

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE ON  
JUDICIARY  
BILL SUMMARY



JUNE 1987

PREPARED BY:

Martha Freeman and Gilbert Brewer

OFFICE OF POLICY AND LEGAL ANALYSIS  
STATE HOUSE, STATION 13 AUGUSTA, MAINE 04333  
(207) 289-1670

HELEN T. GINDER, DIRECTOR  
HAVEN WHITESIDE, DEP. DIRECTOR  
GILBERT W. BREWER  
DAVID C. ELLIOTT  
GRO FLATEBO  
MARTHA E. FREEMAN, SR. ATTY.  
JERI B. GAUTSCHI  
CHRISTOS GIANOPOULOS  
WILLIAM T. GLIDDEN, JR.



STATE OF MAINE  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

ROOM 101/107  
STATE HOUSE STATION 13  
AUGUSTA, MAINE 04333  
TEL.: (207) 289-1670

JULIE S. JONES  
JOHN B. KNOX  
EDWARD POTTER  
MARGARET J. REINSCH  
LARS H. RYDELL  
JOHN R. SELSER  
CAROLYN J. CHICK, PARALEGAL  
ROBERT W. DUNN, RES. ASST.  
HARTLEY PALLESCHI, JR., RES. ASST.  
KATHRYN VAN NOTE, RES. ASST.

ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE  
BILL SUMMARIES  
JUNE 1987

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The summaries are arranged by LD number under each committee.

All Adopted Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor if it is a floor amendment or the designation "COMMITTEE" if it is a committee amendment.

Final action for each bill is listed to the right of the title. If final House action and Senate action differ, both are listed.

Please let us know if you would prefer a different format or additional information and if the summaries are helpful.

Key to Committee Reports and Floor Action:

OTP	Ought to Pass
OTP-ND	Ought to Pass in New Draft
OTP-ND-NT	Ought to Pass in New Draft, New Title
OTP-A	Ought to Pass as Amended
ONTP	Ought Not to Pass
LVWD	Leave to Withdraw
INDEF PP	Indefinitely Postponed

assume the defense of an employee and to indemnify the employee against any claim arising out of his employment and for which the governmental entity itself is not liable. Under existing law, those acts are discretionary on the part of the government employer. The bill also contained an exception providing that the government need not indemnify the employee if the court finds that the employee acted outside the scope of his employment.

House Amendment "A" (H-158) rewrote portions of the bill and added several provisions. It removed the requirement that the government indemnify an employee for liability within the scope of employment, leaving that action entirely within the discretion of the government, while at the same time providing immunity to government employees for intentional acts or omissions within the scope of their employment except where that action was taken in bad faith on the part of the employee. It also permitted the government to withdraw from representation of an employee if that representation would create a conflict of interest, except that the government must pay the employee's attorney's fees and court costs except when the employee is determined to be criminally liable for the acts in question. Finally, the amendment provided blanket exceptions for cases in which the employee settles the claim independently or fails to provide proper notice to the governmental entity.

LD 942 AN ACT PERTAINING TO ADOPTIVE HOME STUDIES LVWD

Sponsor: MCPHERSON  
Committee Report: LVWD

SUMMARY: This bill sought to require all prospective adoptive parents to have an adoptive home study completed by the Department of Human Services before any child could be placed with them for adoption. The written home study would have been prepared prior to the prospective adoptive parents petitioning the Probate Court to adopt a child.

LD 945 AN ACT TO REQUIRE AGE LIMITATIONS USED IN APPRENTICESHIP PROGRAMS TO BE REASONABLY RELATED TO LEGITIMATE JOB CRITERIA PL 1987 c. 55

Sponsor: CLARK, N., Sewall, Joseph, Hickey  
Committee Report: New draft of LD 123

SUMMARY: The original bill, LD 123, proposed to repeal an exception to the Maine Human Rights Act that permitted apprenticeship programs to use age as a qualification for entry into the program.

The New Draft, LD 945, instead of simply repealing the exception, proposed to require apprenticeship programs to obtain prior approval from the Human Rights Commission of any maximum age limitation employed in a program. The apprenticeship program must show that the age limitation bears a reasonable relationship to the employer's expectation of a reasonable return upon his investment in training the apprentice. Apprenticeship programs governed by an existing collective bargaining agreement were permitted to continue using their present age restrictions until that agreement expires.

LD            AN ACT AUTHORIZING RESTITUTION IN CIVIL            PL 1987  
951          PENALTY ACTIONS    c. 307

Sponsor: BRANNIGAN, Cote, Gurney  
Committee Report: OTP

SUMMARY: LD 951 proposed to allow the Attorney General to seek a court order of restitution to any person injured by a business's violation of an injunction issued under the Unfair Trade Practices Act.

LD            AN ACT TO CONSOLIDATE FAMILY CASES IN A FAMILY            LVWD  
976          COURT WITHIN THE DISTRICT COURT AND TO  
                 ESTABLISH FULL-TIME APPOINTED PROBATE JUDGES

Sponsor: ANTHONY, Brannigan, Paradis, P., Stanley  
Committee Report: LVWD

SUMMARY: The bill sought to consolidate jurisdiction over family cases (excluding adoptions and guardianships) within the District Court, removing any concurrent or exclusive jurisdiction over family cases from the Superior and Probate Courts. When handling family cases, the District Court would have been known as the Family Court. Assignment of District Court judges to family cases would have required consideration of those best suited to handle family cases. The District Court would have developed a family case data system to keep track of family cases involving different members of one family. All state court facilities would have been available to the District Court for the hearing of family cases. The Family Court would have assessed the appropriateness of cases under its jurisdiction for mediation. Judges and others involved with family cases would have received annual continuing education in family matters. An advisory committee, composed of family professionals and providers, would have advised the District Court on its functioning as the Family Court.