

# 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 &amp; 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&amp;S XXX</i>	<i>Chapter # of enacted Private &amp; 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 1435 An Act to Enhance the Penalties for Repeat Offenders of the Laws Governing Drinking and Driving**

ONTP

**SPONSOR(S)**  
OTT

**COMMITTEE REPORT**  
ONTP

**AMENDMENTS ADOPTED**

**SUMMARY**

This bill would have increased the penalties for persons convicted of OUI as follows.

1. For persons having no previous OUI offenses within a 10-year period, a decal identifying the person as an OUI offender would have had to be affixed to the registration plate of the vehicle owned and operated by the offender for a 90-day period beginning after the period of suspension.
2. For persons convicted of having one previous OUI offense within a 10-year period, the court would have had to order a 90-day period of impoundment or immobilization of the vehicle owned and operated by the offender.
3. For persons convicted of having 2 previous OUI offenses within a 10-year period, the court could have ordered that an ignition interlock device be used for a specified period of time on the motor vehicle of the offender after the offender's period of suspension had elapsed.

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

CARRIED OVER

**SPONSOR(S)**  
BUNKER

**COMMITTEE REPORT**

**AMENDMENTS ADOPTED**

**SUMMARY**

This bill would respond to the recent appearance in the State of cocaine base, commonly referred to as crack cocaine, and would seek to discourage the spread of cocaine base.

Under existing law, possession of cocaine base is a Class D misdemeanor. Although this bill would increase that class of crime by one level to a Class C crime, no minimum mandatory sentence is required, and it is not anticipated that the periods of actual incarceration imposed by the courts would substantially increase. However, pursuant to the Maine Revised Statutes, Title 17-A, section 1202, subsection 1, the increase in the class of crime would act to authorize sentencing courts to impose longer periods of probation in appropriate cases. Longer periods of probation would facilitate and ensure longer periods of drug treatment and counseling typically necessitated by the intensity of the crack cocaine addiction. The disparity between the sentences imposed under this bill for cocaine base and for cocaine hydrochloride would be justified by the addictive nature of cocaine base and the level of violence associated with its use and distribution.

**LD 1471 An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse**

PUBLIC 308

**SPONSOR(S)**  
AMERO

**COMMITTEE REPORT**  
OTP-AM MAJ  
ONTP MIN

**AMENDMENTS ADOPTED**  
S-208

**SUMMARY**

This bill requires that a prosecutor who decides not to pursue a case involving alleged child sexual abuse provide written notification to the parent, surrogate parent or guardian of the alleged victim of the reasons why the case is not being pursued.

The bill also directs the Department of Human Services and the Department of the Attorney General to convene a work group to examine the legal rights of children who are alleged victims of sexual abuse and to review current investigative and courtroom procedures for child sexual abuse cases.

COMMITTEE AMENDMENT "A" (S-208) is the majority report of the Joint Standing Committee on Criminal Justice. This amendment replaces the bill and requires that, if requested to do so, a prosecutor who decides not to pursue a case involving alleged child sexual abuse provide written notification to the parent, surrogate parent or guardian of the alleged victim of the reasons why the case is not being pursued. The amendment also adds a mandate preamble and a fiscal note.

**LD 1486 An Act to Add Types of Pharmacies That Are Subject to Record Seizure**

PUBLIC 251

**SPONSOR(S)**  
BUNKER

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
H-296

**SUMMARY**

This bill amends the existing law which, by use of the limited definitions of "drug outlet" and "drug wholesaler," excludes nonrural health care centers, including hospital pharmacies, from authorized inspections of the Board of Commissioners of the Profession of Pharmacy in terms of seizure of records as part of a criminal investigation. The Maine Revised Statutes, Title 32, section 13721, subsection 1, paragraph D authorizes inspections of the Board of Commissioners of the Profession of Pharmacy and certain other criminal law enforcement investigators to inspect all pharmacies, dispensaries, stores, hospital pharmacies, extended care facilities, boarding homes, nursing homes, drug abuse treatment centers, penal institutions, family planning centers or other drug outlets in which drugs or medicines are manufactured, stored, distributed, compounded, dispensed or retailed in this State.

COMMITTEE AMENDMENT "A" (H-296) adds a fiscal note to the bill.

**LD 1487 An Act Relating to Criminal Forfeitures**

PUBLIC 421  
EMERGENCY

**SPONSOR(S)**  
BUNKER

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
H-568

**SUMMARY**

This bill authorizes prosecutors in the State to seek forfeiture of property in the same criminal proceeding that is commenced against the criminal defendant for the underlying crime that gave right to the forfeiture. Under present law, prosecutors charging individuals with violations of the Maine Revised Statutes, Title 17-A, chapter 45 must charge the individuals in one criminal action, then commence a separate civil asset forfeiture proceeding in order to remove from defendants the fruits of their crimes or the assets used by them to commit their criminal acts. By placing both matters before the grand jury in a single proceeding, prosecutorial, judicial and law enforcement resources are preserved and the grand jury, a citizen body of 23 persons, acts as a check against unreasonable forfeitures.

COMMITTEE AMENDMENT "A" (H-568) replaces the bill. The amendment authorizes state prosecutors to seek forfeiture of property in the same criminal proceeding that is commenced against the criminal defendant for the underlying crime that gave rise to or is related to the property subject to forfeiture.

The amendment is modeled after the federal law in 21 United States Code, Section 853 authorizing criminal forfeitures and is intended to authorize a similar procedure in state criminal actions. Forfeiture of property in a criminal case by a preponderance of the evidence is consistent with the standard of evidence utilized by courts in imposing sentences and assessing fines. As with the civil asset