

MAINE STATE LEGISLATURE

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**STATE OF MAINE
115TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

AUGUST 1991

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION
JOINT STANDING COMMITTEE
BILL SUMMARIES
AUGUST 1991**

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 volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H - 584 or S - 222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

| | |
|-----------------------------------|---|
| PUBLIC XXX | <i>Chapter # of enacted Public Law</i> |
| P&S XXX | <i>Chapter # of enacted Private & Special Law</i> |
| RESOLVE XXX | <i>Chapter # of enacted Resolve</i> |
| CON RES XXX | <i>Chapter # of Constitutional Resolution passed by both Houses</i> |
| EMERGENCY | <i>Enacted law takes effect sooner than 90 days</i> |
| CARRIED OVER | <i>Bill carried over to 2nd Session</i> |
| FAILED EMERGENCY ENACTMENT | <i>Bill failed to get 2/3 vote</i> |
| ONTP | <i>Ought Not to Pass report accepted</i> |
| LVWD | <i>Leave to Withdraw report accepted</i> |
| INDEF PP | <i>Bill Indefinitely Postponed</i> |
| DIED BETWEEN BODIES | <i>House & Senate disagree; bill died</i> |
| VETO SUSTAINED | <i>Legislature failed to override Governor's Veto</i> |
| UNSIGNED | <i>Not signed by Governor within 10 days</i> |
| DIED ON ADJOURNMENT | <i>Action incomplete when 1st session ended</i> |

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

performance and audit requirements relative to the establishment of paternity set forth in 45 Code of Federal Regulations 303.5(a)(1)(2)(3), effective October 1, 1990, both with regard to new cases and the case backlog of 6,000. The bill provides an expedited process for the commencement of paternity actions, which parallels the preliminary provisions of the Uniform Act on Paternity. All paternity trials and default hearings would continue to be held by either the District Court or the Superior Court, and all determinations of paternity and nonpaternity would continue to be made only by the District Court or the Superior Court.

Committee Amendment "A" (S-87) adds a fiscal note.

House Amendment "A" (H-340) clarifies the original intent and includes 3 significant changes. One category of alleged father is removed because it is entirely contained in one of the two remaining categories. It revises the jurisdiction section to cover only those who engage in sexual intercourse in the State with a resident of the State. It specifically refers to the child support guidelines in authorizing a court to award child support.

LD 823 An Act to Amend the Wrongful Death Laws PUBLIC 187

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|------------|------------------|--------------------|
| CARLETON | OTP | H-199 PARADIS P |

SUMMARY

The bill amends the wrongful death laws to allow a jury to award punitive damages beyond the \$75,000 limit on damages.

House Amendment "A" (H-199) limits punitive damages to \$75,000.

LD 829 An Act to Amend the Law Dealing with Foot Pursuit ONTP

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-----------------------------------|------------------|--------------------|
| SWAZEY MILLS PINEAU COTE | ONTP | |

SUMMARY

The bill would have added provisions to the Criminal Code regarding pursuit of a person foot that parallel provisions regarding pursuit of a motor vehicle. The law enforcement officer would have been required to be in uniform and would have to have probable cause to stop a person before the person would be guilty of a Class E crime for failure to stop.

LD 843 An Act to Assist Victims of Crime LV/WD

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|--|------------------|--------------------|
| MELENDY SWAZEY STEVENS P LAWRENCE | LV/WD | |

SUMMARY

The bill would have established a fund, to be administered by the Attorney General, to provide restitution to crime victims. The bill would have permitted a court to order any offender to pay a fee

of no more than \$10 that would be contributed to a fund available generally for restitution to victims of any crime. The restitution available from this fund would include payments for property loss, many types of allowable expenses, work loss, replacement services loss and, if a victim died, dependent's economic loss and dependent's replacement service loss.

LD 851 An Act to Modify the Law Relating to Continuing Deliberation PUBLIC 60
by a Civil Jury in the Face of Disagreement

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|--|------------------|--------------------|
| GAUVREAU CARROLL D MELENDY MAYO | OTP-AM | S-36 |

SUMMARY

The bill amends a provision enacted in 1821 that automatically aborts a civil jury trial following the return into court of a jury twice in consequence of disagreement based upon the same difficulties. Given the current costs of retrial and the impact on scarce court resources posed by a retrial, this bill leaves the decision to abort in the face of such disagreement to the trial justice.

Committee Amendment "A" (S-36) makes technical corrections.

LD 865 An Act to Clarify the Laws Governing Prelitigation Screening LV/WD
Panels

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|---|------------------|--------------------|
| MACBRIDE PARADIS P GAUVREAU RICHARDS | LV/WD | |

SUMMARY

The bill would have clarified 3 points regarding the operation of prelitigation screening panels. The bill would have broadened the criteria for chairs when agreed upon by all parties. The bill would have provided for reciprocal sanctions for failing to comply with rules or orders of the chair. Finally, the bill would have clarified that discovery may be conducted in a subsequent court action as long as the discovery is not duplicative of the discovery conducted during the panel proceeding. See LD 243.

LD 874 An Act Concerning the Judicial Review of Children in Custody PUBLIC 176
of the Department of Human Services

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|---------------------------------------|------------------|--------------------|
| DORE CATHCART BERUBE ANTHONY | OTP-AM | H-174 |

SUMMARY

The bill allows a foster parent to petition for standing and intervenor status in any child protection proceeding if the foster child lives or has lived in that foster parent's home. It requires the court to enter a final protection order within 18 months when a child has been placed in the custody of the Department of Human Services. It prohibits the court from extending the time for reunification efforts