

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY

MAY 1992

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**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.

House Amendment "A" to Committee Amendment "A" (H-984): The amendment allowed the one-time expense of reprogramming the Judicial Department's computer system to handle victim's compensation assessments to be paid from the Victims' Compensation Fund rather than from the General Fund. [not adopted]

House Amendment "B" to Committee Amendment "A" (H-989): The amendment corrected an allocation to the Maine Revised Statutes and faulty section numbering. [not adopted]

House Amendment "C" to Committee Amendment "A" (H-1074): The amendment differs from Senate Amendment "B" to Committee Amendment "A" in that it established a 3 member board consisting of a physician, a lawyer and a person experienced in working with victims of crimes. [not adopted]

House Amendment "D" to Committee Amendment "A" (H-1233): The amendment differs from House Amendment "C" to Committee Amendment "A" in that it deletes the definition of "unreimbursed loss" and use of the term "unreimbursed because they are unnecessary."

**LD 1838      An Act Amending the Definition of Murder in the First Degree      ONTP**  
**to Include Homicide by Pattern or Practice of Assault or**  
**Torture of a Child under the Age of 16**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
BOUTILIER HOLLOWAY CATHCART	ONTP	

**SUMMARY**

The bill amended the current murder statute. It addressed the situation where there exists a pattern of assault or torture of a child under 16 years of age resulting in the death of the child. The bill provided that if this occurs under circumstances manifesting a depraved indifference to the value of human life, the assailant may be convicted of murder even though the assailant did not intend to cause the death of the child.

**LD 1857      An Act Concerning Authorization to Consent to Powers of      PUBLIC 719**  
**Attorney**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
MARSANO GAUVREAU PFEIFFER OTT	OTP-AM	H-964 S-572    GAUVREAU

**SUMMARY**

The bill amends the Probate Code regarding powers of guardians and regarding durable powers of attorney. It adopts changes made by the National Conference of Commissioners on Uniform Laws.

Committee Amendment "A" (H-964): The amendment carries out the intent of the bill, which is to clarify and make more specific the powers of guardians with regard to medical and other services for the ward, and to revise the Probate Code provisions concerning powers of attorney. This latest revision of the Uniform Probate Code includes a separate section on health care powers of attorney. In addition, this amendment revises the Uniform Rights of the Terminally Ill Act to fully carry out the Maine amendments made in 1991 regarding persistent vegetative state. Amendments regarding persistent vegetative state are added to the guardianship and powers-of-attorney provision to be consistent with the 1991 living will amendments.

The Uniform Comments and the Maine Comments are included in both the original bill and this amendment.

Senate Amendment "A" to Committee Amendment "A" (S-572): The amendment deletes references to a living will in the Probate Code section on the powers of a guardian of a minor ward and the Maine Comment on that section. Minors are not authorized to execute living wills, so the references are deleted to avoid any confusion. The amendment also clarifies that an attorney-in-fact appointed under a durable health care power of attorney does not have the authority to consent to withholding or withdrawal of life-sustaining treatment for purposes of the priority listing in the Maine Revised Statutes, Title 18-A, section 5-707 if the court has terminated that authority or terminated the power of attorney.

**LD 1875      An Act to Clarify the Role of Guardians Ad Litem and      ONTP**  
**Visitors in Guardianship and Conservatorship Cases**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
HOLLOWAY	ONTP	
GAUVREAU		
KUTASI		
SIMONDS		

**SUMMARY**

The bill reorganized the current provisions of the Probate Code on guardianship and conservatorship into a format that makes them more readily usable as a reference for practitioners. It clarified the role of visitors and guardians ad litem and establishes specific requirements for them in conducting investigations and making reports. The bill placed the additional requirements on visitors and guardians ad litem to interview people other than the allegedly incapacitated person who may have useful information bearing on the proposed guardianship, to review records and to communicate the wishes of the allegedly incapacitated person to the court.

The bill made clear what has, in practice, been the difference between visitors and guardians ad litem. It set limitations on the time period a visitor or guardian ad litem may serve, while allowing the court to extend the appointment for good cause.

**LD 1881      An Act Concerning Limitations on Actions for Penalties      LV/WD**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
CLARK N	LV/WD	
GAUVREAU		
STEVENS P		

**SUMMARY**

The bill repealed the Maine Revised Statutes, Title 14, section 858, a law whose origins date back to Massachusetts law prior to 1820. Title 14, section 858 covers a now uncommon situation, where a citizen could act as a private prosecutor and obtain all or a portion of a forfeiture or penalty. If a person authorized to bring such a suit failed to act, the State could then intercede if it wished and bring suit within 2 years.

The bill specified that the provisions of section 858 do not apply to any pending or future actions.