

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

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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

communications and records are protected unless disclosure is needed for official proceedings concerning child abuse or the death of a victim or in other court proceedings when in camera examination of privileged information may be allowed.

COMMITTEE AMENDMENT "A" (S-78): clarifies the definition of "advocate" to exclude victim-witness advocates who work in prosecutorial agencies or law enforcement agencies; revises the exception to nondisclosure of information to cover any situation in which the disclosure is required under the child protection laws; and revises the exception to nondisclosure of information to cover any situation in which the victim is not capable of giving consent and the disclosure is required for certain investigations or proceedings.

LD 702 An Act to Amend the Maine Freedom of Access Laws ONTP

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

SUMMARY

This bill would have amended the freedom of access laws to clarify and simplify access to public records that are in machine-readable format. The bill would have required that custodians of public records identify and describe all machine-readable records within 3 years of the effective date of the bill and identify all those determined confidential within one year of the effective date. This bill would have required that lists describing all machine-readable records, even those determined confidential, be maintained, published and updated and be made available upon request. The Committee wrote a letter to the interested parties asking them to meet and consider whether the law needs to be amended to ensure accessibility of computer files and to consider problems with the application of the law to private organizations contracting to manage data or to advise a governmental entity.

LD 718 An Act to Amend the Law Governing Mechanic's Liens ONTP

SPONSOR(S) **COMMITTEE REPORT** **AMENDMENTS ADOPTED**
HANLEY ONTP MAJ
 OTP-AM MIN

SUMMARY

This bill would have imposed sanctions for fraudulently filing a mechanic's lien. The owner of the property could recover the amount of the lien claimed as well as the expenses necessary to defend against and dissolve the lien. The court would dissolve the lien if it determined that good ground did not exist for the lien. The court would be required to award the penalty and reasonable expenses to the owner if the person filed the lien knowing that good ground did not exist for the lien.

COMMITTEE AMENDMENT "A" (S-97) is the Minority Report. It replaced the bill. The amendment would have specified that the penalty for fraudulently filing a lien may not exceed the amount of the lien plus actual losses resulting from the fraudulent assertion of the lien. The amendment would have given the court discretion in awarding the penalty and reasonable expenses to the owner. The amendment included a fiscal note.

LD 722 An Act to Grant Immunity from Suit for Officers and Directors of Fish and Game Clubs ONTP

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

SUMMARY

This bill would have expanded the types of organizations that may claim charitable immunity from torts for the officers, directors and volunteers of those organizations to include fish and game clubs.

LD 742 An Act Regarding Wrongful Death Actions

CARRIED OVER

SPONSOR(S)
LAFOUNTAIN

COMMITTEE REPORT

AMENDMENTS ADOPTED

SUMMARY

This bill proposes to amend the current law regarding death actions to allow award of full and fair compensation for the loss suffered as the result of wrongful acts that result in the death of a person. In addition, this bill proposes to provide a limitation period for an action for wrongful death consistent with the 6-year statute of limitations for other civil actions in the State.

LD 748 An Act to Allow Physician Assisted Deaths with Dignity for Terminally Ill Persons in Maine

DIED BETWEEN BODIES

SPONSOR(S)
RICHARDSON

COMMITTEE REPORT

AMENDMENTS ADOPTED

OTP-AM	A
ONTP	B
OTP-AM	C

SUMMARY

This bill would have created the Death with Dignity Act.

The bill would have allowed a mentally-competent person who has been diagnosed with a terminal condition that is likely to lead to death within 6 months and whose condition has been certified by an attending physician and a consulting physician to request a medically assisted death.

COMMITTEE AMENDMENT "A" (H-411) would have established the Task Force Concerning Laws on Death with Dignity.

COMMITTEE AMENDMENT "B" (H-412) would have made several changes to the original bill. It would have: added additional safeguards to ensure that the patient's request is voluntary and based on an informed decision; prohibited a consulting physician from being in business with the attending physician or having an office in the same building as the attending physician; provided a broader definition of counselor; defined "personally communicated request" to include requests made orally, by sign language or by some other method of communication, including a method using an interpreter, that clearly and unambiguously communicates the patient's intentions; provided for the circumstance in which a patient can make and communicate health care decisions but is incapable of writing; specified that the attending physician, in consultation with the consulting physician, is the one who makes the decision as to what medication should be prescribed for the patient to carry out the patient's request; required the attending physician to be present when the medication that will end the patient's life is administered; required the consulting physician and the counselor to inquire about notifying the next of kin; required every patient to be referred to a counselor to determine whether the patient is suffering from a psychiatric or psychological disorder or depression that impairs judgment; revised the provision addressing sequential requests required to confirm the patient's intent; revised the provisions regarding insurance and annuity policies to prohibit a change in benefits payable under the policies based on the patient's making or revoking a request to end that patient's life in a humane and dignified manner; prohibited anyone other than the patient from administering the medication unless the patient designates another person to do so