

MAINE STATE LEGISLATURE

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**STATE OF MAINE
114TH LEGISLATURE
FIRST REGULAR SESSION**



**BILL SUMMARY
JOINT STANDING COMMITTEE
ON
JUDICIARY
JULY 1989**

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Sen. N. Paul Gauvreau
Sen. Muriel D. Holloway

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*** Denotes Chair**

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ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE
BILL SUMMARIES
AUGUST 1989

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 for each committee.

All Adopted Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action is listed to the right of the title. If final House and Senate action differ, both are listed. Committee Reports and Floor Action are abbreviated as follows:

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

Each individual summary was prepared by the analyst assigned, as noted for each committee. But, this document was produced by the efforts of all the office staff, including Research Assistant Barbara McGinn, and secretaries: Charlene Brann, and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

Please give us your suggestions and comments on these summaries and tell us of any inaccuracies.

LD 544 An Act to Extend the Statute of Limitations for Medical Malpractice Cases

CARRY OVER

SPONSOR(S)
PARADIS E

COMMITTEE REPORT

AMENDMENTS ADOPTED

SUMMARY

The bill would extend the 3-year statute of limitations in medical malpractice cases to 5 years.

Carried over with the other medical malpractice bills.

LD 551 An Act to Allow Recovery for Wrongful Death of Unborn Viable Fetus

VETO SUSTAINED

SPONSOR(S)
PARADIS P
BERUBE
COLLINS

COMMITTEE REPORT
OTP-AM MAJ
ONTP MIN

AMENDMENTS ADOPTED
H-429 MAJ REP
S-274 HOLLOWAY

SUMMARY

The bill would have defined "person" in the Wrongful Death Act to include unborn as well as unborn persons.

Committee Amendment "A" (H-429) (majority report) replaced the text of the bill. It included loss of an unborn viable fetus in the Wrongful Death Act, plus added certain caveats. The mother could not be held liable; there would be no cause of action for a legal abortion; there would be no cause of action for medical treatment if the doctor did not know and had no medical reason to believe that the woman was pregnant; the law could not be used to compel a woman to undergo treatment; no criminal statute was affected; and death of an unborn viable fetus would not be a medical examiner's case.

Senate Amendment "A" to Committee Amendment "A" (S-274) (with approval of committee) clarified the jurisdiction of the Probate Court to include cases of wrongful death of an unborn viable fetus. It also provided that the action could not be brought unless the mother or father is alive at the time the wrongful death action is commenced.

LD 556 An Act to Prevent Discrimination

INDEF PPND

SPONSOR(S)
CONLEY
GILL
GAUVREAU
RAND

COMMITTEE REPORT
OTP-AM MAJ
ONTP MIN

AMENDMENTS ADOPTED

SUMMARY

The bill prohibited discrimination on the basis of sexual orientation in the areas of employment, housing, public accommodations and credit.

Committee Amendment "A" (H-211) (majority report) adds a fiscal note indicating that the Maine Human Rights Commission can absorb any additional costs. (Not adopted in Senate)

House Amendment "A" (H-236) would have submitted the question to the voters in a referendum. (Not adopted)

House Amendment "B" (H-319) clarified that the Human Rights Act does not promote or condone any lifestyle or confer any special privileges. (Not adopted in Senate)

LD 502 An Act to Amend the Law Regarding Shoplifters

PUBLIC 122

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
MARSH BUTLAND CLARK N HASTINGS	OTP-AM	H-87

SUMMARY

The bill provides that a store owner, manager or supervisor, or that person's designee, can detain a person suspected of shoplifting.

Committee Amendment "A" (H-87) makes technical corrections and moves the language on warrantless arrests to the criminal code (17-A MRSA §15).

LD 605 An Act Relating to the Division of Southern York of the 10th
Maine District Court

PUBLIC 98

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
WENTWORTH HOBBINS	OTP-AM	H-88

SUMMARY

The bill transfers the municipality of Wells from the Division of Eastern York to the Division of Southern York.

Committee Amendment "A" (H-88) deletes Wells from the Division of Eastern York.

LD 611 An Act to Clarify Procedural Aspects of the Forcible Entry
and Detainer Law

PUBLIC 452

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
HANDY PARADIS P BERUBE DILLENBACK	OTP-AM	H-265

SUMMARY

Section 1 of the bill requires the court to schedule and hold a hearing in an eviction proceeding within 7 days. A defendant must file a written answer enumerating all defenses on or before the return day. Section 2 of the bill requires a court to issue the writ of possession within 5 days of judgment, and allows issuance of a 2nd writ.

Committee Amendment "A" (H-265) requires that the defendant's written answer need list only those defenses known at the time of filing. It also deletes the requirement that the writ be issued within 5 days (which is covered by Maine Rules of Civil Procedure).