

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2005

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

*Rep. Deborah L. Pelletier-Simpson,
Chair*

Rep. Sean Faircloth

Rep. Stan Gerzofsky

Rep. Marilyn E. Canavan

Rep. Mark E. Bryant

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Rep. Roderick W. Carr

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Rep. Joan M. Nass

Rep. Donna M. Loring

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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 June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Judiciary

LD 105

Resolve, Concerning Temporary Guardianship Laws

RESOLVE 91

Sponsor(s)
BISHOP

Committee Report
OTP-AM

Amendments Adopted
H-541

LD 105 proposed to amend the temporary guardianship proceedings in the Maine Revised Statutes, Title 18-A. The bill proposed to: require notice to the allegedly incapacitated person prior to appointment of a temporary guardian and provide the right to retained or appointed counsel; require an application for temporary guardianship to set forth the factual basis for any power requested for the guardian to consent to medication; allow the allegedly incapacitated person the power to control, to the extent possible, visitation with family and friends; require the temporary guardian and the guardian ad litem or visitor to be qualified to serve in that capacity; and shorten the time period for the report of the guardian ad litem or visitor to the court from 10 days from the date of appointment to 5 days from that date.

Committee Amendment "A" (H-541) proposed to replace the bill with a resolve directing the Department of Health and Human Services to convene a working group to review the laws and practices concerning temporary guardianships.

Enacted law summary

Resolve 2005, chapter 91 directs the Department of Health and Human Services to convene a working group to review the laws and practices concerning temporary guardianships. Representatives of the Disability Rights Center and the Probate Courts must be included. The working group must report to the Joint Standing Committee on Judiciary by January 15, 2006 and the committee may submit legislation in response to the report.

LD 157

An Act Concerning the Disclosure of Juror Information

PUBLIC 285

Sponsor(s)
MILLS P

Committee Report
OTP-AM

Amendments Adopted
S-244

LD 157 proposed to reverse the onus of disclosure of jurors' names from requiring disclosure unless the court determines that the names should be kept confidential. The bill proposed that jurors' names be kept confidential unless the court determines that the interests of justice require the jurors' names to be released.

Committee Amendment "A" (S-244) proposed to replace the bill. It proposed to clarify what information about jurors and prospective jurors may be disclosed and when that disclosure may take place.

Enacted law summary

Public Law 2005, chapter 285 clarifies what information about jurors and prospective jurors may be disclosed and when that disclosure may take place. Chapter 285 provides that the juror qualification forms are confidential and may not be disclosed, except that the prospective juror information is available for review for voir dire purposes at the courthouse, and then only available for the attorneys and the attorneys' agents and investigators, as well as the pro se parties. Records and information used in connection with the jury selection process are confidential and may not be disclosed except as otherwise provided. Chapter 285 provides that during the service of the jurors and prospective jurors, their names are confidential and may not be disclosed except to the attorneys and the attorneys'

Joint Standing Committee on Judiciary

agents and investigators, as well as the pro se parties. Disclosure of juror names is allowed once the juror service has expired, but only upon written request to the court. The court may disclose the names of the jurors only if it is in the interests of justice.

The bill as amended was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

LD 162 **An Act To Protect the Rights of Leaseholders and Ensure Their Continued Access to Land** **CARRIED OVER**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| CLARK DAVIS P | | |

LD 162 proposed to allow a lessee the right of first refusal to continue leasing a parcel of land when the land is transferred to a different owner and the new owner intends to continue leasing the land.

See also LD 1646.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 166 **An Act To Prohibit Firearms in a Courthouse** **PUBLIC 175 EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| CARR GAGNON | OTP-AM | H-217 |

LD 166 proposed to create a crime for an individual who is not a law enforcement officer acting in an official capacity to possess a firearm in a courthouse.

Committee Amendment "A" (H-217) proposed to expand who may possess a firearm in a courthouse to include a corrections officer when acting within the course and scope of the officer's employment. It also proposed to provide an exception for possession of a firearm when being offered as evidence.

Enacted law summary

Public Law 2005, chapter 175 makes it a crime for an individual to possess a firearm in a courthouse unless the individual is a law enforcement officer or a corrections officer when acting within the course and scope of the officer's employment. Chapter 175 allows a person to possess a firearm for the purpose of offering it as evidence in a court proceeding if the judge has approved the possession.

Public Law 2005, chapter 175 was enacted as an emergency measure effective May 20, 2005.