Resources to submit legislation needed to correct errors and inconsistencies.

LD 1294

An Act to Prohibit Home Repair Fraud

PUBLIC 681

Sponsor(s)
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted
H-731

LD 1294 was carried over from the First Regular Session of the 117th Legislature. LD 1294 proposed to define different practices that typically occur when home repair contractors defraud their customers. The bill proposed to create Maine Revised Statutes, Title 10, chapter 208-B, a violation of which is considered criminal conduct that may result in criminal penalties. The bill also proposed to increase the penalties if the victim of a home repair contractor is more than 60 years of age.

LD 1294 was originally titled “An Act to Prohibit Home Repair Fraud and Establish Aggravated Penalties When the Victim is an Older Person.”

Committee Amendment "A" (H-731) proposed to replace the bill and to do the following:

1. Create in the Maine Criminal Code the Class D crime of home repair fraud, which is enhanced to a Class C crime if the actor has 2 or more prior convictions;
2. Make a violation of consumer sales solicitation laws a Class E crime, unless the State pleads and proves that the act or omission by the seller was intentional, in which case the violation is a Class D crime;
3. Make a violation of certain transient sales laws a Class E crime, unless the State pleads and proves that the act or omission by the seller was intentional, in which case the violation is a Class D crime; and
4. Add a fiscal note.

Enacted law summary

Public Law 1995, chapter 681 creates in the Maine Criminal Code the Class D crime of home repair fraud, which may be enhanced to a Class C crime if the offender has 2 or more prior convictions for home repair fraud. It also provides enhanced civil penalties in the consumer solicitation laws, the transient sales laws and the door-to-door home repair transient seller laws. If the State pleads and proves that an act or omission by a seller operating under a provision of these consumer laws was intentional, a violation of the consumer sales law provision involved is enhanced from a Class E to a Class D crime.

LD 1457 An Act to Discourage the Spread of "Crack" Cocaine

PUBLIC 635

Sponsor(s)
BUNKER

Committee Report
OTP-AM MAJ
OTP-AM MIN

Amendments Adopted
H-696

LD 1457 was carried over from the First Regular Session of the 117th Legislature. LD 1457 proposed to discourage the spread of cocaine base in the State.

Under existing law, possession of cocaine, whether it is cocaine hydrochloride (powder cocaine) or cocaine base (crack cocaine), is a Class D crime. LD 1457 proposed to increase that class of crime for possession of cocaine base by one level to a Class C crime. The disparity between the sentences proposed under this bill for cocaine base and for cocaine hydrochloride is supported by the addictive nature of cocaine base and the level of violence associated with its use and distribution.

Committee Amendment "A" (H-696) was the Majority Report of the Joint Standing Committee on Criminal Justice. The amendment proposed to strike sections 2 and 3 of the bill, but retain section 1, which defines and distinguishes cocaine in the form of cocaine base (crack cocaine) from cocaine hydrochloride (powder cocaine).

The amendment proposed to create presumptive quantities for furnishing and trafficking in cocaine base.

The amendment also proposed to provide that a person is guilty of aggravated trafficking or furnishing scheduled drugs if the person trafficks in or furnishes cocaine in the form of cocaine base in a quantity of 32 grams or more.