

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

Staff:

Margaret J. Reinsch, Senior Analyst

Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207) 287-1670



Maine State Legislature

OFFICE OF POLICY & LEGAL ANALYSIS

13 State House Station, Room 215 Cross State Office Building
Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

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 1582

An Act To Protect Maine Citizens from Medical Negligence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER- SIMPSON	ONTP	

LD 1582 proposed to protect patients in four ways:

1. Require that a sentinel event report about a particular patient be given to that patient or the patient's representative within five days of the report's being submitted to the Department of Health and Human Services;
2. Authorize punitive damages in certain medical malpractice situations;
3. Require the Board of Licensure in Medicine to revoke the license of a physician when the physician has at least three adverse judgments for professional negligence; and
4. Revise the statute of limitations in medical malpractice actions to institute a discovery rule, which delays the running of the statute of limitations until the medical malpractice is discovered or reasonably should have been discovered.

LD 1589

An Act To Improve Child Support Services

PUBLIC 352

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER- SIMPSON NASS R	OTP-AM	H-613

LD 1589 proposed several changes to the laws governing child support concerning: juveniles committed pursuant to the Maine Juvenile Code; department employees representing the department in paternity and child support proceedings; responsibility for child support when a caretaker relative provides primary care; child support orders that apply to multiple children; assistance of either party in the modification of a child support order; providing notice to licensing and credentialing boards; administrative establishment of a child support debt for a time period not addressed by an existing court order; permissible evidence at an administrative appeal; requirement that financial institutions honor an order to withhold and deliver.

Committee Amendment "A" (H-613) proposed to delete the provision addressing administrative establishment of a child support debt for a time period not specifically addressed by an existing court order. It proposed to correct references to definitions of financial institutions and credit unions authorized to do business in this State. It proposed to provide that the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney and to be notified of these rights in writing do not apply in the appeal of an administrative order establishing a parental support obligation. It proposed to direct the Department of Health and Human Services, working in cooperation with the Family Law Advisory Commission, to study the need for legislation to address automatic modification of child support orders that cover multiple children when one of the

Joint Standing Committee on Judiciary

children is no longer eligible for child support because of age, emancipation or death. See the decision of the Maine Supreme Judicial Court in Bartlett v. Anderson, 2005 ME 10, 866 A.2d 829.

Enacted law summary

Public Law 2005, chapter 352 makes the following changes to the laws governing child support.

1. It requires the court to order either or both parents of a juvenile to pay child support in accordance with the child support guidelines when the court commits a juvenile to the Department of Health and Human Services, to the Department of Corrections juvenile correctional facility or to a relative or other person pursuant to the Maine Juvenile Code.
2. It allows the Commissioner of Health and Human Services to designate employees of the department who are not attorneys to represent the department in proceedings involving the expedited process for the commencement of paternity actions filed by a party other than the department and in proceedings to hear a motion to modify child support.
3. It provides that both parents are responsible for child support if a caretaker relative provides primary residential care for a child.
4. It provides that with regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified, such an order must be automatically modified to address any of the following events: any child reaches 18 years of age and has graduated from secondary school; any child reaches 19 years of age without having graduated from secondary school; any child obtains an order of emancipation; or any child dies. This change is made in response to the decision of the Maine Supreme Judicial Court in Bartlett v. Anderson, 2005 ME 10, 866 A.2d 829.
5. It allows the department to assist either party in the modification of a child support order.
6. It allows the department to serve notice of the department's intention to submit an obligor's name to the appropriate board as a licensee who is not in compliance with an order of support in the same manner as a notice is served in connection with the revocation of a motor vehicle license under the Maine Revised Statutes, Title 19-A, section 2202, subsection 2.
7. It clarifies the permissible evidence at the administrative appeal of a decision establishing or modifying a child support order.
8. It requires that an order to withhold and deliver issued by an out-of-state child support agency or court be honored by a financial institution.
9. It directs the Department of Health and Human Services, working in cooperation with the Family Law Advisory Commission, to study the need for legislation to address automatic modification of child support orders that cover multiple children when one of the children is no longer eligible for child support because of age, emancipation or death. The department shall report to the Joint Standing Committee on Judiciary no later than January 1, 2006. The committee may report out legislation after receipt and review of the report.