

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:

<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

LD 1408 An Act to Permit Polygraph Examination of Certain Individuals Charged with Committing a Crime

ONTP

SPONSOR(S)
MICHAUD

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

This bill would have defined polygraph and polygraph examination as in the current licensing provisions for polygraph examiners, and would have accorded persons charged with crimes the opportunity to have a polygraph examination on their request.

LD 1409 An Act to Conform the Penalties for Crimes Relating to Reckless Conduct to the Maine Criminal Code

ONTP

SPONSOR(S)
WHEELER
MICHAUD

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

This bill would have amended the Maine Revised Statutes, Title 12, section 7901 to make reckless operation of a snowmobile, watercraft or ATV a Class D crime in order to conform to the Maine Criminal Code in which reckless conduct under Title 17-A, section 211 is a Class D crime. Title 12, section 7901, subsection 2 would have been repealed and replaced for format only.

LD 1411 An Act to Amend the Maine Bail Code

PUBLIC 356

SPONSOR(S)
WHEELER
MICHAUD

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-483

SUMMARY

This bill does the following:

1. Adds a definition of "failure to appear" to the Maine Bail Code to ensure that the phrase carries the same meaning throughout the code;
2. Amends the definitions of "preconviction" and "post-conviction" to clarify that a court's acceptance of a plea of guilty or nolo contendere constitutes a conviction;
3. Clarifies that a law enforcement officer's authority to release an arrestee on personal recognizance extends only to those whom the officer has arrested without a warrant;
4. Clarifies that bail conditions take effect when set, except when otherwise specified by the judicial officer;
5. Clarifies that bail orders issued under the Maine Revised Statutes, Title 15, section 1026, following a Harnish bail proceeding, are subject to amendment under Title 15, section 1026, subsection 3, paragraph C;
6. Clarifies that bail orders issued under the discretionary authority of the court to set bail in cases involving formerly capital offenses are not subject to amendment under Title 15, section 1026, subsection 3, paragraph C. Since the bail orders are issued pursuant to the discretionary authority

of the court and not as a matter of constitutional right, the amendment or denial of such bail orders are also addressed to the court's discretionary authority;

7. Adds new language to make it clear that when a bail order is issued in a formerly capital offense case on the basis of discretion and not as a matter of right, the court having jurisdiction of the case may always reconsider the issue of discretion and may modify or even deny bail as a matter of discretion upon a showing of changed circumstances or when new and significant information has been discovered;
8. Clarifies that, when the charge is a felony, the attorney for the State or a law enforcement officer familiar with the charge must be allowed to participate in the initial setting of bail and in any review or appeal of the initially set or denied bail. It also eliminates an obsolete reference to the former District Court Criminal Rules;
9. Specifically identifies each of the risks that bail conditions should be tailored to minimize;
10. Repeals the enforcement provisions currently found in Title 15, section 1051 and moves them to chapter 105-A, subchapter V.
11. Amends the language specifying the responsibility of sureties;
12. Amends Title 15, sections 1091 and 1092 to make them applicable to post-conviction as well as preconviction bail;
13. Repeals Title 15, section 1093 and places the language from that section in a new section 1095; and
14. Creates a new section of law that clarifies that, once preconviction bail has been revoked in the District Court, a defendant's indictment for the same conduct does not create a new right to have bail set in the Superior Court.

COMMITTEE AMENDMENT "A" (H-483) makes the following changes to the bill:

1. Changes the residency requirement for bail commissioners to require them to be Maine residents instead of residents of the specific district;
2. Amends current law to allow a person who has agreed to either act as surety or to deposit cash bail for a defendant to terminate the bail agreement if new and sufficient cash has been deposited;
3. Clarifies the language of the bill that proposed additions and changes to the procedures for revocation of preconviction and post-conviction bail;
4. Outlines revocation of preconviction bail in the Maine Revised Statutes, Title 15, sections 1095, 1096 and 1097. Section 1095 includes new procedures for initiating revocation of preconviction bail. Section 1096 outlines the grounds for revocation. Section 1097 gives new guidance to a court following a revocation in deciding whether bail should be denied or set again. The amendment makes it easier for a court to deny bail following revocation. Section 1097 also outlines the right of appeal by the defendant and clarifies that once preconviction bail is revoked in District Court, a defendant's indictment for the same conduct does not create a new right to have bail set in Superior Court; and
5. Creates the Maine Revised Statutes, Title 15, chapter 105-A, subchapter V, article 3, sections 1098, 1099 and 1099-A for revocation of post-conviction bail, which parallels the process for preconviction bail.