

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
116TH LEGISLATURE**

**SECOND REGULAR SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY**

**MAY 1994**

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

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**MAY 1994**

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, 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:

*PUBLIC XXX*

*P&S XXX*

*RESOLVE XXX*

*CON RES XXX*

*EMERGENCY*

*ONTP*

*INDEF PP*

*FAILED ENACTMENT*

*FAILED EMERGENCY ENACTMENT*

*FAILED MANDATE ENACTMENT*

*DIED BETWEEN BODIES*

*CONF CMTE UNABLE TO AGREE*

*VETO SUSTAINED*

*UNSIGNED*

*DIED ON ADJOURNMENT*

*Chapter # of enacted Public Law*

*Chapter # of enacted Private & Special Law*

*Chapter # of enacted Resolve*

*Chapter # of Constitutional Resolution passed by both Houses*

*Enacted law takes effect sooner than 90 days*

*Ought Not to Pass report accepted*

*Bill Indefinitely Postponed*

*Bill failed to get majority vote*

*Emergency bill failed to get 2/3 vote*

*Bill imposing local mandate failed to get 2/3 vote*

*House & Senate disagree; bill died*

*Committee of Conference unable to agree; bill died*

*Legislature failed to override Governor's Veto*

*Not signed by Governor within 10 days*

*Action incomplete when session ended; bill died*

These summaries were prepared by the analyst or analysts assigned to the committee. If you have any suggestions or comments on the summaries, please let us know.

5581LHS

**SUMMARY**

The bill would have limited the amount of money that can be awarded to a plaintiff for noneconomic damages in any civil case to \$250,000.

The bill was carried over from the First Regular Session.

**LD 1414      An Act to Modify the Legal Doctrine of Joint and Several Liability****ONTP****SPONSOR(S)**  
CIANCHETTE**COMMITTEE REPORT**  
ONTP      MAJ  
OTP      MIN**AMENDMENTS ADOPTED****SUMMARY**

The bill would have modified the legal doctrine of joint and several liability. It would have required that in actions involving multiple defendants, each defendant is jointly and severally liable for the full amount of the plaintiff's economic and noneconomic damages. Defendants would be able to request a determination of each defendant's percentage of fault. The bill also would have established a formula for determining the amount of damages recoverable from each defendant.

The bill was carried over from the First Regular Session.

**LD 1420      An Act Concerning the Terminally Ill****ONTP****SPONSOR(S)**  
CAHILL**COMMITTEE REPORT**  
ONTP**AMENDMENTS ADOPTED****SUMMARY**

This bill would have amended the living will laws to allow medically assisted deaths in certain limited circumstances.

The bill would allow a person who has been diagnosed with a terminal condition that is likely to lead to death within a relatively short period of time and whose condition has been certified by an attending physician and two consulting physicians to request a medically assisted death. Minors and incompetent persons, including persons in a persistent vegetative state, are not eligible to request this procedure. An individual may not request a medically assisted death for another individual.

Two consulting physicians must independently certify the individual's condition before a medically assisted death may proceed. If both consulting physicians certify that the individual has an incurable and irreversible condition, the individual's attending physician, any other physician and any health care facility are authorized to assist the individual with a medically assisted death.

This bill was carried over from the First Regular Session. It contains a statutory referendum provision.

**LD 1436      An Act to Eliminate the Statute of Limitation in Child Molestation Cases****ONTP****SPONSOR(S)**  
PARADIS P  
FOSTER**COMMITTEE REPORT**  
ONTP**AMENDMENTS ADOPTED**

## **SUMMARY**

The bill would have eliminated the statute of limitations for civil actions resulting from rape or gross sexual assault and incest if the victim of the offense was under 16 years of age at the time the offense was committed.

The bill was carried over from the First Regular Session.

### **LD 1463      An Act to Permit Collection of Public Assistance Overpayments by Administrative Process**

**PUBLIC 654**

**SPONSOR(S)**  
BUTLAND

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
H-1027 COTE  
S-532

## **SUMMARY**

This bill establishes an administrative method for the collection of overpayments made by benefit programs administered by the Department of Human Services after the individuals who have been overpaid stop receiving benefits. The bill permits the Department of Human Services to collect overpayments by issuing income withholding orders to employers, executing wage assignments, filing liens against the obligor's property and reporting unpaid amounts to consumer credit reporting agencies.

COMMITTEE AMENDMENT "A" (S-532) replaces the bill to correct a section numbering problem. It makes several changes in the definitions set out in the bill. "Overpayment" is revised to include only overpayments that are determined by the Department of Human Services or a court to be the result of intentional program violations. "Program benefits" is changed to include only Aid to Families with Dependent Children and food stamp benefits. Overpayment notices must include mention of the collection remedies available. If the obligor requests a hearing, the obligor may raise the issue of whether the obligor is entitled to receive any credits for any reason to offset the overpayment. The department shall make a decision on the issue. The obligor has 30 days to appeal the department's decision after its issuance. The department may begin to use the collection remedies 30 days after the decision is issued. Because the collection remedies are limited to overpayments resulting from intentional program violations, the limit on income withholding orders is raised from 10% to 25% of the obligor's gross income.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-1027) ensures that the remedies provided for the recovery of overpayments apply to overpayments made before the effective date of the bill.

### **LD 1499      An Act to Expedite the Establishment of Administrative Child Support Orders**

**PUBLIC 607**

**SPONSOR(S)**  
HANLEY

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
S-501

## **SUMMARY**

The bill enables the Department of Human Services to establish child support obligations more efficiently. Enactment of the Maine Revised Statutes, Title 19, section 497-A in this bill combines existing section 498, Aid to Families with Dependent Children, and section 498-A, persons who are not under the Aid to Families with Dependent Children system, to create a unified process for establishing child support obligations at administrative hearings and thus simplifies the establishment of debts when debts are owed to both the Department of Human Services and a custodial parent. This change allows the Department of Human Services to obligate a responsible parent for all periods of unpaid support at a single hearing based on the issuance of a single notice, regardless of whether the support obligation is assigned to the Department of Human Services or is owed to the custodial parent.