

# 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  
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY

MAY 1992

**Staff:**

*Margaret J. Reinsch, Legislative Analyst  
Deborah C. Friedman, Legislative Analyst  
Julie S. Jones, Principal Analyst*

*Office of Policy and Legal Analysis  
Room 101, State House Station 13  
Augusta, ME 04333  
(207)287-1670*

**MEMBERS:**

*\*Sen. N. Paul Gauvreau  
Sen. Georgette B. Berube  
Sen. Muriel D. Holloway*

*\*Rep. Patrick E. Paradis  
Rep. Constance D. Cote  
Rep. Patricia M. Stevens  
Rep. Cushman D. Anthony  
Rep. Susan Farnsworth  
Rep. Mary R. Cathcart  
Rep. Andrew Ketterer  
Rep. Dana C. Hanley  
Rep. John H. Richards  
Rep. David N. Ott*

*\*Denotes Chair*

IARTHA E. FREEMAN, DIRECTOR  
WILLIAM T. GLIDDEN, JR., PRINCIPAL ANALYST  
ULIE S. JONES, PRINCIPAL ANALYST  
DAVID C. ELLIOTT, PRINCIPAL ANALYST  
DON CLARK  
YAN M. DYTTER  
BRO FLATEBO  
EBORAH C. FRIEDMAN  
MICHAEL D. HIGGINS  
KANE ORBETON



KAREN L. HRUBY  
JILL IPPOLITI  
JOHN B. KNOX  
PATRICK NORTON  
MARGARET J. REINSCH  
PAUL J. SAUCIER  
HAVEN WHITESIDE  
MILA M. DWELLEY, RES. ASST.  
ROY W. LENARDSON, RES. ASST.  
BRET A. PRESTON, RES. ASST.

STATE OF MAINE  
OFFICE OF POLICY AND LEGAL ANALYSIS  
ROOM 101/107/135  
STATE HOUSE STATION 13  
AUGUSTA, MAINE 04333  
TEL.: (207) 289-1670

**ONE HUNDRED AND FIFTEENTH LEGISLATURE  
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**MAY 1992**

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 far right of the title. Various types of final action are abbreviated as follows:

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

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, especially Laurette Knox who coordinated preparation of the overall document.

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

SPONSOR(S)	COMMITTEE REPORT		AMENDMENTS ADOPTED
STEVENS P	OTP-AM	MAJ	
KETTERER	OTP-AM	MIN	
CONLEY			
OTT			

**SUMMARY**

The bill amended the provisions of the Maine Health Security Act dealing with malpractice screening panels to:

1. Include attorneys at law with trial experience in the selection of a panel chair;
2. Revise the current makeup of the panels, requiring that the panel members be selected from the Superior Court jury list of the county where the panel will convene; and
3. Require that a report on any finding of negligence by the panel members be sent to and maintained by the Board of Registration in Medicine.

The bill also repealed the provisions of the Maine Health Security Act regarding structured awards and limitations on contingent fees. It also provided access to proceedings and records of the Board of Registration in Medicine by the mediation panels established pursuant to the Maine Health Security Act.

Committee Amendment "A" (H-966) – Majority Report: The amendment replaced the bill and amended the Maine Health Security Act to make the following changes.

1. The Chief Justice of the Superior Court was authorized to issue administrative orders regarding discovery at the prelitigation screening panel phase of a medical malpractice claim to allow for consistent discovery limitations that apply to all parties in all cases. The amendment also allowed discovery requests to go directly to the Superior Court rather than first requiring a refusal to rule on the request by the panel chair.
2. The amendment authorized the screening panel chair presiding over a medical malpractice case to refer the parties to mediation prior to the hearing of the case before the whole panel. The persons to whom the case could be referred for mediation are other panel chairs. The parties and the panel chair handling the mediation would report back to the presiding panel chair regarding the results of the mediation. The purposes of this change were to reduce the issues in dispute between the parties, increase the number of settlements early in the process and provide an opportunity for smaller claims to be presented. The amendment also allowed for mediation at any time.
3. The amendment repealed the entire subchapter on the medical malpractice prelitigation screening panels on October 31, 1993.
4. The amendment also allowed the various interest groups and parties interested in medical malpractice claim resolution to review panel operations, collect information and report back to the Joint Standing Committee on Judiciary by February 1, 1993. The Legislature could base its decision on whether or not to repeal the panels on October 31, 1993 on the reports received by the committee regarding the usefulness and success of the prelitigation screening panels.  
[adopted in the House only]

Committee Amendment "B" (H-967) – Minority Report: The amendment replaced the bill and amended the Maine Health Security Act to make the following changes.

1. The Chief Justice of the Superior Court was authorized to issue administrative orders regarding discovery at the prelitigation screening panel phase of a medical malpractice claim to allow for consistent discovery limitations that apply to all parties in all cases. The amendment also allowed discovery requests to go directly to the Superior Court rather than first requiring a refusal to rule on the request by the panel chair.
2. The amendment authorized the screening panel chair presiding over a medical malpractice case to refer the parties to mediation prior to the hearing of the case before the whole panel. The persons to whom the case could be referred for mediation are other panel chairs. The parties and the panel chair handling the mediation would report back to the presiding panel chair regarding the results of the mediation. The purposes of this change were to reduce the issues in dispute between the parties, increase the number of settlements early in the process and provide an opportunity for smaller claims to be presented. The amendment also allowed for mediation at any time.
3. The amendment also allowed the various interest groups and parties interested in medical malpractice claim resolution to review panel operations, collect information and report back to the Joint Standing Committee on Judiciary by February 1, 1993.

The amendment did not repeal the entire subchapter on the prelitigation screening panels.  
 [adopted in the Senate only]

**LD 1654      An Act to Facilitate Criminal Enforcement of the  
 Environmental Laws**

**DIED BETWEEN  
 BODIES**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
TREAT	OTP-AM      A	
JACQUES	OTP-AM      B	
GAUVREAU	ONTP          C	
MARSH		

**SUMMARY**

The bill was intended to clarify the existing criminal provisions of the environmental laws and to facilitate the enforcement of those provisions by the State.

1. The bill incorporated all the criminal provisions currently existing in the Maine Revised Statutes, Title 38, including those provisions relating to hazardous waste.
2. The bill amended Title 38, section 349, subsection 1 by expressly stating the culpable mental states of "intentionally," "knowingly" and "recklessly." Title 38, section 349, subsection 1 is currently silent as to the level of culpable mental state required for a conviction of a criminal violation under the environmental laws.
3. The bill raised the class of crime for violations of environmental laws other than hazardous waste from a Class E crime to a Class C crime. The bill, however, specified the conduct subject to the higher degree of sanctions. The bill retained a general violation section for conduct that violates unspecified terms and conditions of the law and licenses, permits, approvals or decisions issued by the department. A violation of the general violation section was classified as a Class D crime.
4. With respect to the hazardous waste provisions, the bill simplified the statutes by using terms that are already defined in Title 38, rather than defining those terms within the criminal penalty section. In addition, the bill reduced the culpable mental state required for a conviction of a hazardous waste crime from "knowingly" to "recklessly." The purpose of the