

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).

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

Public Law 1997, chapter 468 requires a law enforcement agency to immediately notify a child's school, the municipality in which the child's birth records are kept and the Department of Human Services when a child is considered a victim or possible victim of kidnapping or criminal restraint. Notified agencies must identify the records in their custody that pertain to the child and immediately notify the law enforcement agency if a request for those records is made.

LD 1707 **An Act to Repeal the Requirement of Concealed Weapon Permits** **ONTP**

<u>Sponsor(s)</u> MACK FERGUSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
---------------------------------------	--	---------------------------------	--	---------------------------

LD 1707 proposed to repeal the provisions requiring concealed weapon permits and to make changes to other laws consistent with the repeal.

LD 1711 **An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer** **PUBLIC 402**

<u>Sponsor(s)</u> O'BRIEN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-624
------------------------------	--	-----------------------------------	--	------------------------------------

LD 1711 proposed to create a new Class C form of gross sexual assault and a new Class D form of unlawful sexual contact when the actor is a law enforcement officer engaged in an investigation or purported investigation involving an allegation of abuse and the other person, not the actor's spouse, was the alleged victim of that abuse and the actor engaged in a sexual act with the other person or the actor intentionally subjected the other person to any sexual contact, respectively.

The bill also proposed to create a defense to both crimes if either a preexisting and ongoing sexual relationship existed between the actor and the other person that included the same kind of sexual conduct or if more than 6 months had elapsed since the actor first became involved in the underlying investigation or purported investigation involving the allegation of abuse.

Committee Amendment "A" (H-624) replaced the bill. The amendment proposed that the Board of Trustees of the Maine Criminal Justice Academy could suspend or revoke the certification of a law enforcement officer who engaged in a sexual act or sexual contact with an alleged victim of abuse if the law enforcement officer is involved in the investigation or purported investigation of that alleged abuse and the alleged victim was not the law enforcement officer's spouse.

The amendment also proposed to make a technical correction and add a fiscal note.

Enacted law summary

Public Law 1997, chapter 402 allows the Board of Trustees of the Maine Criminal Justice Academy to suspend or revoke the certification of a law enforcement officer who engaged in a sexual act or sexual contact with an alleged victim of abuse when the law enforcement officer is involved in the investigation or purported investigation of that alleged abuse and the alleged victim is not the law enforcement officer's spouse. Certification may not be suspended or revoked if the law enforcement officer and the alleged victim had a preexisting sexual relationship or if the sexual act or sexual contact occurred at least 60 days after the law enforcement officer first became involved in the investigation.

LD 1714

An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly

PUBLIC 453

Sponsor(s)
MCALEVEY

Committee Report
OTP-AM

Amendments Adopted
H-622

LD 1714 proposed to implement the recommendations of the Study Group on Prosecution of Crimes Against the Elderly. The bill proposed to do the following:

1. Require people who work in the financial services field and unlicensed assistive personnel to report suspected abuse pursuant to the Adult Protective Services Act;
2. Require all court-appointed conservators of estates in excess of \$10,000 to provide a bond to protect against fund mismanagement; and
3. Require durable financial powers of attorney to be notarized and include notice of agent's duties and responsibilities and liability for neglect or violation of duties.

Committee Amendment "A" (H-622) proposed to require that court-appointed conservators of estates in excess of \$25,000 provide a bond to protect the estate against the possibility of loss and mismanagement. The amendment would establish standards for Probate Courts to consider when determining whether a bond should be furnished. The amendment also would exempt from bonding requirements spouses, financial institutions and those persons who are already bonded in the course of their business.

The amendment proposed to remove language directing a person acting under a durable financial power of attorney to act with the utmost faith and loyalty. The amendment proposed to remove from the mandatory reporting law under the Maine Revised Statutes, Title 22, section 3477 Christian Science practitioners, employees and representatives of financial institutions, financial planners and stockbrokers and credit union employees.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

During the last legislative session, the Legislature directed the Department of Human Services to convene a "Study Group on Prosecution of Crimes Against the Elderly," for the purpose of reviewing case histories on crimes against the elderly, identifying barriers to successful investigation and prosecution of such crimes and reviewing the criminal code.