

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

Rep. Michael Edward Dunn

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Joan Bryant-Deschenes

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 415

**Resolve, To Create the Committee To Study State Compliance
with the Federal Indian Child Welfare Act of 1978**

**RESOLVE 118
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROTUNDO PELLETIER- SIMPSON	OTP-AM	H-710 DUPLESSIE S-138

LD 415 proposed to require the Department of Health and Human Services to comply with the federal Indian Child Welfare Act when dealing with a child who is a member of an Indian tribe recognized by the Federal Government or Maine.

Committee Amendment "A" (S-138) proposed to replace the bill with a resolve to create the Committee To Study State Compliance with the Federal Indian Child Welfare Act of 1978. The committee would consist of 12 members, including Legislators, representatives of the four tribes and bands recognized in this State, the Attorney General or the Attorney General's designee and the Commissioner of Health and Human Services or the commissioner's designee. The amendment proposed that the Chief Justice of the Supreme Judicial Court be asked to appoint a representative of the judicial branch to serve as a voting member of the committee. The amendment proposed that the committee study compliance by the State with the federal Indian Child Welfare Act of 1978 and report to the Joint Standing Committee on Judiciary by December 1, 2005. The Judiciary Committee would have authority to introduce legislation in the Second Regular Session of the 122nd Legislature.

House Amendment "A" to Committee Amendment "A" (H-710) proposed to: specify that a single public hearing may be held in Augusta; remove a provision of the resolve concerning compensation of public members; and bring the resolve into conformity with the Joint Rules and Standards for Legislative Studies adopted by the Legislative Council.

Enacted law summary

Resolve 2005, chapter 118 creates the Committee To Study State Compliance with the Federal Indian Child Welfare Act of 1978. The committee consists of 12 members, including Legislators, representatives of the four tribes and bands recognized in this State, the Attorney General or the Attorney General's designee and the Commissioner of Health and Human Services or the commissioner's designee. The Chief Justice of the Supreme Judicial Court is asked to appoint a representative of the judicial branch who will serve as a voting member of the committee. The committee will study compliance by the State with the federal Indian Child Welfare Act of 1978 and report to the Joint Standing Committee on Judiciary by December 1, 2005.

Resolve 2005, chapter 118 was finally passed as an emergency measure effective June 21, 2005.

LD 432

**An Act To Increase from 90 to 120 Days the Time Frame To File
Contractor Liens**

ONTP

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

Joint Standing Committee on Judiciary

LD 432 proposed to extend the period of time from 90 days to 120 days during which a person may file a mechanics lien and avoid the dissolution of the lien.

LD 466 **An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Attorney's Fees** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 466 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It proposed to apply to actions filed in court to enforce access to public proceedings and records under the Maine freedom of access laws. It proposed to give the court discretion to award attorney's fees and litigation expenses to either party when certain circumstances exist.

LD 467 **An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Personal Contact Information** **PUBLIC 381**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 467 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It proposed to provide an exception to the definition of "public record" in Maine's freedom of access laws for the personal contact information of public employees.

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.

Enacted law summary

Public Law 2005, chapter 381 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It provides an exception to the definition of "public record" in Maine's freedom of access laws for the personal contact information of public employees.

LD 469 **An Act To Simplify the Real Estate Foreclosure Process** **PUBLIC 291**

<u>Sponsor(s)</u> CRESSEY DAMON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-466
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LD 469 proposed to require a lender who sells a property at auction after foreclosure to deliver the writ of possession to the buyer along with the deed to the property.