

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2003

Members:

Sen. Peggy A. Pendleton, Chair

Sen. Mary R. Cathcart

Sen. Chandler E. Woodcock

Rep. William S. Norbert, Chair

Rep. Thomas D. Bull

Rep. Deborah L. Simpson

Rep. Stan Gerzofsky

Rep. Philip R. Bennett, Jr.

Rep. Janet T. Mills

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Brian M. Duprey

Rep. Joan Bryant-Deschenes

Rep. Donna M. Loring

Staff:

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint 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 arranged alphabetically by committee name 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:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Judiciary

LD 74 **An Act to Provide a Method of Compensation for Personal Injuries Caused by Sidestream Tobacco Smoke** **ONTP**

<u>Sponsor(s)</u> CLOUGH	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 74 proposed to create the Sidestream Smoke Compensation Board for the purpose of assessing claims of persons injured by sidestream smoke. If the board determined that a person was damaged by sidestream smoke, the board would make a monetary award to the person to compensate for damages. Funds for this compensation would come from money awarded to the State in lawsuits against tobacco companies.

LD 76 **An Act To Ease Congestion in the Courts** **ONTP**

<u>Sponsor(s)</u> DAVIS G	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 76 proposed to ease congestion in the courts by eliminating the requirement that executions be issued by the clerks to initiate disclosure proceedings and to perfect liens. Under this bill, attested copies of final judgments of any court in the State, whether state or federal, would be used for these purposes, with the liens subject to the debtor's statutory exemptions. In addition, this bill proposed to repeal the limitation that executions issue within one year of final judgment.

LD 80 **An Act to Change the Child Protective Laws** **ONTP**

<u>Sponsor(s)</u> COURTNEY NASS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 80 proposed to allow state, county and municipal law enforcement authorities to investigate allegations of abuse or neglect of a child in the custody of the Department of Human Services without first notifying the department or obtaining consent from the department.

LD 93 **An Act Regarding the Duties of a Personal Representative** **PUBLIC 378**

<u>Sponsor(s)</u> FLETCHER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-469
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LD 93 proposed to provide that, if a personal representative fails to include property in an inventory of a decedent's property, the Probate Court, in determining the value of that property, may rely on the opinion of qualified appraisers or owners of similar property. The bill proposed to specify that doubt created by the absence of the property must be resolved in favor of persons providing the estimate of highest reasonable value. The bill

Joint Standing Committee on Judiciary

also proposed to place the burden on the personal representative to show that the property should not have been included in the inventory.

Committee Amendment "A" (H-469) proposed to replace the bill. It proposed to provide that, if the personal representative does not file or furnish the required inventory of a decedent's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden would be on the personal representative to show that the property would properly be excluded from the inventory.

Enacted Law Summary

Public Law 2003, chapter 378 provides that if the personal representative does not file or furnish the required inventory of a decedent's estate and an interested person makes a prima facie case that property that should have been inventoried is now missing, the burden is on the personal representative to show that the property was properly excluded from the inventory.

LD 118 **An Act To Clarify the Powers of Guardians** **ONTP**

<u>Sponsor(s)</u> DOUGLASS SIMPSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 118 proposed to amend the law, under which an adult ward may be admitted on an informal voluntary basis for care and treatment of a mental illness, by deleting the words "and the ward makes no objection to the admission." It was proposed to bring the law into conformity with the law outlining general powers and duties of guardians under the Probate Code.

LD 144 **An Act To Limit Pretrial Discovery in Libel Actions** **ONTP**

<u>Sponsor(s)</u> SAVAGE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 144 proposed to limit pretrial discovery in libel actions under the marine resources laws to the same extent as civil discovery is limited in forfeiture actions brought under the drug forfeiture statutes.

LD 166 **An Act to Amend the Maine Probate Code Regarding the Fee for a Copy of a Will Provided to a Beneficiary** **PUBLIC 14**

<u>Sponsor(s)</u> SIMPSON DOUGLASS		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 166 proposed to provide that a beneficiary in a will must, upon application to the register of probate, be furnished with a copy of the probated will upon payment of a fee of \$1 per page.