

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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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
ONT P.....	Ought Not To Pass report accepted
OT P ND.....	Committee report Ought To Pass In New Draft
OT P 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.

LD 1782**An Act to Amend the Maine Criminal Code Regarding Improper Gifts****PUBLIC 149**Sponsor(s)
CAREYCommittee Report
OTPAmendments Adopted

LD 1782 proposed to amend the laws governing the crime of improper gifts to public servants to more closely align these laws with the laws governing legislative ethics.

Enacted law summary

Public Law 1999, chapter 149 amends the laws governing the crime of improper gifts to public servants to more closely align these laws with the laws governing legislative ethics. PL 1999, chapter 149 adds another element of proof that requires showing of a quid pro quo benefit, instead of the potential for such a benefit. Specifically, a public servant may not accept a pecuniary benefit if the public servant knows or should know that purpose of the benefit is to influence that public servant's actions or reward that public servant for past actions.

LD 1803**An Act to Revoke Probation and Require Incarceration for Repeated Domestic Abuse****CARRIED OVER**Sponsor(s)
CATHCARTCommittee ReportAmendments Adopted

LD 1803 proposes to require probation officers to arrest and bring a motion to revoke the probation of a person who, while on probation, commits a criminal violation of a protection from abuse order issued against that person. The bill also proposes to require the court to revoke probation if the court finds by a preponderance of the evidence that the person committed the crime.

This bill has been carried over to the Second Regular Session.

LD 1821**An Act to Expressly Treat Involuntary Conduct as a Defense in the Maine Criminal Code****PUBLIC 195**Sponsor(s)Committee Report
OTPAmendments Adopted
H-339 POVICH

LD 1821 proposed to remove "voluntary conduct" from the Maine Revised Statutes, Title 17-A, section 31 in chapter 2 of the Maine Criminal Code and enact a new section 103-B in chapter 5. New section 103-B proposed to treat the issue as a "defense" under section 101, subsection 4 of the Maine Criminal Code, rename the issue "involuntary conduct" and describe what constitutes involuntary rather than voluntary conduct. Although in State v. Case, 672 A.2d 586 (Me. 1996) the Law Court treated section 31 as a "defense," in State v. Therrien, 695 A.2d 119 (Me. 1997), p. 123 n. 7 the Court stated that "Section 31 does not fall within the purview of and must be distinguished from the general rules governing defenses; affirmative defenses and justification set forth in Chapter 5 of 17-A M.R.S.A. (1983)." State v. Therrien leaves unclear how the issue of "voluntary conduct" is to be legally treated, in view of the court's assertion that the general rules of chapter 5 are inapplicable. The bill proposed to seek to clarify this ambiguity.

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

House Amendment "A" (H-339) proposed to change the title to clarify that involuntary conduct is a defense in the Maine Criminal Code.

Enacted law summary

Public Law 1999, chapter 195 removes "voluntary conduct" from the Maine Revised Statutes, Title 17-A, section 31 in chapter 2 of the Maine Criminal Code and enacts a new section 103-B in chapter 5. New section 103-B expressly treats the issue as a "defense" under section 101, subsection 4 of the Maine Criminal Code, renames the issue "involuntary conduct" and describes what constitutes involuntary rather than voluntary conduct.

LD 1858

An Act to Amend the Possession of Firearms by Felons

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JABAR RUHLIN		

LD 1858 proposes to prohibit the use, possession and control of a firearm by a person convicted of certain Class D or Class E crimes of domestic violence. The prohibition lasts until the person has served the sentence resulting from the conviction.

A crime of domestic violence is defined as a crime in which:

1. The person used or attempted to use physical force, or threatened to use a deadly weapon; and
2. The person and the victim have or had a family-like relationship. Specifically, the person committing the crime must be a current or former spouse, parent or guardian of the victim; a person with whom the victim has a child; or a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian or has a similar relationship.

In addition, the person who was convicted must have had the assistance of counsel in the proceeding or must have knowingly and intelligently waived the assistance of counsel. A final requirement is that if the person had a right to a jury trial for the domestic violence prosecution, then the case must have been tried by a jury or the person must have knowingly and intelligently waived the right to a trial by jury.

This bill has been carried over to the Second Regular Session.

LD 1871

An Act to Revise Procedures for Probation Revocation

PUBLIC 246

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-427