

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

MEMBERS:

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Sen. Joan M. Pendexter
Sen. Sean F. Faircloth*

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Rep. Frederick Moore III*

Staff:

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**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 423 An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions

CARRIED OVER

SPONSOR(S) KIEFFER
COMMITTEE REPORT
AMENDMENTS ADOPTED

SUMMARY

This bill proposes to set a limit of \$250,000 on noneconomic damages in medical liability actions. Under this bill, a plaintiff is still entitled to the full economic loss, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and any other verifiable monetary losses.

LD 434 An Act to Improve Access to Public Records

ONTP

SPONSOR(S) PENDEXTER
COMMITTEE REPORT ONTP
AMENDMENTS ADOPTED

SUMMARY

This bill would have provided that public records relating to traffic infractions are not exempt from the laws granting public access to public records under the exception for records within the scope of a privilege against discovery or use as evidence in a court of law.

LD 454 An Act Revising the Liability for the Storage and Distribution of Natural Gas

PUBLIC 299

SPONSOR(S) PLOWMAN
COMMITTEE REPORT OTP-AM
AMENDMENTS ADOPTED H-431

SUMMARY

This bill amends the law dealing with the liability standards of gas pipeline companies.

COMMITTEE AMENDMENT "A" (H-431) replaces the bill and corrects the title to more accurately reflect the purpose and effect of the bill as amended. This amendment revises the liability of natural gas companies and natural gas pipeline companies when escaping gas causes fire or explosions and people are hurt or killed or property is damaged. This amendment holds a company liable for the acts and omissions of the company's employees and agents that cause the deaths, injuries and damages. The company is also liable for deaths, injuries and damages caused by defects in the portion of the distribution system in the company's control. The plaintiff does not need to prove that the company was negligent in these fact situations. There is a rebuttable presumption that any fire or explosion caused by escaping gas is caused by a defect in the portion of the storage or distribution system within the control of the company. This amendment specifies exceptions to a company's liability, and also provides for the indemnification of the company by the third party who is liable.

LD 461 An Act to Ensure Children's Rights Concerning Visitation and Access

PUBLIC 172

SPONSOR(S) LANE
COMMITTEE REPORT OTP-AM MAJ
ONTP MIN
AMENDMENTS ADOPTED H-211

SUMMARY

This bill would have required the court to enforce visitation rights and other rights of contact through the imposition of fines, terms of imprisonment and any other appropriate sanctions available to the court, including modification of orders allocating parental rights and responsibilities.

COMMITTEE AMENDMENT "A" (H-211) is the Majority Report. It replaces the bill. It amends the laws concerning orders awarding parental rights and responsibilities to include specific actions a court can order when a parent violates an order. One action authorized is a requirement that additional visitation be provided when visitation was wrongfully withheld.

LD 471 An Act Concerning the Jurisdiction of the Penobscot Nation Tribal Court ONTP

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
KEANE ONTP

SUMMARY

Current law allows the Penobscot Nation Tribal Court to prosecute Class D crimes committed on the Penobscot Reservation between members of the Penobscot Nation or by one tribal member against another tribal member's property only until September 30, 1995. This bill would have removed that sunset and extended that authority indefinitely. See LD 1333.

LD 479 An Act to Provide Merchants Greater Recourse to Combat Deceptive and Illegal Practices PUBLIC 288

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
BUCK OTP-AM H-360

SUMMARY

This bill gives merchants greater civil recourse against shoplifters and passers of bad checks.

This bill would have required financial institutions to issue checks starting at number 1 for all new checking accounts. This bill would have increased the civil penalties for passers of bad checks. It also provides for civil recovery against shoplifters.

COMMITTEE AMENDMENT "A" (H-360) replaces the first 5 sections of the bill addressing civil consequences for writing bad checks and similar instruments. It clarifies and increases the monetary consequences to include court costs, processing charges and interest at the annual rate of 12% if certain requirements are met. The court may award reasonable attorney's fees and a civil penalty of \$50 to the prevailing party. This amendment changes the civil penalty for shoplifting to 3 times the retail price of the merchandise taken or attempted to be taken and establishes that penalty at not less than \$50 nor more than \$500. This amendment also adds a fiscal note to the bill.

LD 484 An Act Concerning Grandparents' Rights of Visitation and Custody PUBLIC 290

SPONSOR(S) COMMITTEE REPORT AMENDMENTS ADOPTED
POULIN ONTP MAJ H-210
OTP-AM MIN H-379 POULIN