

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

of Commissioners on Uniform State Laws. The amendment makes the effective date of the limited liability company enabling legislation January 1, 1995. This will allow the Secretary of State an opportunity to prepare to administer the law. The amendment provides that members may not report tax losses from a limited liability company before April 1, 1996.

LD 1552 An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State

PUBLIC 643

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
FOSS	ONTP A	H-957
PEARSON	OTP-AM B	
PARADIS P	OTP-AM C	

SUMMARY

The bill amended the law governing admission of attorneys to the bar and created a rebuttable presumption that a person who has been convicted of a crime punishable by a year or more in prison should not be allowed to practice law. The presumption may be rebutted by evidence of a pardon or extraordinary circumstances surrounding the crime or by the passage of time coupled with evidence of complete rehabilitation.

The bill was carried over from the First Regular Session.

COMMITTEE AMENDMENT "A" (H-956) is a Minority Report. It would have replaced the bill, but still would have prohibited, in most cases, convicted felons from being admitted to practice law in this State. Not adopted.

COMMITTEE AMENDMENT "B" (H-957) is a Minority Report. It clarifies that the Board of Bar Examiners and the Supreme Judicial Court are free to consider any conviction in determining whether an applicant for the bar possesses good moral character. This is in addition to the presumption established by the bill that a person with a felony conviction does not meet the requirement of good moral character. The fact that a person with a felony conviction can rebut that presumption in any of the 3 ways listed in the original bill does not eliminate the discretion of the admitting authority to consider the existence of any conviction when determining whether an applicant possesses good moral character.

LD 1604 An Act to Clarify the Status of the Maine Indian Tribal-State Commission

PUBLIC 489

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CASHMAN	OTP-AM	H-729
PEARSON		

SUMMARY

This bill removes the Maine Indian Tribal-State Commission from the listing of boards in Title 5 of the Maine Revised Statutes. The commission had been added to that listing in 1993 but should not have been because of its special joint tribal-state status under the Maine Indian Claims Settlement Act.

The COMMITTEE AMENDMENT (H-729) adds a fiscal note.

LD 1633 An Act to Amend the Provisions Relating to Mental Examination and Observation of Persons Accused of a Crime

PUBLIC 704

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
FAIRCLOTH	OTP-AM	H-897

SUMMARY

The bill expanded the procedure for the mental examination of persons accused of crimes to require further examination if it appears to the court that the defendant may suffer or may have suffered from abnormal condition of mind or any mental or emotional condition affecting the defendant's guilt.

The bill also amended the law to allow the examiner unconditional access to records relevant to the examination that that examiner is being requested to perform.

COMMITTEE AMENDMENT "A" (H-897) removes gender specific language and deletes the records access provision of the bill.

LD 1647 An Act to Have Mandatory HIV Testing for Assailants of Law Enforcement Officers ONTP

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
CARLETON ONTP

SUMMARY

The bill would have created a court procedure through which a law enforcement officer who has been exposed to the blood or body fluids of a person in custody may seek to have that person submit to HIV testing.

LD 1657 An Act to Amend the Probate Code with Respect to Powers of Fiduciaries PUBLIC 568

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
CONLEY OTP-AM S-500

SUMMARY

The bill clarified the authority of a fiduciary, including a personal representative of an estate, a guardian, a conservator or a trustee, to take actions it deems necessary to guard against environmental liability to the trust, the estate or the fiduciary itself.

COMMITTEE AMENDMENT "A" (S-500) addresses certain drafting concerns with regard to the initial bill. Following the approach adopted by Utah, another Uniform Probate Code state, a general provision applicable to all fiduciaries is placed in the general provisions of Article I of the Probate Code. The term "fiduciary" is already defined in section 1-201, subsection (13) of the Code to include a personal representative, guardian, conservator and trustee.

LD 1669 An Act to Establish a Complaint Procedure under the Maine Human Rights Act When a Conflict of Interest Exists ONTP

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
TREAT ONTP
CONLEY

SUMMARY

This bill would have provided a procedure under the Maine Human Rights Act for the processing of complaints to the Maine Human Rights Commission if the complainant alleges that a member of the commission has authority to promote, transfer or terminate the employment of the complainant or reports to or advises a person who has that authority.