

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

Rep. Birger T. Johnson

Rep. George H. Bunker, Jr.

Rep. Richard H. Thompson

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Rep. Judith B. Peavey

Rep. Edgar Wheeler

Rep. William F. Reed

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*



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

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

**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.

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;

3. Remove from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. The federal requirements continue to exist and apply to the State pursuant to federal regulation;
4. Correct an error that was created when Public Law 1995, chapter 368, Part R, section 6 repealed the Maine Revised Statutes, Title 30-A, section 1557 and replaced the section with new language that did not fit substantively within the former structure. The correction is accomplished by repealing section 1557 and enacting a new section 1557-A;
5. Correct a cross-reference to reflect the creation of Title 30-A, section 1557-A; and
6. Add a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S-501) proposed to delete the provision in the committee amendment (H-776) that removed from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. The amendment also proposed to authorize the Department of Corrections to develop recommended standards to fulfill federal requirements governing the detention of juveniles in county jails.

(Not adopted)

Senate Amendment "B" To Committee Amendment "A" (S-539) proposed that until the Northern Maine Regional Juvenile Detention Facility begins operating, a juvenile may be detained in a county jail, as long as the juvenile is detained in a separate juvenile section that meets federal standards for co-located facilities.

(Not adopted)

Enacted law summary

Public Law 1995, chapter 647 does the following:

1. Inserts into the "rural exception" for juvenile detention in a county jail an inclement weather exception consistent with federal law;
2. Allows 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;
3. Directs 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; and
4. Removes from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. This requirement continues to exist pursuant to federal regulation.