

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

MEMBERS:

**Sen. S. Peter Mills
Sen. Joan M. Pendexter
Sen. Sean F. Faircloth*

**Rep. Sharon Treat
Rep. William Lemke
Rep. Fred L. Richardson
Rep. Kyle W. Jones
Rep. Lloyd P. LaFountain III
Rep. Elizabeth Watson
Rep. Debra D. Plowman
Rep. Robert R. Hartnett
Rep. David R. Madore
Rep. Richard A. Nass
Rep. Frederick Moore III*

Staff:

Margaret J. Reinsch, Legislative Analyst

*Office of Policy and Legal Analysis
Room 101/107/135, 13 State House Station
Augusta, ME 04333
(207)287-1670*

**Denotes Chair*



**Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS**

State House Station 13, Augusta, Maine 04333
Telephone (207) 287-1670
Telecopier (207) 287-1275

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

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing 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 publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, 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 categories of final action are abbreviated as follows:

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

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

LD 298 An Act to Extend the Return Period for Judgment Executions

PUBLIC 45

SPONSOR(S)
ABROMSON**COMMITTEE REPORT**
OTP-AM**AMENDMENTS ADOPTED**
S-29**SUMMARY**

This bill provides that an execution issued on a judgment of the Superior Court or District Court is returnable within 3 years after issuance.

COMMITTEE AMENDMENT "A" (S-29) adds a fiscal note to the bill.

LD 310 An Act to Limit Protected Classes Under Maine Law

ONTP

SPONSOR(S)**COMMITTEE REPORT**
ONTP**AMENDMENTS ADOPTED****SUMMARY**

This initiated bill would have provided that protected classes under Maine law are limited to race, color, sex, physical or mental disability, religion, age, ancestry, national origin, familial status and marital status. The measure will be on the ballot in the November, 1995 election.

LD 311 An Act to Clarify Professional Liability

PUBLIC 141

SPONSOR(S)
SIMONEAU**COMMITTEE REPORT**
OTP-AM MAJ
ONTP MIN**AMENDMENTS ADOPTED**
H-172**SUMMARY**

Under current law, the liability of shareholders for the debts of and claims against professional corporations arising out of the rendering of professional service extends to those shareholders participating in a professional capacity in such rendering. This bill changes the law governing liability in such situations to extend liability to those shareholders who personally and directly participate, supervise or control another person who directly or personally participates in rendering the service that is negligently performed or is in breach of a legal duty.

COMMITTEE AMENDMENT "A" (H-172) replaces the bill, and rewrites the liability section of the Professional Service Corporation Act to clearly state the effect the Act has on the relationship between the provider and the recipient of professional service, the liability for the debts of and claims against the professional service corporation and the liability of shareholders when there is a claim that professional service was rendered negligently or in breach of any other legal duty.

LD 320 An Act to Clarify Immunity from Civil Suit for Volunteer Activities

PUBLIC 239

EMERGENCY

SPONSOR(S)
ABROMSON**COMMITTEE REPORT**
OTP-AM**AMENDMENTS ADOPTED**
S-178

SUMMARY

This bill clarifies that medical professionals who volunteer services for county or municipal agencies are entitled to the same protection from civil liability as those who volunteer for a nonprofit corporation or a state agency. The bill makes it clear that medical professionals who volunteer services to a city clinic are accorded the same status as medical professionals who volunteer services to a state clinic.

COMMITTEE AMENDMENT "A" (S-178) provides that the limited immunity that is currently provided to physicians, podiatrists and dentists who volunteer their services at an agency of the State or a nonprofit organization is extended to all licensed health care practitioners. The amendment also provides the same immunity to health care professionals who provide volunteer services to an agency of any county or municipality. The amendment adds an emergency preamble, an emergency clause and a fiscal note to the bill.

LD 328 An Act to Provide Immunity from Civil Liability Regarding ONTP
Emergency Care

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
HATHAWAY ONTP

SUMMARY

This bill would have provided immunity from civil liability for physicians, health care providers and private citizens who in good faith provide emergency care at the scene of an accident or en route to a hospital. It would have repealed scattered statutory provisions providing different levels of immunity for specific groups of people and enacted one comprehensive provision. The bill would have provided that any physician who assists in emergency procedures, any citizen who acts in good faith or any emergency medical services person who provides emergency care without any direct compensation is exempt from liability except in cases involving gross negligence.

LD 330 An Act to Allow Liens on Claims Not Sounding in Tort INDEF PP

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
ABROMSON OTP

SUMMARY

This bill attempted to resolve an ambiguity created by the Law Court's decision in New England Mortgage Services Company, Inc. v. Petit, 590 A.2d 1054 (1991), by specifying that a chose in action, except those arising out of tort, may be the subject of a turnover order in postjudgment disclosure proceedings. The bill was recalled from the Governor's desk and indefinitely postponed.

LD 346 An Act to Change the Maine Rule of Evidence That CARRIED OVER
Currently Allows the Admission of Subsequent Remedial
Measures as Evidence of Negligence

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
RICHARDSON

SUMMARY

This bill proposes to reverse current practice in the State and makes the Maine rule compatible with the federal rule by prohibiting the introduction of evidence in court when the evidence is related to steps