

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
116TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY

JULY 1993

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**ONE HUNDRED AND SIXTEENTH LEGISLATURE  
FIRST REGULAR SESSION**

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**JULY 1993**

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.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. 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:

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

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

4693NRG

**LD 1145 An Act to Change the Maine Rules of Evidence That Currently Allow the Admission of Subsequent Remedial Measures as Evidence of Negligence**

ONTP

**SPONSOR(S)**  
DIPIETRO

**COMMITTEE REPORT**  
ONTP

**AMENDMENTS ADOPTED**

**SUMMARY**

The bill would have reversed current practice in the State by prohibiting the introduction of evidence in court when the evidence is related to steps taken after an accident to correct a condition that may have contributed to the accident.

**LD 1148 An Act to Amend the Power of Sale Foreclosure Laws**

PUBLIC 277

**SPONSOR(S)**  
FARNSWORTH

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
H-363

**SUMMARY**

The bill confirms that the power of sale may not be used in cases when an individual's primary residence is owned by a corporation, partnership or trust, provided that the individual owns at least 1/2 of that business organization. The bill also provides that after October 1, 1993, a power of sale may be used only if the mortgage deed contains a statement that the mortgage deed is given "primarily for business, commercial or agricultural purposes." Current law contains a "sunset" clause that needs to be addressed by October 1, 1993. The bill eliminates that "sunset" provision.

Committee Amendment "A" (H-363) replaces new language in sections 1 and 3 of the original bill to clarify that certain additional restrictions on power of sale foreclosure apply only to real estate owned by a trust. If the trustee of a trust gives a mortgage deed, the mortgagee may not foreclose the mortgage deed by power of sale if all 3 of the following are true at the time the mortgage deed is given:

1. The real estate is used exclusively for residential purposes;
2. The property consists of no more than 4 residential units; and
3. One of the units is the principal residence of the owner of at least 1/2 of the beneficial interest of the trust.

If the mortgage deed states that at the time the mortgage deed is given, at least one of the following is true, the statement conclusively establishes these facts and the mortgage deed can be foreclosed by power of sale:

1. The real estate is not used exclusively for residential purposes;
2. The property consists of more than 4 residential units; or
3. None of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust.

These restrictions address the concern regarding the use of the power of sale to foreclose on the principal residence of an unsuspecting trust beneficiary.

The requirement that the mortgage deed state that the mortgage deed is given primarily for a business, commercial or agricultural purpose also applies to trusts and provides further protection for those residing on mortgaged property.

The amendment also adds a fiscal note to the bill.

See LD 1567 for effective date correction.

**LD 1156      An Act to Create the Maine Criminal Justice Information System      PUBLIC 346**

|                   |                         |                           |
|-------------------|-------------------------|---------------------------|
| <b>SPONSOR(S)</b> | <b>COMMITTEE REPORT</b> | <b>AMENDMENTS ADOPTED</b> |
|                   | OTP-AM                  | H-488                     |

**SUMMARY**

The bill is the report of the Commission to Implement the Computerization of Criminal History Record Information pursuant to Private and Special Law 1985, chapter 135, as amended. The bill establishes the Maine Criminal Justice Information System, which will provide computerized criminal history record information and other data useful to law enforcement agencies throughout the State. The Maine Criminal Justice Information System will be governed by the Maine Criminal Justice Information System Policy Board consisting of 13 members.

Committee Amendment "A" (H-488) deletes the reference to juvenile records with regard to the development of policies by the Maine Criminal Justice Information System Policy Board because the system will not initially include juvenile records.

**LD 1159      An Act to Increase Accountability of the Department of Environmental Protection      ONTP**

|                   |                         |                           |
|-------------------|-------------------------|---------------------------|
| <b>SPONSOR(S)</b> | <b>COMMITTEE REPORT</b> | <b>AMENDMENTS ADOPTED</b> |
| BENNETT           | ONTP                    |                           |

**SUMMARY**

The bill would have allowed the court to require the Department of Environmental Protection to reimburse a party for reasonable attorney's fees if the Attorney General brings that party to court and does not prevail.

**LD 1162      An Act to Help Clarify the Application of the Maine Rules of Criminal Procedure to Probation Revocation Proceedings, Including the Appeal Process      PUBLIC 234**

|                   |                         |                           |
|-------------------|-------------------------|---------------------------|
| <b>SPONSOR(S)</b> | <b>COMMITTEE REPORT</b> | <b>AMENDMENTS ADOPTED</b> |
| COTE              | OTP                     |                           |

**SUMMARY**

The bill amends the Maine Revised Statutes, Title 17-A, section 1206 by making it gender-neutral and incorporating the substance of Rule 32(e) of the Maine Rules of Criminal Procedure. The bill also makes Rules 44(a)(2), (b), (c) and (d) and 44B of the Maine Rules of Criminal Procedure applicable to probation revocation hearings.