

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE  
118TH LEGISLATURE**

**FIRST REGULAR SESSION  
AND  
FIRST SPECIAL SESSION**

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

**JULY 1997**

**MEMBERS:**

*Sen. Robert E. Murray, Jr., Chair*  
*Sen. William B. O'Gara*  
*Sen. Betty Lou Mitchell*

*Rep. Edward J. Povich, Chair*  
*Rep. George H. Bunker, Jr.*  
*Rep. Roger D. Frechette*  
*Rep. Sharon Libby Jones*  
*Rep. Christopher T. Muse*  
*Rep. Michael J. McAlevey*  
*Rep. Judith B. Peavey*  
*Rep. Edgar Wheeler*  
*Rep. Julie Ann O'Brien*  
*Rep. James H. Tobin, Jr.*

**Staff:**

*Marion Hylan Barr, Legislative Analyst*  
*Heather H. Henderson, 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 EIGHTEENTH LEGISLATURE**  
**FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees**  
**August 1997**

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. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla](http://www.state.me.us/legis/opla)).

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 Regular 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 IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</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/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</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>OTP ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i> .....	<i>Committee report Ought To Pass In New Draft/New Title</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>Bill held by Governor</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 First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

*David E. Boulter, Director*  
 Offices Located in the State House, Rooms 101/107/135

**LD 69**                      **An Act to Prohibit a Juvenile from Pleading to a Reduced Juvenile Crime**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JONES SA	ONTP	

LD 69 proposed to prevent a prosecuting attorney from charging a juvenile with a reduced crime. The bill would have prohibited plea bargains and required that juveniles be charged with the crime actually committed.

**LD 74**                      **An Act to Increase the Period of Probation for Sex Offenders**                      **INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON PARADIS	OTP-AM	H-517

LD 74 proposed to double the otherwise allowable period of probation for a person convicted of an offense under the Maine Revised Statutes, Title 17-A, chapter 11.

**Committee Amendment "A" (H-517)** replaced the bill and proposed to allow a court to impose a period of probation of up to 10 years for a Class A crime, up to 6 years for a Class B or Class C crime and up to 2 years for a Class D or Class E crime if the person were convicted of a sexual assault or of indecent conduct, excluding a conviction for engaging in a sexual act in a public place, and the court found that additional probationary time was needed to either provide sex offender treatment to the offender or to protect the public from an offender determined to be high-risk.

See **Committee Amendment "A" (H-750)** to LD 1138, An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1997, June 30, 1998 and June 30, 1999, Part M, enacted as Public Law 1997, chapter 395, which incorporated Criminal Justice Committee Amendment "A" (H-517) minus the fiscal note.

**LD 95**                      **An Act Concerning Prisoner Participation in Public Works Projects**                      **PUBLIC 54**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO SMALL	OTP-AM	H-47

LD 95 proposed to allow a person committed to a county jail for nonpayment of a fine to participate in a public works project or improvement of property owned by a charitable organization with the permission of the court and the sheriff of the county jail at the time of sentencing. Persons participating in such projects would have had their sentences reduced at the rate of one day for every hour of participation in the project.

**Committee Amendment "A" (H-47)** proposed that prisoners participating in public works projects for nonpayment of fines could reduce a fine by \$5 for every hour worked. The amendment also proposed that a sentence imposed for nonpayment of fines would run consecutively with any other sentence.

***Enacted law summary***

Public Law 1997, chapter 54 allows a person committed to a county jail for nonpayment of a fine to participate in a public works project or improvement of property owned by a charitable organization with the permission of the court and the sheriff of the county jail at the time of sentencing. Persons participating in such projects for nonpayment of fines may reduce the fine by \$5 for every hour worked. Public Law 1997, chapter 54 also specifies that a sentence imposed for nonpayment of fines runs consecutively with any other sentence.

**LD 104                      An Act Concerning Threatening the Use of Deadly Force Against a Law Enforcement Officer Engaged in Carrying out Public Duty                      PUBLIC 289**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLUKEY	OTP-AM    MAJ ONTP        MIN	H-407

LD 104 proposed to bar a private citizen, who otherwise would have the legal right to do so, from threatening the use of deadly force against a person the private citizen knew or should have known was a law enforcement officer, unless the private citizen knew that that law enforcement officer was not at that time engaged in the performance of official duties or unless the private citizen was justified in actually using deadly force against that officer.

**Committee Amendment "A" (H-407)** was the majority report of the Joint Standing Committee on Criminal Justice and proposed that a person otherwise justified in threatening to use deadly force against a law enforcement officer would not be justified in doing so with a firearm or other dangerous weapon. The amendment also proposed to preclude a law enforcement officer from making a nonconsensual warrantless entry into a dwelling place solely in response to a threat not justified by the Maine Revised Statutes, Title 17-A, section 110.

***Enacted law summary***

Public Law 1997, chapter 289 specifies that a person, otherwise justified in threatening to use deadly force against another person, is not justified in doing so with a firearm or other dangerous weapon if that person knows or should know that the other person is a law enforcement officer, unless the person knows that the law enforcement officer is not at that time engaged in the performance of official duties or unless the private citizen is justified under the Maine Revised Statutes, Title 17-A, chapter 5 in actually using deadly force against that officer. Public Law 1997, chapter 289 also precludes a law enforcement officer from making a nonconsensual warrantless entry into a dwelling place solely in response to a threat not justified by the Maine Revised Statutes, Title 17-A, section 110.

Although broader in scope, Public Law 1997, chapter 289 intends to overrule the result in *State v. Clisham*, 614 A.2d 1297 (Me. 1992) that allows a private citizen to threaten a law enforcement officer, acting under color of authority, with death or serious bodily injury under circumstances in which the private citizen is legally justified in using only nondeadly force. In *State v. Clisham* the Law Court equated threatening deadly force with the actual use of nondeadly force. *Id.* at 1298. See also *State v. Lord*, 617 A.2d 536 (Me. 1992). This legal parallel drawn by the