

# 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:**

*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  
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**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:

- CARRIED OVER*.....*Bill carried over to Second Regular Session*
- CON RES XXX*.....*Chapter # of Constitutional Resolution passed by both Houses*
- CONF CMTE UNABLE TO AGREE*.....*Committee of Conference unable to agree; bill died*
- DIED BETWEEN BODIES*.....*House & Senate disagree; bill died*
- DIED IN CONCURRENCE*.....*One body accepts ONTP report; the other indefinitely postpones the bill*
- DIED ON ADJOURNMENT*.....*Action incomplete when session ended; bill died*
- EMERGENCY*.....*Enacted law takes effect sooner than 90 days*
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*.....*Emergency bill failed to get 2/3 vote*
- FAILED ENACTMENT/FINAL PASSAGE*.....*Bill failed to get majority vote*
- FAILED MANDATE ENACTMENT*.....*Bill imposing local mandate failed to get 2/3 vote*
- INDEF PP*.....*Bill Indefinitely Postponed*
- ONTP*.....*Ought Not To Pass report accepted*
- OTP ND*.....*Committee report Ought To Pass In New Draft*
- OTP ND/NT*.....*Committee report Ought To Pass In New Draft/New Title*
- P&S XXX*.....*Chapter # of enacted Private & Special Law*
- PUBLIC XXX*.....*Chapter # of enacted Public Law*
- RESOLVE XXX*.....*Chapter # of finally passed Resolve*
- UNSIGNED*.....*Bill held by Governor*
- VETO SUSTAINED*.....*Legislature failed to override Governor's Veto*

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 874

**An Act to Clarify the Public Safety Laws Concerning Visual Smoke Detectors**

**PUBLIC 95**

Sponsor(s)  
TREAT  
KERR

Committee Report  
OTP-AM

Amendments Adopted  
S-72

LD 874 proposed to amend the law governing the installation of smoke detectors in dwelling units to ensure that the smoke detectors relied upon by occupants are appropriate to warn the occupants.

If the owner failed to provide a smoke detector that was suitable to warn the occupant of a dwelling unit, the occupant could have obtained one and could have deducted the reasonable costs of doing so from the rent.

**Committee Amendment "A" (S-72)** proposed that a visual smoke detector would have to be approved by the State Fire Marshal. The amendment also specified that, if a landlord did not provide a suitable smoke alarm for a deaf or hard-of-hearing tenant, the tenant could obtain, install and maintain a suitable smoke detector and deduct the actual costs of doing so from the rent. This amendment also proposed to add a fiscal note to the bill.

*Enacted law summary*

Public Law 1997, chapter 95 amends the law governing the installation of smoke detectors in dwelling units to ensure that the smoke detector relied upon by the occupant is appropriate to warn the occupant.

If the owner does not provide a smoke detector that is suitable to warn the occupant of the dwelling unit, the occupant may do so and deduct the actual costs from the rent. The occupant may not be subjected to any repercussions for not paying that portion of the rent.

**LD 882**

**An Act to Require Defendants to Pay Restitution, Monetarily or Through Work Restitution**

**PUBLIC 413**

Sponsor(s)  
BENOIT  
WATERHOUSE

Committee Report  
OTP-AM

Amendments Adopted  
S-305

LD 882 proposed to provide the court with a wider definition of the ability to pay restitution. This bill would have authorized a court to order offenders to work in the public interest to repay their victims. The bill also would have postponed appellate review of restitution orders until offenders were found to have inexcusably violated probation or court payment schedules. LD 882 would have required all offenders to pay restitution either by monetary compensation or through work.

**Committee Amendment "A" (S-305)** replaced the bill. The amendment proposed to require the court to consider an offender's present and future ability to pay when imposing restitution and to specify that the burden lies on the offender to prove an incapacity to pay restitution.

The amendment would have placed an affirmative duty on the offender to seek from the court a modification of the time or method of payment or service before a default occurred. It proposed to allow a court to modify its prior

order by reducing the amount of each installment or by allowing more time for the convicted person to make payments or perform services.

The amendment also proposed to establish an enforcement mechanism by requiring a person who defaulted on payment of restitution to return to court.

The amendment would have allowed that execution be levied and other measures authorized for the collection of unpaid civil judgments be taken to collect defaulted restitution. The amendment proposed that persons authorized to disburse an organization's assets could be personally liable for failing to pay the organization's restitution.

The amendment also proposed to add a fiscal note.

### ***Enacted law summary***

Public Law 1997, chapter 413 requires the court to consider an offender's present and future ability to pay when imposing restitution and specifies that the burden lies on the offender to prove an incapacity to pay restitution.

Public Law 1997, chapter 413 places an affirmative duty on the offender to seek from the court a modification of the time or method of payment or service before a default occurs. It allows a court to modify its prior order by reducing the amount of each installment or by allowing more time for the convicted person to make payments or perform services. The option of allowing the court to revoke the unpaid portion of the restitution in whole or in part has been removed as an apparent unconstitutional intrusion into the Governor's exclusive postconviction pardon power. See *State v. Hunter*, 447 A.2d 797 (Me. 1982).

Public Law 1997, chapter 413 also establishes an enforcement mechanism by requiring a person who defaults on payment of restitution to return to court. The attorney for the State or the court may initiate a motion to enforce payment of restitution. The court must find an offender's default unexcused, unless the offender shows by a preponderance of the evidence that the offender did not intentionally or knowingly refuse to obey the court order or fail to make a good-faith effort to obtain the funds required to make payment. An offender whose default is unexcused may be incarcerated for 6 months or for one day for every \$5 of unpaid restitution, whichever is shorter.

Execution may be levied and other measures authorized for the collection of unpaid civil judgments may be taken to collect defaulted restitution. Finally, persons authorized to disburse an organization's assets may be personally liable for failing to pay the organization's restitution.

**LD 910**

**An Act to Authorize Court-ordered Supervision of Juveniles**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL J DAGGETT	ONTP	

LD 910 proposed to amend the Maine Revised Statutes, Title 15, chapter 505, relating to the detention of juveniles, to provide that in situations when the juvenile was involved in criminal activity, the court could order supplemental supervision. Juveniles found to be in violation of the court order could be taken into custody pending a court hearing and further disposition. Parents who did not comply could be fined up to \$100 per each day of noncompliance.