

# MAINE STATE LEGISLATURE

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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*

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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.

**LD 1776 An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws**

UNSIGNED

**SPONSOR(S)**

BAILEY H  
LUDWIG  
VOSE  
TOWNSEND

**COMMITTEE REPORT**

OTP-AM MAJ  
ONTP MIN

**AMENDMENTS ADOPTED**

H-1125 MAJ REP

**SUMMARY**

The bill attempted to resolve an ambiguity with respect to the municipal status under state law conferred upon the Passamaquoddy Tribe in the land claims settlement legislation enacted in 1980. The bill gave Passamaquoddy Indian territory the same status as lands within any municipality in existence before the formation of the Maine Land Use Regulation Commission. The bill also placed regulatory authority for reservation land use control, including freshwater wetlands, with the Passamaquoddy tribal government. Regulation of the off-reservation environment, such as water or air pollution, is unaffected by this change. The bill amended definitions of certain development activities in the Department of Environmental Protection laws to exclude tribal development activity that would not be regulated in the absence of this unusual pattern of tribal land ownership.

Committee Amendment "A" (H-1125) - Majority Report: The amendment replaces the bill. It clarifies the process by which the Passamaquoddy Tribe and the Penobscot Nation may exercise the general powers and duties of a municipality granted under Title 30, section 6206, subsection 1, consistent with the Act to Implement the Maine Indian Claims Settlement, as those powers and duties pertain to land use regulation and natural resource protection within trust lands acquired in unorganized territories.

Under the amendment, the Passamaquoddy Tribe and the Penobscot Nation may each submit a comprehensive plan and implementing ordinances to the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters. Subsequent to receiving a plan, the committee is required to hold at least one public hearing and to recommend to the Legislature whether or not the plan should be approved. Upon approval of the plan by the Legislature, the trust lands governed by the plan and ordinances are not within the jurisdiction of the Maine Land Use Regulation Commission.

**LD 1780 An Act to Provide More Effective Recovery of Child Support**

PUBLIC 673  
EMERGENCY

**SPONSOR(S)**

ANTHONY  
CONLEY  
PARADIS P

**COMMITTEE REPORT**

OTP-AM

**AMENDMENTS ADOPTED**

H-899

**SUMMARY**

The bill clarified and strengthened the laws concerning the collection of child support, especially in administrative cases where the responsible parent is found to be in default.

Committee Amendment "A" (H-899): The amendment replaces the bill but retains the central purpose of the original bill, which is to strengthen the laws concerning collection of child support.

The amendment makes the following changes.

1. The amendment changes the way past child support is calculated when there is no prior child support order. The absent parent turns over information regarding past years' incomes and the current child support scale is utilized to determine what the child support payment should have been during past years in which the absent parent was liable for support.

2. The amendment provides that the presumption regarding paternity found in Rule 302, Maine Rules of Evidence, does not apply in specific situations.
3. The amendment authorizes the court to presume an earning capacity for a party in a child support action who fails to comply with the requirement to supply information about income to establish child support awards under the child support guidelines. The presumed income is the average weekly wage of a worker within the State as determined by the Department of Labor statistics. The court may presume a different income if there is sufficient reliable information to conclude reasonably that the actual income was greater or lesser than a worker's average weekly wage.
4. The amendment clarifies that blood tests must be ordered as an integral part of the Uniform Reciprocal Enforcement of Support Act.
5. The amendment adopts law from numerous other states regarding the role of "state" attorneys in support cases and makes clear that the state attorney's client is the State.
6. The amendment adds a new subsection to the Maine Revised Statutes, Title 19, section 448-A that delineates how obligations for current and past necessary support due are established in nonwelfare cases.
7. The amendment amends current law regarding the creation of a debt due the Department of Human Services for payment of public assistance for the benefit of a dependent child. The amount of debt due the department is established by applying the most current child support guidelines to the responsible parent's past income.
8. The amendment eliminates a problem the department has had in establishing and collecting the debt based on past AFDC payments. Under current staffing levels, the department is able to produce records on past AFDC payments for no more than 36 months in the past, thus eliminating the department's ability to establish the responsible parent's debt for any payments made before that time and eliminating the possibility of reimbursement for those past payments.
9. The amendment provides for a presumption of earning capacity in court and administrative hearing cases in which the responsible parent defaults or otherwise fails to appear.
10. The amendment amends the administrative hearing provisions for public assistance support cases to refer to the revised method for calculating the debt due the department.
11. The amendment authorizes the department to establish the responsible parent's debt for past necessary support in nonwelfare cases in an administrative hearing.
12. The amendment amends the administrative hearing provisions for nonwelfare support cases to refer to the revised method for calculating the debt due the recipient of support.
13. The amendment provides incentive for responsible parents to provide accurate and complete information regarding past income.
14. The amendment requires the department to more equitably distribute child support payments among these multiple families. The department shall distribute the money received to each family in the same proportion as each family's support order bears to the total of all support orders. This addresses one of the key issues in litigation currently pending in federal court.