

# 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.

of interest on restitution money accounts, so that the interest accrues to the State, not to the person entitled to the restitution money. The amendment also requires agencies collecting restitution money to disburse the money to the victim or other authorized claimant as quickly as possible after the agency receives the money.

The amendment also adds a fiscal note to the bill.

**LD 2183 An Act to Clarify Adult Protective and Guardianship Responsibilities**

PUBLIC 711

**SPONSOR(S)**

HOLLOWAY  
GAUVREAU  
PENDEXTER  
GILL

**COMMITTEE REPORT**

OTP-AM

**AMENDMENTS ADOPTED**

S-574

**SUMMARY**

The bill clarifies the authority of the Department of Human Services and the Department of Mental Health and Mental Retardation under the Adult Protective Services Act to investigate when an incapacitated or dependent adult is reported to be at substantial risk of abuse, neglect or exploitation and to protect these adults at substantial risk whether or not prior abuse, neglect or exploitation has occurred.

The bill also allows designated employees of the Department of Human Services and the Department of Mental Health and Mental Retardation to represent the departments in Probate Court in uncontested conservatorship and termination of guardianship or conservatorship proceedings and also in emergency guardianship for placement in adult foster homes, boarding homes or nursing homes or for orders necessary to apply for or preserve an estate in emergency situations.

Committee Amendment "A" (S-574): The amendment adds a fiscal note.

**LD 2190 An Act to Define Conflict of Interest for Probate Judges**

PUBLIC 697

**SPONSOR(S)**

PARADIS P

**COMMITTEE REPORT**

OTP

**AMENDMENTS ADOPTED**

**SUMMARY**

The bill clarifies the conflict of interest created when a probate judge acting as a private attorney represents a private litigant in the court where the judge sits regularly. The bill requires that such cases will be decided in an adjoining county. The bill also prohibits a judge from acting as a lawyer in a case already pending before the judge.

**LD 2194 An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws**

PUBLIC 768

**SPONSOR(S)**

PARADIS P

**COMMITTEE REPORT**

OTP-AM

**AMENDMENTS ADOPTED**

H-1114

**SUMMARY**

The bill clarifies when a power of sale is effective and avoids affecting transactions entered into prior to the effective date of the 1991 law. It also discourages a person from moving into commercial building simply to avoid the foreclosure.

Committee Amendment "A" (H-1114): The amendment makes technical changes to the bill. The bill as amended removes the restrictions on the use of a power of sale in mortgages added in 1991 because of the title problems apparently caused by retaining the language. The amendment repeals the changes made by this amendment in 1993 to give lawyers who practice in this area of the law the incentive to redraft this provision in the law and to provide adequate protection from use of the power of sale to foreclose a mortgage on a natural person's primary residence.

The amendment is not intended to affect any power of sale incorporated into a mortgage granted prior to October 1, 1991.

**LD 2209 An Act Concerning Juvenile Offenders**

LV/WD

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
MARTIN J ANTHONY BUSTIN MELENDY	LV/WD	

**SUMMARY**

The bill distinguished those juveniles that commit crimes with a firearm or other dangerous weapon from juvenile felons whose crimes did not involve a threat with a weapon against another person. It provided that persons whose juvenile crimes are not committed with the use of a weapon are treated, with respect to gun ownership, in a manner consistent with other provisions of state law. A juvenile committing a felony would not be permitted to own or use a firearm for at least 3 years. The earliest the prohibition would be lifted would when the person becomes 18 years of age and the latest would when the person becomes 21 years of age. A juvenile committing any crime with the use of a weapon would not be able to own or use a firearm without going through the elaborate permitting process required for adults.

The bill also changed a question on the concealed firearms permit application form to make it consistent with other questions on the form.

**LD 2221 An Act Pertaining to the Issuance of Orders in Domestic Abuse and Harassment Cases**

PUBLIC 760  
EMERGENCY

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
MARSANO RICHARDS CAHILL P	OTP-AM	H-1113

**SUMMARY**

The bill limits to the District Court the authority to issue protection orders in abuse cases. Entry of the order of protection or the consent agreement may still be done in Superior Court but issuance of the order is only done by the District Court. An order may not be entered if there is a conflicting order in effect.

Committee Amendment "A" (H-1113): The amendment replaces the bill. It revises the jurisdiction of the District Court and Superior Court regarding issuance of protection from abuse and protection from harassment orders. The amendment removes jurisdiction from the Superior Court to hear and adjudicate protection from harassment and protection from abuse cases, except that a Superior Court Justice may issue a temporary protection order. If a Superior Court Justice issues a temporary order, the case is still docketed in the District Court and all further proceedings must be conducted in the District Court.