

MAINE STATE LEGISLATURE

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STATE OF MAINE
116TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

MAY 1994

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

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1994

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.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX

P&S XXX

RESOLVE XXX

CON RES XXX

EMERGENCY

ONTP

INDEF PP

FAILED ENACTMENT

FAILED EMERGENCY ENACTMENT

FAILED MANDATE 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

Ought Not to Pass report accepted

Bill Indefinitely Postponed

Bill failed to get majority vote

Emergency bill failed to get 2/3 vote

Bill imposing local mandate failed to get 2/3 vote

House & Senate disagree; bill died

Committee of Conference unable to agree; bill died

Legislature failed 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. If you have any suggestions or comments on the summaries, please let us know.

5581LHS

administrative records of the Bureau of the State Police, the Attorney General and the Maine Drug Enforcement Agency and brings them into conformity with the criminal history record information laws that apply to other criminal justice agencies. This bill was carried over from the First Regular Session.

The majority COMMITTEE AMENDMENT (H-953) removes from the bill provisions relating to agencies other than the Attorney General because those agencies were addressed in a bill that was enacted last year (Public Law 1993, chapter 376). The amendment includes Attorney General's investigative records under the provisions of the Criminal History Record Information Act. It includes records relating to civil violations and civil actions within the definition of "intelligence and investigative information." The amendment also modifies and clarifies situations when records containing intelligence and investigative records may not be disseminated. The amendment provides confidentiality for records the disclosure of which would "constitute an unwarranted invasion of personal privacy." This standard is comparable to the federal Freedom of Information Act. The amendment retains confidential status for records of the Attorney General's Office that contain investigative information relating to trade secrets or other confidential commercial or financial information, the identity of complainants involving consumer or anti-trust violations, information received under the Petroleum Market Share Act and the Hospital Cooperation Act.

The majority Committee Amendment changes the treatment of records of the Attorney General's Office prospectively only. Records created prior to the effective date of this bill would remain subject to the confidentiality provisions of former Title 5, section 200-D, and Attorney General records created after the effective date of this bill are subject to Title 16, section 614. This amendment authorizes the Attorney General to establish a fee for access to and copying of records that will partially offset the cost of maintaining the administrative structure necessary to make those records available.

The minority COMMITTEE AMENDMENT (H-954) contains the same provisions as the majority amendment except that it changes the treatment of existing records of the Attorney General as well as records created after the effective date of the bill. It requires the Attorney General to establish a fee for access to and copying of records that will be substantially equivalent to the cost of maintaining the administrative structure necessary to make those records available.

SENATE AMENDMENT "C" TO COMMITTEE AMENDMENT "A" (S-645) makes the provisions of the bill relating to confidentiality of records effective July 1, 1995 and replaces the provisions of the committee amendment relating to fees. It requires the Attorney General to recommend a funding mechanism, including a fee for services, to the Judiciary Committee of the 117th Legislature. It also replaces the fiscal note.

LD 942 **An Act to Amend the Adoption Laws**

PUBLIC 686

SPONSOR(S)
CAHILL

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-1014 FARNSWORTH
S-495

SUMMARY

This bill is a revision of the adoption laws. The original bill contains the recommendations of the Adoption Task Force which studied adoption issues for a year and issued its report in 1988.

As amended by COMMITTEE AMENDMENT "A" (S-495) the bill does the following:

1. It clarifies the rights of adoptees to inherit from birth parents.
2. It requires the Probate Court to appoint a guardian ad litem for a child when parental rights are being terminated.

3. It requires the Probate Court to review a surrender and release if the child has not been adopted after 18 months.
4. It contains a detailed listing of information that must be contained in a petition for adoption and the findings issued by the Probate Court.
5. It specifies what adoption expenses may be paid by the petitioner for adoption.
6. It clarifies the process for determining the rights of putative fathers.
7. It requires the inclusion of an adopted child in health insurance coverage on the same basis as "newly-born" children and prohibits the exclusion of existing conditions.

The changes are effective for petitions filed on or after August 1, 1994.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-1014) provides that when a birth mother does not identify the putative father, the Probate Court may, but is not required to, order notice by publication of the mother's intent to consent to adoption of the child.

LD 1186 An Act to Modify Joint and Several Liability in Medical Malpractice Actions ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
BERUBE	ONTP MAJ	
	OTP MIN	

SUMMARY

The bill would have modified the principle of joint liability in medical negligence cases. Under the bill, multiple defendants in these cases would remain jointly liable for all damages awarded for economic loss and would remain jointly liable for noneconomic loss unless a defendant is found to be less than 25% at fault as compared with other defendants. For that defendant, liability would be several only with regard to noneconomic damages. Thus, that defendant would be responsible for only the defendant's portion of the noneconomic damages, but would remain jointly liable for all economic damages.

The bill was carried over from the First Regular Session.

LD 1194 RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Requirement of Grand Jury Review for Noncapital Crimes ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
	ONTP	

SUMMARY

The constitutional resolution was a recommendation of the Commission to Study the Future of Maine's Courts and would have authorized district attorneys and the Attorney General to prosecute criminal cases without the necessity of scheduling grand jury hearings when a judge has made a prior finding of probable cause.

The resolution was carried over from the First Regular Session.