

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

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

JULY 1997

MEMBERS:

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Sen. William B. O'Gara
Sen. Betty Lou Mitchell

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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).

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 & 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&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>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

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

Law Court when a law enforcement officer is involved is rejected because of the substantial and unwarranted risk of death or serious bodily injury posed to the private citizen and to the law enforcement officer.

LD 145 **An Act to Allow Independent Investigation of a Complaint against a Law Enforcement or Corrections Officer upon Request** **PUBLIC 42**

<u>Sponsor(s)</u> BUNKER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-20
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LD 145 proposed to authorize a law enforcement or corrections officer or the chief administrative officer of the agency employing the officer to petition the complaint review board of the Board of Trustees of the Maine Criminal Justice Academy for an independent investigation of alleged conduct of an officer in cases in which the investigation ordinarily would have been performed by the chief administrative officer.

Committee Amendment "A" (H-20) proposed to mandate that an agency conducting an independent investigation of a complaint against a law enforcement officer be approved by the Board of Trustees of the Maine Criminal Justice Academy. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 42 authorizes a law enforcement or corrections officer or the chief administrative officer of the agency employing the officer to petition the complaint review board of the Board of Trustees of the Maine Criminal Justice Academy for an independent investigation of alleged conduct of an officer. Public Law 1997, chapter 42 requires that an agency conducting an independent investigation of a complaint against a law enforcement or corrections officer be approved by the Board of Trustees of the Maine Criminal Justice Academy.

LD 148 **An Act to Appropriate Funds for the Staffing and Operation of the Northern Maine Regional Juvenile Detention Facility** **ONTP**

<u>Sponsor(s)</u> BUNKER		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 148 proposed to provide funding to the Department of Corrections to open the Northern Maine Regional Juvenile Detention Facility during fiscal year 1997-98.

See Committee Amendment "A" (H-15) to LD 1137, An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999, Part JJ, enacted as Public Law 1997, chapter 24, which incorporated LD 148.