

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

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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

Sponsor(s)
KONTOS

Committee Report
OTP-AM

Amendments Adopted
H-553

LD 593 proposed to establish the crime of resisting arrest. The bill would have made it a Class C crime if the arresting party were injured during the arrest or attempted arrest and a Class E crime if the arresting party were not injured. The bill proposed to establish a minimum fine of \$500 and a minimum term of 2 days imprisonment for both classifications of the crime. The bill also proposed to require the guilty party to pay the medical bills and lost wages suffered by the arresting party.

Committee Amendment "A" (H-553) replaced the bill. The amendment proposed to do the following:

1. Specify that a person would be guilty of the Class D crime of resisting an arrest or detention if that person intended to hinder, delay or prevent the arrest and either used physical force against the officer or created a substantial risk of bodily injury to the officer;
2. Clarify that a person would not be justified in using physical force to resist an arrest or detention, regardless of whether the arrest or detention was legal, as long as the law enforcement officer used reasonable nondeadly force to effect the arrest or detention;
3. Specify that a person would be justified in using reasonable nondeadly force against an officer who unlawfully used nondeadly force;
4. Provide a defense for a person who reasonably believed that the person making the arrest was not an officer or who was aware that the officer knew the arrest was illegal; and
5. Add a fiscal note.

Enacted law summary

Public Law 1997, chapter 351 codifies the holding in *State v. Austin*, 381 A.2d 652 (Me. 1978), by stating that a person is not justified in using physical force to resist an arrest or detention, regardless of whether the arrest or detention is legal, as long as the law enforcement officer uses reasonable nondeadly force to effect the arrest or detention. A person is justified in using reasonable nondeadly force against an officer who unlawfully uses nondeadly force.

Public Law 1997, chapter 351 states that a person is guilty of the Class D crime of resisting an arrest or detention if the person intends to hinder, delay or prevent the arrest and either uses physical force against the officer or creates a substantial risk of bodily injury to the officer. Public Law 1997, chapter 351 does not address the situation in which a person at least recklessly causes an offensive physical contact or bodily injury to an officer, because that is adequately addressed in the Maine Revised Statutes, Title 17-A, sections 207, 208 and 752-A. Similarly, it does not address the situation in which a person threatens to use physical force against an officer, because that is addressed in Title 17-A, sections 209 and 210.

Public Law 1997, chapter 351 also provides a defense for a person who reasonably believed that the person making the arrest was not an officer or who was aware that the officer knew the arrest was illegal.