

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
115TH LEGISLATURE**

**SECOND REGULAR SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY**

**MAY 1992**

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE  
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**MAY 1992**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the far right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX  
P&S XXX  
RESOLVE XXX  
CON RES XXX  
EMERGENCY  
CARRIED OVER

ONTP  
LVWD  
INDEF PP  
FAILED EMERGENCY ENACTMENT  
DIED BETWEEN BODIES  
CONF CMTE UNABLE TO AGREE  
VETO SUSTAINED  
UNSIGNED  
DIED ON ADJOURNMENT

Chapter # of enacted Public Law  
Chapter # of enacted Private & Special Law  
Chapter # of enacted Resolve  
Chapter # of Constitutional Resolution passed by both Houses  
Enacted law takes effect sooner than 90 days  
Bill carried over to Special Session  
Ought Not to Pass report accepted  
Leave to Withdraw report accepted  
Bill Indefinitely Postponed  
Emergency bill failed to get 2/3 vote  
House and Senate disagree; bill died  
Committee of Conference formed but unable to agree  
Legislature filed to override Governor's Veto  
Not signed by Governor within 10 days  
Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

The Uniform Comments and the Maine Comments are included in both the original bill and this amendment.

Senate Amendment "A" to Committee Amendment "A" (S-572): The amendment deletes references to a living will in the Probate Code section on the powers of a guardian of a minor ward and the Maine Comment on that section. Minors are not authorized to execute living wills, so the references are deleted to avoid any confusion. The amendment also clarifies that an attorney-in-fact appointed under a durable health care power of attorney does not have the authority to consent to withholding or withdrawal of life-sustaining treatment for purposes of the priority listing in the Maine Revised Statutes, Title 18-A, section 5-707 if the court has terminated that authority or terminated the power of attorney.

**LD 1875      An Act to Clarify the Role of Guardians Ad Litem and  
Visitors in Guardianship and Conservatorship Cases**

ONTP

**SPONSOR(S)**

HOLLOWAY  
GAUVREAU  
KUTASI  
SIMONDS

**COMMITTEE REPORT**

ONTP

**AMENDMENTS ADOPTED**

**SUMMARY**

The bill reorganized the current provisions of the Probate Code on guardianship and conservatorship into a format that makes them more readily usable as a reference for practitioners. It clarified the role of visitors and guardians ad litem and establishes specific requirements for them in conducting investigations and making reports. The bill placed the additional requirements on visitors and guardians ad litem to interview people other than the allegedly incapacitated person who may have useful information bearing on the proposed guardianship, to review records and to communicate the wishes of the allegedly incapacitated person to the court.

The bill made clear what has, in practice, been the difference between visitors and guardians ad litem. It set limitations on the time period a visitor or guardian ad litem may serve, while allowing the court to extend the appointment for good cause.

**LD 1881      An Act Concerning Limitations on Actions for Penalties**

LV/WD

**SPONSOR(S)**

CLARK N  
GAUVREAU  
STEVENS P

**COMMITTEE REPORT**

LV/WD

**AMENDMENTS ADOPTED**

**SUMMARY**

The bill repealed the Maine Revised Statutes, Title 14, section 858, a law whose origins date back to Massachusetts law prior to 1820. Title 14, section 858 covers a now uncommon situation, where a citizen could act as a private prosecutor and obtain all or a portion of a forfeiture or penalty. If a person authorized to bring such a suit failed to act, the State could then intercede if it wished and bring suit within 2 years.

The bill specified that the provisions of section 858 do not apply to any pending or future actions.