

MAINE STATE LEGISLATURE

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HELEN T. GINDER, DIRECTOR
HAVEN WHITESIDE, ASST. DIRECTOR
DAVID ELLIOTT
MARTHA FREEMAN
CHRISTOS GIANOPOULOS
WILLIAM T. GLIDDEN, JR.

STATE OF MAINE
OFFICE OF LEGISLATIVE ASSISTANTS
ROOM 101
STATE HOUSE, STATION 13
AUGUSTA, MAINE 04333
TEL.: (207) 289-2486

CHRISTINE HOLDEN
SARAH HOOKE
JULIE JONES
EDWARD POTTER
LARS RYDELL
WILLIAM SAUFLEY
JOHN SELSER

ONE HUNDRED AND ELEVENTH LEGISLATURE
SECOND REGULAR SESSION

JOINT STANDING COMMITTEE
BILL SUMMARIES
JUNE 1984

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature, covering the Second Regular Session of the 111th Legislature. The summaries are arranged alphabetically, and indexed separately by committee.

<u>LD</u>	<u>TITLE</u>	<u>SPONSOR</u>	<u>DISPOSITION</u>
2462	AN ACT TO MAKE CORRECTIONS OF ERRORS AND INCONSISTENCIES IN THE LAWS OF MAINE		PL. 1983, c. 816

SUMMARY: This is a new draft of the errors bill. Two amendments were adopted from the floor. These House amendments;

1. added the Assistant to the Commissioner to the Revised Statutes, Title 34-B, section 1204, a section which states which officials shall serve at the pleasure of the Commissioner of the Department of Mental Health and Corrections; and
2. included credit unions in the list of financial institutions which can be utilized in a prepaid funeral arrangement.

2466	AN ACT TO REVISE CHILD CUSTODY TERMINOLOGY, ENACT 'BEST INTEREST OF THE CHILD' CRITERIA AND PROVIDE FOR MANDATORY MEDIATION IN CASES OF SEPARATION, ANNULMENT OR DIVORCE WHERE		PL. 1983, c. 813
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SUMMARY: This new draft of LD 2230 retains many provisions of the original bill and makes major revisions to other portions of LD 2230. LD 2230 proposed two general changes in Maine domestic relations law. The bill sought to remove actions for divorce, annulment, and separation from the traditional court process and place them in an institutional setting more appropriate to reducing the adversariness and animosity of divorce. The bill proposed the establishment of an Office of Domestic Relations connected to the courts. Conciliators, appointed as judges are but having some special training or experience in child or family psychology, would have assisted the parties to a divorce, annulment, or separation in reaching agreements on financial, property, and child-care issues facing them. If the parties could not achieve an agreement on any issue, the conciliator would have been able to decide the issue. The conciliator's decision could have been appealed to court for error of law or abuse of discretion.

A second primary goal of LD 2230 was to change the terminology of child custody decisions to reduce the polarization and hostility engendered by the current terminology and to more fully and functionally describe the various aspects of parental rights and responsibilities.

The new draft of LD 2230, LD 2466, implements the goals of LD 2230 by changing current Maine domestic relations statutes in the following ways:

- Adding legislative findings and purposes which encourage mediated resolutions of disputes between divorcing or separating parents;
- Replacing current terminology of "sole custody", "joint custody", and "visitation rights" with the terminology of "allocated parental rights and responsibilities", "shared parental rights and responsibilities", and "sole parental rights and responsibilities";
- Placing the "best interest of the child" standard for making child-care awards in divorce or separation actions, and related factors, into Maine statutes;

<u>LD</u>	<u>TITLE</u>	<u>SPONSOR</u>	<u>DISPOSITION</u>
			<ul style="list-style-type: none"> - Requiring that, prior to a contested divorce or separation hearing where the parties have minor children, the court shall refer the parties to mediation; - Granting the courts discretion to order mediation in any divorce or separation case; - Requiring every final court order in a divorce or separation action involving children to contain a provision for child support and a provision for both parents' access to their child's medical and school records, or a statement as to why child support or access to records is not ordered; - Prohibiting a court in a divorce or separation action involving children from applying a preference for one parent over the other in determining parental rights and responsibilities because of the parent's sex or the child's age or sex.

2476	AN ACT TO AMEND THE LAW CONCERNING SUSPENSIONS OF DRIVERS' LICENSES ON ADMINISTRATIVE DETERMINATION OF BLOOD-ALCOHOL CONTENT	Hayden	PL. 1983, c. 850 (EMERGENCY)
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SUMMARY: This new draft of LD 2431 repeals and replaces sections 1311-A and 2241-G(2)(B)-(F) of Title 29. Section 1311-A deals with the suspension of drivers' licenses by the Secretary of State upon an administrative determination of driving with an excessive blood alcohol level (i.e. a blood-alcohol test showing at least a .10% level). Section 2241-G is the Teen Drinking Law which allows the Secretary of State to suspend the drivers' license of a teenager tested to have been driving with a .02% blood-alcohol level. The revision of these laws is, in part, in response to a court decision finding that the administrative hearing process involved under the sections as originally enacted violates due process in permitting the driver to challenge only the law enforcement officer's finding of probable cause to believe that the nonteenager was driving with a .10% blood-alcohol level or that the teenager was driving with a .02% blood-alcohol level. Due process requires that the driver be able to contest all the elements of the offense.

This new draft, then, requires the scope of a hearing requested under section 1311-A to include: whether there was probable cause to believe the person was driving with at least a .10% blood-alcohol level; whether the person operated or attempted to operate a motor vehicle; and whether the person did have at least a .10% blood-alcohol level at the time.

The scope of a hearing requested under section 2241-G includes: whether there was probable cause to believe the person was not 20 years of age and was driving with at least a .02% blood-alcohol level; whether the person operated or attempted to operate the motor vehicle; whether the person did have at least a .02% blood-alcohol level at the time; and whether the person was not in fact 20 years old. The burden of proof at these hearings is by a preponderance of the evidence.

Other changes made in current law by the bill include:

- Provisions for work-restricted licenses for teenagers suspended under section 2241-G similar to those provided under section 1311-A for adults;