

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice*

August 2001

Members:

*Sen. Michael J. McAlevey, Chair
Sen. William B. O'Gara
Sen. Paul T. Davis*

*Rep. Edward J. Povich, Chair
Rep. Michael W. Quint
Rep. Charles E. Mitchell
Rep. Lillian LaFontaine O'Brien
Rep. Patricia A. Blanchette
Rep. Stanley J. Gerzofsky
Rep. Judith B. Peavey
Rep. Edgar Wheeler
Rep. James H. Tobin, Jr.
Rep. Lois A. Snowe-Mello*

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**120th Legislature
First Regular Session**

**Summary Of Legislation Before The Joint Standing Committees
August 2001**

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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*
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*
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 21, 2001**.

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

Joint Standing Committee on Criminal Justice

LD 1147

An Act Creating the New Crime of Aggravated Attempted Murder

PUBLIC 413

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-260

LD 1147 proposed to repeal the current special sentencing scheme for the Class A crime of attempted murder and create a new Class A crime of aggravated attempted murder, the authorized punishment for which would be imprisonment for life or for any term of years. Imposition of a life sentence for aggravated attempted murder would be governed by the law applicable to the imposition of a life sentence for murder under the Maine Revised Statutes, Title 17-A, section 1251. The existence of an aggravating circumstance allows the court to consider whether to impose a life sentence. Unlike the punishment authorized for murder, there is no mandatory minimum term of imprisonment if the court chooses to impose a definite period of years. Further, unlike murder under Title 17-A, section 1201, the person guilty of aggravated attempted murder is eligible for a sentence alternative that includes a period of probation.

By creating the new crime of aggravated attempted murder the bill proposed to return sentencing for the crime of attempted murder to that authorized for Class A crimes generally and to respond to the fact that the current special penalty provision for attempted murder allowing for the imposition of a life sentence "with proper findings" appears to be unconstitutional in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000)(the aggravating circumstances not being alleged, submitted to a jury or proved beyond a reasonable doubt).

Committee Amendment "A" (H-260) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 413 repeals the current special sentencing scheme for the Class A crime of attempted murder and creates a new Class A crime of aggravated attempted murder, the authorized punishment for which is imprisonment for life or for any term of years. Imposition of a life sentence for aggravated attempted murder is governed by the law applicable to the imposition of a life sentence for murder under the Maine Revised Statutes, Title 17-A, section 1251. The existence of an aggravating circumstance allows the court to consider whether to impose a life sentence. Unlike the punishment authorized for murder, there is no mandatory minimum term of imprisonment if the court chooses to impose a definite period of years. Further, unlike murder under Title 17-A, section 1201, the person guilty of aggravated attempted murder is eligible for a sentence alternative that includes a period of probation.

The purpose of Public Law 2001, chapter 413 is to return sentencing for the crime of attempted murder to that authorized for Class A crimes generally and to respond to the fact that the current special penalty provision for attempted murder allowing for the imposition of a life sentence "with proper findings" appears to be unconstitutional in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000)(the aggravating circumstances not being alleged, submitted to a jury or proved beyond a reasonable doubt). This law was proposed by the Criminal Law Advisory Commission.