

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

5. It clarifies that the Maine Human Rights Commission must adopt rules to include the federal standards for the "fundamental-alteration" defense, thus making that defense to a claim of discrimination available to municipal, county and state governments.
6. It provides that an employer may raise as a defense to accusations of discrimination that qualification standards, tests or selection criteria were job-related and consistent with business necessity and that a reasonable accommodation would not be sufficient.
7. It clarifies that a covered entity may not subject an individual or a class, on the basis of disability, to a denial of the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of the entity.
8. It clarifies that specific alterations, not repairs, must meet certain construction and accessibility standards.
9. It changes the requirement for vertical access in current law. An elevator is not required under this amendment if the facility is under 3 stories or has less than 3,000 square feet on each story. Elevators are required under this amendment for 2-story shopping centers, shopping malls, professional offices of health care providers or facilities covered by Title II of the Americans with Disabilities Act. In addition, the United States Attorney General may require elevators for particular categories of facilities that are under 3 stories based on the usage of the facility.
10. It expands mandatory plan review to cover all public buildings. Anyone constructing a new public building must first have the plans approved by the State Fire Marshal's office. The fees collected for the reviews will pay for 4 additional Fire Protection Specialist Assistants and general operating costs. "Public buildings" are buildings or structures constructed, operated or maintained for use by the general public.
11. It deletes language relating to the preemption of municipal and other local government standards.
12. It clarifies that the State Fire Marshal's office shall adopt fees for waivers and variances as well as reviews.
13. It extends the People with Disabilities Access Commission to January 15, 1996, adds 2 new members to bring the total membership to 19 and adds 2 additional duties to the commission's charge. The 2 new members represent municipalities and the Secretary of State. The expanded duties are to study drivers' licensing and the use of elevators in buildings of fewer than 3 stories.

LD 1170

An Act to Expand Access to Medical Care by Encouraging Involvement of Retired Physicians, Podiatrists and Dentists

PUBLIC 385

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| PLOWMAN | ONTP MAJ | H-319 |
| | OTP-AM MIN | H-493 SAXL J |

SUMMARY

This bill provides expanded immunity from liability for physicians, podiatrists and dentists who are retired from active practice and who volunteer their services within the scope of their license to a nonprofit organization or an agency of the State. It also makes technical corrections to reflect the intent of current law.

COMMITTEE AMENDMENT "A" (H-319), which was the minority report, replaces the original bill with language that more clearly describes the extended immunity granted to retired physicians, podiatrists and dentists. The amendment provides that members of those professions who have retired but who still have an unrestricted license to practice and have not been disciplined in the past 5 years are immune from suit unless the injury or death was caused willfully or wantonly. Under current law, volunteering physicians, podiatrists and dentists are immune unless the injury or death was caused willfully, wantonly, recklessly or by gross negligence.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-493) clarifies that a nonprofit corporation does not include a hospital and that a physician, podiatrist or dentist may not receive any compensation either directly or indirectly for the services provided.

SENATE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (S-319) provides that the volunteering retired physician, podiatrist or dentist is not liable unless it is established that the injury or death was caused willfully, wantonly or recklessly rather than just willfully or wantonly.

LD 1182 An Act to Amend the Laws Governing Adoption

ONTP

SPONSOR(S)
MCALEVEY

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

Public Law 1993, chapter 686 recodified the State's adoption laws. In the process some provisions of the laws were omitted pertaining to putative fathers' waivers, full faith and credit for actions under another state's laws and certain exceptions for adoptions by relatives. This bill would have restored those provisions. See LD 1400.

LD 1206 An Act to Amend the Medical Examiner Act

PUBLIC 272

SPONSOR(S)
BENOIT

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
S-198

SUMMARY

This bill authorizes the medical examiner or the Office of the Chief Medical Examiner to take possession of specimens or objects taken from a victim under medical care or to direct a law enforcement officer to take possession of these specimens or objects. The bill provides immunity to medical personnel and institutions that turn over these specimens or objects. This bill also provides that statutory reporting requirements of medical examiners to state entities are considered fulfilled when the medical examiner has informed the Office of the Chief Medical Examiner of the results of the medical examiner's examination.

COMMITTEE AMENDMENT "A" (S-198) adds a Mandate Preamble, requiring a 2/3 majority vote for passage, to indicate that the Legislature does not believe it necessary to provide funding to local units of government to carry out this Act because the new language in sections 1 and 2 is a codification of current practices. This amendment replaces language in section 3 of the original bill addressing statutory reporting duties of medical examiners. The 2 sections of the law that mandate the reporting of suspected abuse, neglect or exploitation of adults and children are specifically cross-referenced. The Chief Medical Examiner, upon receipt of the medical examiner's information, may make the required report to the Department of Human Services on behalf of the medical examiner.