

# 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

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

**LD 1053**

**An Act To Protect Maine Harness Racing from Illegal Wagering**

**PUBLIC 304**

Sponsor(s)  
MARTIN

Committee Report  
OTP-AM

Amendments Adopted  
S-246

LD 1053 proposed to make it illegal to accept or solicit a bet concerning harness racing in the State by any means without a license from the State Harness Racing Commission. It proposed to allow a private right of action to any licensed commercial racetrack in the State against anyone conducting illegal wagering on harness racing in the State, with damages set at 20% of the monetary amount of the illegal wagering proved plus reasonable costs of collection and attorney's fees.

**Committee Amendment "A" (S-246)** proposed to replace the bill and build on the current law under which accepting harness racing wagers from anyone located in Maine is illegal unless the person accepting the wager is licensed by the Maine Harness Racing Commission. It proposed to create a private right of action to enforce the law with any damages, after the reasonable costs of suit, to be divided among the State's funds to provide for Maine's extended meets, harness racing purses, Maine's commercial tracks and Maine's off-track betting facilities. The damages are proposed to make up for the lost revenues experienced in Maine's harness racing industry because of electronic wagering that is not subject to the taxes placed on wagers legally placed in Maine. The amendment proposed to authorize damages for violations after written notice of the provisions of law.

### *Enacted law summary*

Public Law 2005, chapter 304 creates a private right of action to enforce the unauthorized wagering law. Any damages, after the reasonable costs of suit, are to be divided among the State's funds to provide for Maine's extended meets, harness racing purses, Maine's commercial tracks and Maine's off-track betting facilities. The damages are intended to make up for the lost revenues experienced in Maine's harness racing industry because of electronic wagering that is not subject to the taxes placed on wagers legally placed in Maine. Punitive damages are authorized for violations after written notice of the provisions of this section.

**LD 1063**

**An Act To Improve the Guardian ad Litem System**

**PUBLIC 360**

Sponsor(s)  
BRENNAN  
TARDY

Committee Report  
OTP-AM

Amendments Adopted  
S-298

LD 1063 proposed to amend the laws concerning guardians ad litem. It proposed to add a section to the Probate Code to provide for appointment, qualifications, access to information, application of the best interest of the child standard, requirement of a report, immunity, requirement of notice and waiver of fees for guardians ad litem serving the Probate Court. This bill also proposed to authorize appointment of a guardian ad litem in an action in which a grandparent is seeking contact with a child. This bill proposed to provide that guardians ad litem are not required to pay certain court filing fees and fees for driving records and criminal record checks concerning persons involved in the action.

## Joint Standing Committee on Judiciary

**Committee Amendment "A" (S-298)** proposed to delete from the bill the language that provides that guardians ad litem do not have to pay certain court filing fees and fees for driving records and criminal record checks.

### *Enacted law summary*

Public Law 2005, chapter 360 amends the laws concerning guardians ad litem. It adds a section to the Probate Code to provide for appointment, qualifications, access to information, application of the best interest of the child standard, requirement of a report, immunity and requirement of notice. It also authorizes appointment of a guardian ad litem in an action in which a grandparent is seeking contact with a child.

**LD 1067**                      **Resolve, To Establish the Task Force To Study and Design a Child Protection Mediation System**                      **INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL PELLETIER- SIMPSON	OTP-AM	S-337

LD 1067 proposed to create the Task Force to Study and Design a Child Protection Mediation System. The Resolve proposed to require the Task Force to submit a report to the Second Regular Session of the 122<sup>nd</sup> Legislature by December 1, 2005.

**Committee Amendment "A" (S-337)** proposed to revise the language concerning the advisory member from the Judicial Branch by requiring that member to be from the District Court, which handles child protection cases, rather than the Supreme Judicial Court. This amendment proposed to amend the resolve to include the issue of sufficient court clerk support for matters involving children. This amendment also proposed to specify the deadline for convening the task force and clarify the provision regarding staff assistance. (Not adopted)

**LD 1073**                      **Resolve, Directing the Family Law Advisory Commission To Study the Child Protection Process**                      **ONTP**

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

LD 1073 proposed to direct the Family Law Advisory Commission to study the child protection hearing process to determine how to streamline the process.