

MAINE STATE LEGISLATURE

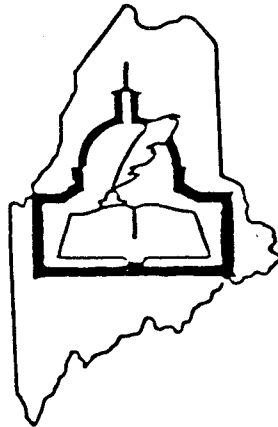
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STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE ON
JUDICIARY
BILL SUMMARY



JULY, 1985

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ONE HUNDRED AND TWELFTH LEGISLATURE
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE
BILL SUMMARIES
JULY 1985

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature, covering the First Regular Session of the 112th Legislature. The summaries are arranged by LD number and indexed separately by committee.

SUMMARY:

Amends the procedure for judicial certification of the residence of a client of a mental health or retardation facility in that facility. Before certifying residence, the court must find, among other things, that there is no less restrictive care possible or currently available. If the court finds that less restrictive care is not currently available, the certification may remain in effect only until a less restrictive care alternative becomes available, or for up to 6 months. After 6 months passes, the court may not recertify residence in the facility unless the petition for recertification contains a written report from the Commissioner of Mental Health and Mental Retardation detailing actions taken to find or develop an alternative setting for the client.

LD: 1364 AN ACT ESTABLISHING A COMMISSION TO STUDY CHALMERS
EMERGENCY FAMILY MATTERS IN COURT AND THE ESTABLISHMENT CARPENTER
OF A FAMILY DIVISION OF COURT KANE
FOSTER

OTP-AM HOUSE Emerg. Enacted P AND S
SENATE Emerg. Enacted CH # 65
GOV EMER SIGNED
S-291 CA H S
S-310 SA/CA CHALMERS

SUMMARY:

Establishes a Commission, consisting of legislators, attorneys, court personnel, judicial advisors, and others, to study the handling of family matters in Maine courts. To report to the Legislature by March 1986.

LD: 1386 AN ACT TO PROTECT ABUSED CHILDREN STEVENS P
CARPENTER
MELENDY
KIMBALL

OTP-AM HOUSE Enacted PUBLIC
SENATE Enacted CH # 495
GOV SIGNED
H-426 CA H S

SUMMARY:

Makes the following changes in Maine law concerning child abuse to help prevent abuse and to help victims of abuse:

1. Expands the use of out-of-court children's testimony in criminal trials concerning sexual abuse by lowering the standard which the judge uses to determine whether a child would be harmed by testifying in open court.

2. Deletes from the crime of sexual exploitation the requirement that sexually explicit photography be "for commercial purposes" only.
3. Increase the penalty for assault by an adult against a child under age 6 to a Class C crime.
4. Amends and clarifies the definitions in the Criminal Code of "sexual act" and "sexual conduct," including the recognition that sex act crimes may be for the purpose of causing bodily injury or offensive physical contact.
5. Expands the categories of persons who may be charged with the crime of gross sexual misconduct by including those people responsible for care, treatment, or education of children.
6. Adds children to the household members who may petition for protection from abuse and therefore subsequent removal of the alleged offender from the home.
7. Requires that all child protection proceedings be recorded.
8. Requires disclosure of Child Protective records to the court when the court requests a divorce custody or adoption study.
9. Closes the "treatment loophole" (which removed the child abuse reporting requirement for mental health professionals in certain circumstances), but provides for consultation and a multi-disciplinary team meeting when requested by the mental health professional who reports child abuse by a client.
10. Requires mandatory reporting to the District Attorney if it is suspected that a child has been abused by a person not responsible for the child.
11. Abrogates privileged psychotherapist-patient communication to permit cooperation in child protection proceedings, but provides that in criminal proceedings those otherwise confidential statements made to mental health professionals cannot be used unless the client perjures himself.
12. Requires disclosure of appropriate mental health records as part of a child abuse investigation.
13. Gives District Attorneys primary responsibility for directing all child abuse criminal investigations.