MAINE STATE LEGISLATURE

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STATE OF MAINE 117TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES JOINT STANDING COMMITTEE ON JUDICIARY

JUNE 1996

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ONE HUNDRED SEVENTEENTH LEGISLATURE SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees June 1996

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

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

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

Joint Standing Committee on Judiciary

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

PUBLIC 576

Committee Report Amendments Adopted Sponsor(s)

RICHARDSON OTP-AM H-754

LD 346, a bill carried over from the First Regular Session, proposed to reverse current practice in the State and make the Maine rule compatible with the federal rule by prohibiting the introduction of evidence in court when the evidence is related to steps taken after an accident to correct a condition that may have contributed to the accident.

Committee Amendment "A" (H-754) proposed to replace the bill with the language contained in the Federal Rules of Evidence, Rule 407. The amendment proposed that the change in the admissibility of evidence of subsequent remedial measures apply to causes of action in which the harm or injury occurred on or after the effective date of this Act.

Enacted law summary

Public Law 1995, chapter 576 inserts into statute the language contained in the Federal Rules of Evidence, Rule 407. It prohibits the introduction of evidence of subsequent remedial measures for the purpose of proving negligence or culpable conduct. Consistent with the federal rule, however, that evidence may be admitted for other purposes. The change in the admissibility of evidence of subsequent remedial measures applies to causes of action in which the harm or injury occurred on or after the effective date of this Act.

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

ONTP

Sponsor(s) Committee Report Amendments Adopted KIEFFER **ONTP**

LD 423, a bill carried over from the First Regular Session, proposed to set a limit of \$250,000 on noneconomic damages in medical liability actions. The bill would not have changed a plaintiff's entitlement to recover for economic losses, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and other verifiable monetary losses.

LD 526 An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a **Discovery Rule**

ONTP

Committee Report Sponsor(s) TREAT

ONTP

RAND

Amendments Adopted

LD 526, a bill carried over from the First Regular Session, proposed to enact a discovery rule with respect to the statute of limitations for medical malpractice actions. Current law imposes a 3-year statute of limitations in medical malpractice actions with the 3-year period running from the date of the act or omission causing the harm or, in cases involving a foreign object left in the body, the 3 years runs from the date of discovery of the harm. The bill would have required the 3-year period to run from the date of discovery of the harm in all cases.

LD 636 An Act to Modify Joint and Several Liability in Medical Malpractice Actions

ONTP

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<u>Sponsor(s)</u> <u>Committee Report</u>

Amendments Adopted

RUHLIN ONTP

LD 636, a bill carried over from the First Regular Session, proposed to modify the principle of joint liability in medical malpractice cases. Under this bill, multiple defendants in these cases would have remained jointly liable for all damages awarded for economic loss and would have remained jointly liable for noneconomic loss unless a defendant were found to be less than 25% at fault as compared with other defendants. For such a defendant, the liability for non-economic damages would have been based on the degree of fault but that defendant would have remained jointly liable for all economic damages.

LD 658 An Act Concerning Real Estate Trusts

PUBLIC 523

<u>Sponsor(s)</u> <u>Committee Report</u> <u>Amendments Adopted</u>
OTT OTP-AM H-704

LD 658, a bill carried over from the First Regular Session, proposed to provide that real estate trusts are not invalidated if a trustee is not named at the creation of the trust.

Committee Amendment "A" (H-704) proposed to replace the bill. It would have provided that deeds to or from a trust would not be invalidated for failure to name a trustee as grantor or grantee. It would not have changed the status of a trust into an entity capable of holding or conveying title in its own name; nor would it apply to trusts which already are such entities. The amendment would have provided for the preservation of claims of any person claiming the invalidity of such a deed delivered before the bill's effective date.

Enacted law summary

Public Law 1995, chapter 523 replaces the bill. It provides that deeds to or from a trust will not be invalidated for failure to name a trustee as grantor or grantee, but it does not change the status of a trust into an entity capable of holding or conveying title in its own name. It does not apply to trusts which already are such entities. The law also provides for the preservation of claims of any person claiming the invalidity of such a deed delivered before the law's effective date.

LD 742 An Act Regarding Wrongful Death Actions

PUBLIC 577

<u>Sponsor(s)</u> <u>Committee Report</u> <u>Amendments Adopted</u>
LAFOUNTAIN OTP-AM H-755