

# 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:**

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*Sen. Stephen E. Hall*

*Sen. John J. O'Dea*

*Rep. Herbert E. Clark, Chair*

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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 &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 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.

**LD 1738**      **An Act to Require Prisoners to Pay Their Fair Share of  
Victim Restitution**

PUBLIC 534

Sponsor(s)  
WHEELER  
BENOIT

Committee Report  
OTP

Amendments Adopted

LD 1738 proposed to change the language in the law that concerns the payment of restitution by a prisoner to a victim from 25% of all income of a prisoner to 25% of all money generated by the prisoner, which may include nonincome sources of money.

***Enacted law summary***

Public Law 1995, chapter 534 requires a prisoner to pay to a victim 25% of all money the prisoner may generate from whatever source if the court has ordered that restitution be paid.

**LD 1766**      **An Act to Prohibit Stalking**

PUBLIC 668

Sponsor(s)  
SAXL M  
KILKELLY

Committee Report  
OTP-AM    MAJ  
OTP-AM    MIN

Amendments Adopted  
H-829

LD 1766 proposed to create the crime of stalking using the United States Department of Justice, National Institute of Justice's Model Anti-Stalking Code for States.

The crime consists of intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer emotional distress or to fear bodily injury or death to that person or to a member of that person's immediate family. The actor also must know or should know that the specific person will suffer emotional distress or will be placed in reasonable fear of bodily injury or death to that person or to a member of that person's immediate family, and the actor's acts must in fact induce substantial emotional distress or fear of bodily injury or death to the other person or to a member of that person's immediate family. "Course of conduct" includes a person's gaining unauthorized access to another person's personal, medical or financial information. Access to personal, medical or financial information includes access by computer network, mail, telephone or written communication. Constitutionally protected activity is not included within the meaning of "course of conduct." By including "emotional distress" in the provision, conduct prohibited by the bill would include such things as stalkers' self-mutilation or numerous unwanted telephone calls made by a stalker.

LD 1766 proposed to make stalking a Class D crime with a minimum sentence of imprisonment of 60 days, of which 48 hours may not be suspended. The bill further proposed to make stalking a Class C crime if the actor has prior stalking violations or prior protective order violations. In these cases the court shall impose a minimum sentence of imprisonment of at least 6 months, of which 14 days may not be suspended.

LD 1766 also proposed to direct the Supreme Judicial Court, with the cooperation of the Maine Department of Public Safety, to establish a statewide computer criminal record system for use by law enforcement officers including prosecutors in their respective offices, to provide instant access to all available existing criminal records, including stalking or harassment convictions, and protection orders in the State. This system must be funded in part through an additional 2% surcharge on fines, forfeitures and penalties collected by the Government Operations Surcharge

Fund pursuant to the Maine Revised Statutes, Title 4, section 1057. The 2% surcharge is repealed on January 1, 2001.

To assist in the enforcement of protective orders issued outside Maine, the bill proposed that the person who obtained the order may provide a copy to any Superior Court or District Court clerk who, in cooperation with the Department of Public Safety, shall file the order in the statewide computer criminal record system.

**Committee Amendment "A" (H-828)** was the Majority Report of the Joint Standing Committee on Criminal Justice. This amendment proposed to replace the bill and to do the following:

1. Remove the additional 2% surcharge on all fines, forfeitures and penalties collected by the Government Operations Surcharge Fund;
2. Clarify the definition of the crime of stalking;
3. Specify that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
4. Specify that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or any state or federal statute;
5. Make the enhanced penalty provision consistent with current law by classifying stalking a Class C crime after 2 or more prior convictions; and
6. Add a fiscal note.

(Not adopted)

**Committee Amendment "B" (H-829)** was the Minority Report of the Joint Standing Committee on Criminal Justice. This amendment proposed to replace the bill and to do the following:

1. Clarify the definition of the crime of stalking;
2. Specify that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties must be paid to the Department of Public Safety to be distributed pursuant to the Maine Criminal Justice Information System;
3. Clarify that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties must be paid to the State Court Administrator for the purpose of funding the costs of operating the Judicial Department's computer system;
4. Specify that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
5. Specify that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by any state or federal statute;
6. Make the enhanced penalty provision consistent with current law by classifying stalking as a Class C crime after 2 or more prior convictions; and
7. Add an allocation section and a fiscal note.

***Enacted law summary***

Public Law 1995, chapter 668 does the following:

1. Creates and defines the crime of stalking;
2. Directs that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties be paid to the Department of Public Safety to be distributed pursuant to the Maine Criminal Justice Information System for the purpose of helping to fund a statewide computer criminal record system that will allow access to all available criminal records, including stalking or harassment convictions;
3. Clarifies that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties be paid to the State Court Administrator for the purpose of funding the costs of operating the Judicial Department's computer system;
4. Specifies that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
5. Specifies that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by any state or federal statute. It is also the Legislature's intent that "course of conduct" does not include an otherwise lawful activity; and
6. Classifies stalking as a Class D crime with a minimum sentence of imprisonment of 60 days, of which 48 hours may not be suspended. Stalking is classified as a Class C crime if the actor has a prior stalking conviction or prior protective order violation, with a minimum sentence of imprisonment of at least 6 months, of which 14 days may not be suspended. The court may also order a stalker to attend an abuser education program approved by the court.

**LD 1796      An Act to Facilitate the Lawful Detention of Juveniles**

PUBLIC 647  
EMERGENCY

Sponsor(s)  
CLUKEY

Committee Report  
OTP-AM

Amendments Adopted  
H-776

LD 1796 proposed to eliminate the 72-hour limit on the use of a temporary holding resource, thus permitting this less restrictive form of detention to be used without a time limit. This increases the flexibility of the counties and is consistent with federal law. The bill also proposed to insert into the "rural exception" for detention in a county jail an inclement weather exception that currently exists in federal law.

LD 1796 also proposed to allow the Department of Corrections to provide temporary housing for a county that has no jail or that has a jail that is not fully certified.

**Committee Amendment "A" (H-776)** proposed to do the following:

1. Remove section 1 of the bill, which would have eliminated the 72-hour limit on the use of a temporary holding resource;
2. Direct the court to review the decision to detain a juvenile who is detained pending a hearing for revocation of probation within 5 days from the time the motion is filed;