

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

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

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institutions would be able to designate with the Secretary of State a specific office for service of process or to agree to accept service made otherwise.

The bill proposed to clarify that an alleged trustee has a reasonable opportunity to act upon the process served upon it, in the same way that a bank has a reasonable time to act upon a stop payment order.

In the event of a default, under LD 586 the trustee would be adjudged trustee for the amount of the principal defendant's property actually in its possession up to the amount of the judgment, not for a greater amount, thus eliminating potential windfalls. In the event that the trustee fails to make disclosure, other statutory remedies, such as assessment of costs and, in a proper case, contempt penalties, remain available. LD 586 proposed to provide that failure to claim or release trusteed funds, in the absence of further court process, would give rise to a presumption of abandonment under the Uniform Unclaimed Property Act and subsequent reporting and payment to the Treasurer of State.

Committee Amendment "A" (H-221) proposed to clarify the provision of the bill providing for a voluntary registry where financial institutions may designate a specific office for filing of trustee process. The amendment proposed to authorize the Secretary of State to adopt rules to govern the registry.

The amendment also proposed to add references to include credit unions to the portions of the bill that address financial institutions.

Enacted Law Summary

Public Law 2003, chapter 149 makes 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, including credit unions, are able to properly identify and promptly act upon trustee process, chapter 149 allows financial institutions to designate with the Secretary of State a specific office for service of process or to agree to accept service made otherwise.

LD 594 **An Act To Establish a Limit on Noneconomic Damages in Medical Malpractice Actions** **ONTP**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|--------------------|-------------------------|---------------------------|
| TURNER MARRACHE | ONTP | |

LD 594 proposed to set a limit of \$250,000 on non-economic damages in medical liability actions. Under this bill, a plaintiff would still be entitled to the full economic loss, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and any other verifiable monetary losses.