

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. 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

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

because the patient is physically unable to do so; provided an opportunity for a pharmacist who conscientiously objects to filling a prescription that will end a patient's life to refuse to fill the prescription. The amendment also made technical corrections and added a fiscal note to the bill.

**LD 762 An Act to Amend the Trust Fund Provisions of Cemeteries and
Crematories**

PUBLIC 474

SPONSOR(S)
CAMPBELL

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-248

SUMMARY

This bill requires cemetery corporations to place pre-need funds for cemetery or crematory services or property in cemetery trust accounts and for the parties to enter into a trust agreement. This requirement does not apply if title to and delivery of the specific property has passed to the buyer. Any funds used to purchase tangible personal property that is held by the payee until the time of need are not considered to be funds that must be placed in the trust account. A full refund of the principal of the trusted funds and delivery of all specific property purchased must be made by the cemetery or crematory upon written request of the payor or the payor's attorney-in-fact or personal representative. A violation of the refund provisions constitutes the crime of theft. This bill also prohibits uninvited telephone or door-to-door solicitations for crematory or cemetery services or property.

COMMITTEE AMENDMENT "A" (H-248) deletes the imprisonment penalty for violating the ban on solicitation by cemeteries and crematories. It also adds a fiscal note to the bill.

**LD 769 An Act to Conform Maine Law Related to Domestic Relations
with Federal Law**

PUBLIC 469

SPONSOR(S)
BUNKER

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-590

SUMMARY

The Violent Crime Control and Law Enforcement Act of 1994 (VCCA) as enacted by the United States Congress, requires states to give full faith and credit to certain domestic violence protection from abuse orders issued by other states. This bill gives effect to the VCCA in a form that will make it readily enforceable by the State's courts and law enforcement. This bill would have also amended state law to prohibit the possession of firearms by persons who are the subject of certain protective orders relating to domestic violence.

COMMITTEE AMENDMENT "A" (H-590) replaces the bill. It amends the law covering the issuance of protective orders when crimes are committed between family members. It expands the definition of "family or household members" to include minor children of adult household members when the offender against whom the order is sought is an adult household member. A similar amendment is made to the definition of "family and household members" in the protection from domestic abuse laws. This amendment makes the penalty provisions of the laws concerning crimes between family members and domestic abuse consistent with each other and the federal Violent Crime Control and Law Enforcement Act of 1994. The federal law requires states to give full faith and credit to the protective orders of other states and federal courts. This amendment covers other jurisdictions' protective orders and puts Maine in compliance with that provision of the federal law.