

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

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

JULY 1999

MEMBERS:

*Sen. Robert E. Murray, Jr., Chair
Sen. William B. O'Gara
Sen. Paul T. Davis*

*Rep. Edward J. Povich, Chair
Rep. Roger D. Frechette
Rep. Christopher T. Muse
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Rep. James H. Tobin, Jr.
Rep. Roger L. Sherman*

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ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION

Summary Of Legislation Before The Joint Standing and Select Committees
August 1999

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized 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:

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
ENACTMENT FAILED..... Bill failed to get vote required for enactment or final passage
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
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 September 18, 1999.

Committee Amendment "A" (S-67) proposed to remove the provision that would allow restitution of missing and deceased victims to be placed in the Victims' Compensation Fund and replace it with a provision that would require the restitution of deceased victims be forwarded to the estate of the victim. The amendment proposed to limit to June 30, 2002 the period of time that interest on restitution may be placed in the Other Special Revenue Account within the Department of Corrections and that the position to administer the collection of restitution is funded. The amendment also proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-86) proposed to strike the provision in the committee amendment that would allow the office of a prosecuting attorney to request that the Department of Corrections direct compensation to the office of a prosecuting attorney for disbursement to victims. The amendment also proposed to clarify that the Department of Corrections may hire an additional Victim Services Representative, instead of an Account Clerk I.

This bill was submitted on behalf of the Department of Corrections.

Enacted law summary

Public Law 1999, chapter 469 does the following:

1. Allows the Department of Corrections to more efficiently collect and disburse court-ordered restitution to crime victims;
2. Requires that interest accrued on restitution collected be deposited into the Other Special Revenue - Administration account within the Department of Corrections, which will reduce General Fund revenues by \$50,000;
3. Requires that income withholding orders be used to collect restitution from offenders who will not be incarcerated;
4. Specifies that if a victim dies or cannot be located, an offender's obligation to pay restitution is not affected. Restitution of a deceased victim must be forwarded to the estate of the victim; and
5. Limits to June 30, 2002 the period of time that interest on restitution may be placed in the Other Special Revenue Account within the Department of Corrections and that the position to administer the collection of restitution is funded.

LD 765

An Act to Make Materiality a Jury Issue Relative to the Crime of Perjury

PUBLIC 13

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 765 proposed to remove the current directive that the trial court rather than the jury determine the materiality question. Since "materiality" is an element of the crime of perjury as legally defined, a defendant has the constitutional right to have the jury rather than the trial court determine the question of materiality. United States v. Gaudin, 515 U. S. 506 (1995).

This bill was submitted on behalf of the Criminal Law Advisory Commission.

Enacted law summary

Public Law 1999, chapter 13 removes the current directive that the trial court rather than the jury determine the question of materiality.

LD 766

An Act to Clarify the Criminal Code Relative to Strict Liability Crimes

PUBLIC 23

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 766 proposed to make 5 changes to the Maine Revised Statutes, Title 17-A, section 34:

1. Merge the substantive content of Title 17-A, section 34, subsection 5 in that of Title 17-A, section 34, subsection 4;
2. Expressly recognize in Title 17-A, section 34, subsection 4 that, in addition to specific elements of a crime not being accompanied by a culpable mental state by legislative design, the Legislature can also impose criminal liability relative to an entire criminal statute without requiring proof by the State of a culpable mental state as to any of the elements of that crime. See e.g., State v. Boyce, 1998 Me. 219, ¶4, 718 A.2d 1097, 1099 (depraved indifference murder); State v. Seamen's Club, 1997 Me. 70, ¶11, 691 A.2d 1248, 1252 (crime of possession of short lobsters).
3. Define "strict liability crime" in a new subsection 4-A in Title 17-A, section 34 and provide for its use in subsection 4 of that section as a nonexclusive legislative means of expressly signaling an intent to impose criminal liability without the State having to prove a culpable state of mind as to any of the elements of the crime;
4. Make Title 17-A, section 34 gender neutral; and
5. Enact Title 17-A, section 2, subsection 23-A to reference the section 34 definition of "strict liability crime."

This bill was submitted on behalf of the Criminal Law Advisory Commission.

Enacted law summary

Public Law 1999, chapter 23 does the following:

1. Merges the substantive content of Title 17-A, section 34, subsection 5 in that of Title 17-A, section 34, subsection 4;
2. Expressly recognizes in Title 17-A, section 34, subsection 4 that, in addition to specific elements of a crime not being accompanied by a culpable mental state by legislative design, the Legislature can also impose criminal liability relative to an entire criminal statute without requiring proof by the State of a culpable mental state as to any of the elements of that crime. See e.g., State v. Boyce, 1998 Me. 219, ¶4, 718 A.2d 1097, 1099 (depraved indifference murder); State v. Seamen's Club, 1997 Me. 70, ¶11, 691 A.2d 1248, 1252 (crime of possession of short lobsters).
3. Defines "strict liability crime" in a new subsection 4-A in Title 17-A, section 34 and provides for its use in subsection 4 of that section as a nonexclusive legislative means of expressly signaling an intent to impose criminal liability without the State having to prove a culpable state of mind as to any of the elements of the crime;
4. Makes Title 17-A, section 34 gender neutral; and
5. Enacts Title 17-A, section 2, subsection 23-A to reference the section 34 definition of "strict liability crime."