

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.

Committee Amendment "A" (S-143) makes technical clarifications and adds an emergency.

LD 1456 An Act Regarding Notice of Claim

ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
MILLS CONLEY OTT LAWRENCE	ONTP	

SUMMARY

The bill would have amended the current law regarding notice of a tort claim against a governmental entity to require the governmental entity to establish that it has been prejudiced by the late filing of a notice of claim by or on behalf of the claimant. See LD 1461.

LD 1458 An Act Relating to Court Security Personnel

**PUBLIC 570
EMERGENCY**

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
GAUVREAU BERUBE POULIOT COTE	OTP-AM	S-261

SUMMARY

The bill grants to the State Court Administrator the authority to hire as employees qualified individuals to perform court security-related services and functions.

Committee Amendment "A" (S-261) adds an emergency. It allows the Judicial Department to enter into a wider range of compensation arrangements for court security services within the counties. The amendment specifically authorizes, by transferring funds within the Department, the Department to hire qualified personnel as state employees to provide court security services in Androscoggin County.

**LD 1461 An Act Relating to the Notice of Claim Provisions of the
Maine Tort Claims Act**

PUBLIC 460

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
GAUVREAU ANTHONY	OTP-AM	S-278

SUMMARY

The bill proposes to contravene recent Law Court decisions regarding notice under the Tort Claims Act by giving governmental officials and the insurance companies representing them a countervailing duty to notify potential claimants, who contact them regarding injuries, of the requirements of the Maine Tort Claims Act. If they fail to do so, they will be precluded from using the 180-day notice limit to stop the actions against them.

Committee Amendment "A" (S-278) replaces the bill. It waives the 180-day notice requirement under the Maine Tort Claims Act for an injured party involved in a situation in which the governmental entity or its tort liability insurer makes direct oral or written contacts with the injured person that contain or imply a promise that the damages will be covered. The contacts may be in the form of payments for damages. The contacts may be made with the injured person's personal representative or attorney. The

promise contained or implied in the contacts must be sufficient to cause a reasonable person to believe that no notice need be filed for the damages to be covered.

If the contacts are limited to specific injuries or damages, the injured person must still file a timely notice for all other injuries or damages arising out of the same incident or event.

Nothing prevents the injured party and the governmental entity or insurer from settling the claim.

The amendment specifically prevents behavior such as that occurring in Bruno v. City of Lewiston, Maine, 570, A.2d 1221 (1990).

LD 1463 An Act to Reconcile Dates Barring Claims in the Probate Code PUBLIC 188

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CONLEY	OTP	

SUMMARY

The bill makes uniform the time period after which all claims against a decedent's estate and against distributees are barred. Public Law 1989, chapter 661 revised the notice provisions in the Probate Code, establishing a 9-month period for claims against a decedent's estate and a one-year period for claims against distributees of the estate. The bill makes both time periods 9 months.

LD 1464 An Act to Ensure National Standards of Care ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CONLEY	ONTP	

SUMMARY

The bill would have required all physicians in the medical specialty area for which practice parameters and protocols are developed to be governed by the parameters and protocols. Additionally, the bill would have required that the parameters and protocols be developed for the purpose of increasing the quality of health care provided in the State and, so that the Board of Registration in Medicine and the Board of Osteopathic Examination and Registration will have clear criteria for measuring shoddy health care and incompetent physicians. The bill would have also required that the practice parameters and protocols be consistent with national standards of care and that these boards strive to improve the quality of care provided in the State by adopting standards that recognize the highest level of care attainable. The bill would have made the practice parameters the legal standard in all medical negligence cases and would have required all physicians in the regulated specialty to comply with them.

LD 1474 An Act to Protect Consumers and Provide Access to Information ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
GOODRIDGE MAHANY RAND	ONTP	

SUMMARY

The bill would have allowed a victim of medical injury the opportunity to participate in medical peer review relating to that injury and to receive a complete legible copy of the hospital incident report