

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 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.

The executive director of the commission reported to the Judiciary Committee that the commission would adopt rules to provide for this situation.

**LD 1700 An Act to Maintain Confidentiality of Certain Information
Received by Licensing Boards and Commissions**

PUBLIC 552

SPONSOR(S)

LUDWIG

COMMITTEE REPORT

OTP-AM

AMENDMENTS ADOPTED

S-424

SUMMARY

The bill provided that certain records that contain personally identifying information remain confidential during the pendency and upon conclusion of an investigation by the State Board of Substance Abuse Counselors or the Board of Counseling Professionals Licensure. The bill allows disclosure only upon execution of a written release that identifies who will be the recipient of the information.

COMMITTEE AMENDMENT "A" (S-424) revises the title of the bill to indicate that the provisions apply to all licensing boards and commissions within or affiliated with the Department of Professional and Financial Regulation. This amendment replaces the bill to cover all the licensing boards and commissions when there is an investigation of a licensee in a medical, mental health, substance abuse, psychological or other health field. It also references additional situations in which the records, otherwise confidential, may be released to someone other than the licensing boards listed. The amendment specifically states that the new language is not intended to prohibit disclosure under a proper court order. The amendment provides that violation of a condition of the client's or patient's release is a civil violation.

LD 1707 An Act to Provide Better Information Concerning Tort Reform

ONTP

SPONSOR(S)

CONLEY

COMMITTEE REPORT

ONTP

AMENDMENTS ADOPTED

SUMMARY

The bill would have charged the Bureau of Insurance with the task of compiling updated information on malpractice and writing a report that would estimate the actual savings of tort reform in the State as a percentage of total health spending.

**LD 1709 An Act to Clarify the Assignment of Hotel Revenues as
Rent under Maine Law**

ONTP

SPONSOR(S)

CONLEY

COMMITTEE REPORT

ONTP

AMENDMENTS ADOPTED

SUMMARY

This bill would have clarified, for purposes of bankruptcy, the effect of assignment of rents, issues or profits under Maine law. This bill was intended to change the law as interpreted in two recent bankruptcy court decisions that held that, under Maine law, hotel revenues do not constitute rent or products or proceeds of the real estate comprising the hotel and that, therefore, the assignment did not provide the assignee with a security interest in the receipts. In re Majestic Hotel Assoc., 131 B.R. 523 (Bankr. D. Me. 1991); In re The Green Corporation, 154 B.R. 819 (Bankr. D. Me. 1993).