

# 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.*

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*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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*13 State House Station*

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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](http://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 2<sup>nd</sup> 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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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 519**

**An Act To Provide Expedited Access to Testing for an Individual Exposed to Body Fluids in the Course of Employment**

**PUBLIC 88**

<u>Sponsor(s)</u> MAIETTA		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-79
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LD 519 proposed to require testing for blood-borne pathogens when a public safety or health care employee is exposed to the blood or body fluids of another person in the course of employment. It proposed to establish the new procedures as an exception to the general rule requiring judicial consent for a blood-borne pathogen test. The bill proposed to direct the Department of Human Services to adopt rules for testing in the same manner as testing for operating a motor vehicle under the influence of alcohol or drugs. The bill proposed to designate the rules as routine technical rules.

**Committee Amendment "A" (H-79)** proposed to replace, and require the court to schedule an expedited hearing on the petition for judicial consent to test the source of body fluids associated with a bona fide occupational exposure.

*Enacted Law Summary*

Public Law 2003, chapter 88 requires the court to schedule an expedited hearing on the petition for judicial consent to test the source of body fluids associated with a bona fide occupational exposure.

**LD 523**

**Resolve, Requiring the Maine Human Rights Commission To Report on Complaints Involving Supervisors**

**RESOLVE 36**

<u>Sponsor(s)</u> SIMPSON CATHCART		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-285
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LD 523 proposed to amend the Maine Human Rights Act to provide that an individual acting as agent of, or in the interest of, an employer is liable in his or her individual capacity for actions that constitute unlawful employment discrimination.

**Committee Amendment "A" (H-285)** proposed to replace the bill and change the bill to a resolve. It proposed to require the Maine Human Rights Commission to submit a report to the Joint Standing Committee on Judiciary on the number of complaints it has received in which a supervisor commits employment discrimination but the employer avoids liability through the use of an affirmative defense, known as the "Farragher" defense.

*Enacted Law Summary*

Resolve 2003, chapter 36 requires the Maine Human Rights Commission to report to the Joint Standing Committee on Judiciary the number of complaints it has received in which a supervisor commits employment discrimination, but the employer avoids liability through the use of an affirmative defense. The information will assist the committee in understanding what impact, if any, the affirmative defense provided by the decision in

## Joint Standing Committee on Judiciary

Faragher v. City of Boca Raton, 524 U.S. 775 (1998), and used in federal employment discrimination cases, has had on cases in Maine.

### LD 537                      **An Act To Ensure Access to Expert Testimony**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS NORBERT	ONTP	

LD 537 proposed to amend the Maine Health Security Act to prohibit a person, health care entity or health care provider from impeding the expert testimony of another health care provider unless the testimony concerns a claim involving the person, health care entity or health care provider.

### LD 543                      **An Act To Promote Corporate Ethics**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENNETT R	ONTP	

LD 543 proposed to create the State Board of Corporate Ethics to make grants to promote better corporate ethics. The board would make grants from a fund created by fines and penalties collected by the State for violations of the Maine Unfair Trade Practices Act, the Revised Maine Securities Act or laws providing penalties for fraudulent conduct.

### LD 581                      **An Act Requiring Payment of Child Support by Incarcerated Individuals**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	ONTP	

LD 581 proposed to address the issue of child support after a person commits a crime against the child or the person to whom the child support is paid on behalf of the child.

### LD 586                      **An Act To Clarify and Improve the Fairness of the Law of Trustee Process**                      **PUBLIC 149**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP-AM	H-221

LD 586 proposed to make a series of changes to the laws governing trustee process to provide fair treatment of alleged trustees without interfering with the ability of judgment creditors to reach funds to satisfy judgments. To ensure that financial institutions are able to properly identify and promptly act upon trustee process, financial