

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 840

An Act To Clarify the Duties of Conservators

PUBLIC 377

<u>Sponsor(s)</u> FLETCHER		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-418
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LD 840 proposed to amend the Probate Code governing conservators of the estates of minors or disabled persons in the following manner.

1. Current law requires the conservator to file with the court a complete inventory of the estate. This bill proposed to allow the court, in the event that an inventory is not filed or the inventory that is filed is incomplete, to rely on the opinion of an appraiser or owner of similar property, even if the person has not seen the missing property. The burden of proving that the property was not required to be inventoried would be placed on the conservator.
2. Current law allows a party to bring a proceeding for surcharge to determine liability of the conservator for malfeasance committed in the course of administration of the estate. This bill proposed to clarify what constitutes malfeasance or improper management of the estate and allow the court to award damages and costs.

Committee Amendment "A" (H-418) proposed to replace the bill. It proposed to provide that if a conservator fails to file the required inventory of the protected person'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 conservator to show that the property would properly be excluded from the inventory.

This amendment also proposed to require the conservator to file a supplementary inventory or appraisal if the conservator or court learns that property was omitted from the inventory or that the value or description of property included in the inventory is erroneous or misleading. A similar provision exists in the law governing personal representatives of decedents' estates.

Enacted Law Summary

Public Law 2003, chapter 377 amends the Probate Code governing conservators of the estates of minors or disabled persons in the following manner. It provides that if a conservator fails to file the required inventory of the protected person'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 conservator to show that the property was properly excluded from the inventory.

Chapter 377 also requires the conservator to file a supplementary inventory or appraisal if the conservator or court learns that property was omitted from the inventory or that the value or description of property included in the inventory is erroneous or misleading. A similar provision exists in the law governing personal representatives of decedents' estates.