

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2001

Members:

Sen. Anne M. Rand, Chair

Sen. Michael J. McAlevey

Sen. Norman K. Ferguson, Jr.

Rep. Charles C. LaVerdiere, Chair

Rep. Thomas D. Bull

Rep. Patricia T. Jacobs

Rep. Charles E. Mitchell

Rep. Christopher T. Muse

Rep. Deborah L. Simpson

Rep. David R. Madore

Rep. G. Paul Waterhouse

Rep. Stavros J. Mendros

Rep. Roger L. Sherman

Rep. Donna M. Loring

Staff:

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Maine State Legislature
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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 Judiciary

LD 1009

An Act to Amend the Child and Family Services and Child Protection Act

ONTP

<u>Sponsor(s)</u> RAND		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1009 proposed to clarify the definition of "foster parent" and amend the notification required to be given to foster parents, preadoptive parents and relatives in reviews or hearings on protection orders and termination of parental rights.

See also LD 1793 and HP 1385.

LD 1016

An Act to Amend the Laws Governing Public Easements and the Discontinuance of Town Ways

ONTP

<u>Sponsor(s)</u> MCKEE NUTTING J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1016 proposed to reverse the current law regarding retention of a public easement when a municipality discontinues a road. Current law provides that a public easement is retained unless the order of abandonment otherwise specifies. LD 1016 proposed that a municipality retains a public easement in a discontinued road only if the discontinuance order states that a public easement is retained.

LD 1018

An Act to Amend the Civil Court Procedure as it Pertains to Execution Liens

PUBLIC 117

<u>Sponsor(s)</u> SMITH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-112
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LD 1018 proposed to make a creditor liable to a debtor for damages caused when the creditor knowingly files or fails to discharge an execution filed on the debtor's property that is exempt from attachment and execution. The bill also proposed to entitle the debtor to reasonable attorney's fees and costs incurred in enforcing the discharge of the execution.

Committee Amendment "A" (H-112) proposed to provide that a creditor is liable for actual damages caused by the failure to discharge an execution against exempt property of the debtor only if the debtor has given written notice and proof to the creditor that the property is exempt and the creditor fails to discharge the execution within 15 days after receiving the notice and proof. The amendment proposed to delete language making the creditor liable for knowingly filing an execution against exempt property. The amendment also proposed to clarify when a debtor is entitled to recovery of attorney's fees and costs.

Joint Standing Committee on Judiciary

Enacted law summary

Public Law 2001, chapter 117 provides that a creditor is liable to a debtor for actual damages caused by the debtor's failure to discharge an execution against exempt property of the debtor. Liability applies only if the debtor has given written notice and proof to the creditor that the property is exempt and the creditor failed to discharge the execution within 15 days after receiving the notice and proof. A debtor who prevails in an action to recover such damages is entitled to recovery of attorney's fees and costs.

**LD 1023 An Act to Enhance the Quality and Accessibility of HIV Services CARRIED OVER
and Prevention Services**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
QUINT RAND	OTP-AM	

LD 1023 proposed to require the Department of Human Services to offer public information about, and prevention and treatment services for, HIV and AIDS and to make the information and services available statewide. LD 1023 also proposed to appropriate \$368,500 in each of the fiscal years 2001-02 and 2002-03 to fund the increase in services and information.

This bill has been carried over to the Second Regular Session by the Joint Standing Committee on Appropriations and Financial Affairs.

**LD 1025 An Act to Allow a Person to Take the Bar Examination without ONTP
Attending Law School**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MICHAEL	ONTP MAJ OTP-AM MIN	

LD 1025 proposed to allow a person to take the bar examination without first attending law school.

Committee Amendment "A" (H-113) is the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill to retain the current law school attendance requirements for taking the bar examination and add one more option. The new option would be to allow a person to take the bar exam without attending or graduating from law school if the person has studied law in the office of an attorney in the State for at least 3 years. (Not adopted)