

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
ONT P	Ought Not To Pass report accepted
OT P ND	Committee report Ought To Pass In New Draft
OT P 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

Public Law 2005, chapter 366 provides that when a court finds that a person has been convicted of certain sexual offenses in which the victim was a minor, there is a rebuttable presumption that that person would create a situation of jeopardy for a child if any contact were to be permitted and that any contact is not in the best interest of the child. The presumption of jeopardy applies when the person seeking adoption, contact, primary residence, custody or visitation has any of a number of specific convictions for sexual abuse of a minor. The crimes are the same offenses for which special provisions apply when courts are ordering custody, contact or primary residence under the adoption laws, parental rights and responsibilities laws, grandparent visitation laws and the child protective laws. The crimes are limited to crimes committed when the person was at least five years older than the victim at the time of the abuse, except that a conviction for gross sexual assault of a child under 14 years of age or under 12 years of age results in the presumption if the child submitted because of compulsion, regardless of the age difference. The person seeking the contact, custody or primary residence may produce evidence to rebut the presumption. Chapter 366 contains a parallel provision in the child protection laws relating to the hearing and disposition of jeopardy petitions. It provides a rebuttable presumption that there is jeopardy with regard to a parent or other person responsible for the child who allows, encourages or fails to prevent contact between the child and a person who has been convicted of one of the listed offenses. The same presumption arises when the person has been adjudicated in a child protection action under Title 22, chapter 1071 of having sexually abused a minor. The parent or other person responsible for the child may produce evidence to rebut the presumption.

LD 1245

Resolve, To Increase Safety for Domestic Abuse Victims

ONTP

Sponsor(s)
BARSTOW
HOBBINS

Committee Report
ONTP

Amendments Adopted

LD 1245 proposed to direct the Office of the Attorney General and the Department of Public Safety to study ways to increase safety for domestic abuse victims and to submit a report to the Second Regular Session of the 122nd Legislature by December 7, 2005.

LD 1248

An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint

PUBLIC 326

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-498

LD 1248 proposed to make statutory changes to the Maine Criminal Code in light of recent amendments to the Maine Rules of Criminal Procedure that eliminate the need for a bind-over hearing by starting a case that involves murder or at least one Class A, Class B or Class C crime, accompanied or unaccompanied by related Class D or Class E crimes, in the Superior Court rather than the District Court.

Committee Amendment "A" (H-498) proposed to remove the District Court's jurisdiction to bind over for the Grand Jury certain crimes. This amendment proposed to add an effective date to make the bill take effect January 1, 2006, which is the effective date of the amendments to the Maine Rules of Criminal Procedure related to this bill that were recently adopted by the Supreme Judicial Court. The rules will not eliminate the bind-over

Joint Standing Committee on Judiciary

jurisdiction of the District Court until July 1, 2006 to allow the existing cases to be handled by the existing system.

Enacted law summary

Public Law 2005, chapter 326 makes statutory changes to the Maine Criminal Code in light of recent amendments to the Maine Rules of Criminal Procedure that eliminate the need for a bind-over hearing by starting a case that involves murder or at least one Class A, Class B or Class C crime, accompanied or unaccompanied by related Class D or Class E crimes, in the Superior Court rather than the District Court. Such a case is commenced by filing a criminal complaint directly in the Superior Court, unless an indictment has already been returned or an information filed, except as to a murder charge. The Superior Court will be responsible for conducting probable cause determinations to comply with County of Riverside v. McLaughlin, 500 U.S. 44 (1991) in these cases as well. Chapter 326 removes the District Court's jurisdiction to bind over for the Grand Jury certain crimes. It includes an effective date to make the bill take effect January 1, 2006, which is the effective date of the amendments to the Maine Rules of Criminal Procedure related to this bill that were recently adopted by the Supreme Judicial Court. The rules will not eliminate the bind-over jurisdiction of the District Court until July 1, 2006 to allow the existing cases to be handled by the existing system.

LD 1274 **An Act To Allow Indian Tribes To Operate Slot Machines** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SOCKALEXIS BRYANT B	ONTP	

LD 1274 proposed to allow a federally recognized Indian tribe that holds a high-stakes beano license to operate up to 1,500 slot machines in the same facility in which the high-stakes beano is held. This bill was referred to and voted upon by the Joint Standing Committee on Legal and Veterans' Affairs.

LD 1275 **An Act To Protect Certain Private Information Submitted to Municipalities** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BIERMAN SCHNEIDER	ONTP MAJ OTP-AM MIN	

LD 1275 proposed to exempt electronic mail, or e-mail, addresses of individuals obtained by municipalities from public records that are subject to the freedom of access laws unless the municipality obtains the express permission of the individual to release the e-mail address.

Committee Amendment "A" (H-651), the minority report of the Joint Standing Committee on Judiciary, proposed to revise the language of the bill to provide that an electronic mail address of an individual collected by a municipality is not a public record if the individual requests that it not be disclosed separately or as part of a database or other aggregation of data.