

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

SPONSOR(S)
TREAT
MILLS

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-361

SUMMARY

This bill adds to the protections already contained in the Maine Civil Rights Act for persons seeking services from reproductive health facilities and for persons providing services at those facilities. Specifically, the bill prohibits persons from physically obstructing ingress to or egress from a reproductive health facility; making repeated telephone calls to a facility; setting off a device releasing noxious odors; and intentionally making noise that jeopardizes the health of persons receiving reproductive health services. The current provisions of the Maine Revised Statutes, Title 5, sections 4681 and 4682 prohibit the use of violence, threat of violence, property damage and trespass with the intent of interfering with the provision or receipt of constitutionally secured reproductive health services.

COMMITTEE AMENDMENT "A" (H-361) adds to the protections contained in the Maine Civil Rights Act. Specifically, the amendment prohibits persons from intentionally interfering with another person's exercise of a constitutionally or statutorily secured right, including the right to obtain reproductive health services, through the following conduct: physically obstructing entrance to or exit from a building; making repeated telephone calls to disrupt activities in a building; setting off a device that releases noxious substances or offensive odors; and making noise, after having been warned by a police officer to cease, that endangers persons receiving health services. The amendment broadens the original bill by making the added protections applicable in all contexts rather than only to civil rights violations at physicians' offices and health clinics that provide reproductive services.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-536) would have expanded the prohibited activities to include making noise that can be heard within a building that is made with the intent to jeopardize the health of or interfere with the civil rights of any person in the building. (Not adopted)

LD 1217 Resolve, Establishing the Study Commission on Property Rights and the Public Health, Safety and Welfare

RESOLVE 45

SPONSOR(S)
DEXTER
PENDEXTER

COMMITTEE REPORT
OTP-AM MAJ
OTP-AM MIN

AMENDMENTS ADOPTED
H-601
S-392 HANLEY

SUMMARY

This bill would have provided a process to pay compensation to a property owner if the value of his or her property is substantially decreased because of regulations imposed by the State or political subdivisions. The procedures would be triggered only when new applications of regulations occurred. The assessment of diminution of value would be cumulative, looking at all applications on the land. There would be no cost impact to the state or governmental entity unless it chose to impose a new application of a law, regulation, rule or ordinance that reduced the value of a property by at least 50%. The calculation of the diminished value would have been determined by the trier of fact based upon a comparison of the fair market value for the property's highest and best use with the restriction and without the restriction. A property owner would have had a claim when the restriction was enacted and applicable to the property. If a variance were available to overcome the restriction, the owner would have to apply for the variance. If the variance application were rejected, the property owner's claim becomes ripe.

The bill would have provided that when multiple regulatory entities combine to cause the reduced value of the property, each entity would be included in the claim. If the property value were diminished by 50% or more, then each entity would be responsible for its portion of compensation based on the burden it imposed. If the Federal Government were partially responsible in contributing to the 50% or more loss in value, the property would not be deemed taken by the State or local regulatory action, but each state or local regulatory entity would remain responsible for compensating for its percentage of the taking. Alternatively, the governmental entity to choose to suspend the restrictions. All agencies responsible for the combined 50% or more reduction in property value would have to collectively agree to the suspensions.

This bill would have applied retroactively by providing that the process would apply when any restriction is enacted or becomes applicable after the effective date of the Maine Revised Statutes, Title 1, section 815. The statute of limitations would be set at 6 years from the date that the claim is ripe. If the claim were to prevail, the property owner could recover reasonable attorney's fees and costs. The bill would not have required compensation for abatement of nuisances.

COMMITTEE AMENDMENT "A" (H-601) is the Majority Report and replaces the bill. It establishes a Study Commission on Property Rights and Public Health, Safety and Welfare. The commission consists of 20 members from different backgrounds and legislative committees to provide a diversity of perspectives on the issues regarding private property rights protections afforded under the Constitution of Maine and the Constitution of the United States and the need to protect the public health, safety, welfare, communities and environment through laws, rules and regulations. The commission shall hold at least 3 public hearings to afford full public participation. This amendment adds an appropriation section and an allocation section to the resolve. It also adds a fiscal note.

COMMITTEE AMENDMENT "B" (H-602) is the Minority Report and would have replaced the bill. Part A would have revised the original bill, creating statutory procedures for inverse condemnation actions. Part B would have established the Study Commission on Constitutional Property Rights and the Public Interest to examine takings issues. The amendment included an appropriation section, an allocation section and a fiscal note.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-617) would have replaced the study commission in Committee Amendment "A" with the study commission contained in Committee Amendment "B". The major differences are as follows: The number of members would have been reduced from 20 to 9; the duties are more specifically enumerated in the minority study commission structure, including determining the fiscal impact of inverse condemnation and whether attorney's fees should be provided; the scope of the recommendations would be increased; and the allocation for the minority study commission is less than that for the majority committee report's study commission. (Not adopted)

HOUSE AMENDMENT "B" TO COMMITTEE AMENDMENT "A" (H-653) would have changed the number of members to be appointed from the Joint Standing Committee on Natural Resources, from the Joint Standing Committee on Agriculture, Conservation and Forestry, from the Joint Standing Committee on State and Local Government and from the Joint Standing Committee on Inland Fisheries and Wildlife from one member to two members and would have required that the selection of those members be made jointly by the President of the Senate and the Speaker of the House of Representatives. (Not adopted)

SENATE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (S-360) is the same as House Amendment "A" to Committee Amendment "A". (Not adopted)

SENATE AMENDMENT "B" TO COMMITTEE AMENDMENT "A" (S-363) would have changed the number of members to be appointed from the Joint Standing Committee on Judiciary from five to three members and would have changed the number of members to be appointed from the Joint Standing Committee on Natural Resources and from the Joint Standing Committee on Agriculture, Conservation and Forestry from one member to two members. (Not adopted)

SENATE AMENDMENT "C" TO COMMITTEE AMENDMENT "A" (S-392) changes the number of members to be appointed from the Joint Standing Committee on Natural Resources, from the Joint Standing Committee on Agriculture, Conservation and Forestry, from the Joint Standing Committee on State and Local Government and from the Joint Standing Committee on Inland Fisheries and Wildlife from one member to two members and requires that the selection of those members be made jointly by the President of the Senate and the Speaker of the House of Representatives.

LD 1239 An Act to Restrict the Use of State Agencies for Representation of Nonresidents under the Uniform Interstate Family Support Act ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
LEMKE	ONTP	

SUMMARY

This bill would have amended the Uniform Interstate Family Support Act, which takes effect July 1, 1995, to limit the duties of the Department of Human Services to provide services to nonresident petitioners. Under the terms of this bill, those services would be provided only to individual, nonresident petitioners who have a court order of support from this State or who reside in a state that has enacted the Uniform Interstate Family Support Act, or to the support enforcement agency of a state that has enacted the Uniform Interstate Family Support Act, which therefore provides similar services to Maine residents. Nonindigent nonresidents would have to pay the Department of Human Services a fee for these services.

LD 1249 An Act to Allow the Court to Dismiss Frivolous Lawsuits Filed by Persons Requesting Leave to Proceed In Forma Pauperis ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
BENOIT	ONTP	

SUMMARY

This bill would have allowed the court to dismiss lawsuits filed by persons who ask for leave to proceed without liability for court fees or costs if the court finds that the action is frivolous. The bill was drafted to parallel the standard used in federal court, as provided in 28 U.S.C. §1915(d). The Committee wrote a letter to the Advisory Committee on Rules of Civil Procedure suggesting they consider whether an amendment to the rules is appropriate.

LD 1252 An Act to Clarify the Role of Prelitigation Screening Panels under the Health Security Act ONTP

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
MILLS	ONTP	

SUMMARY

This bill would have clarified the role of the prelitigation screening panels under the Maine Health Security Act. See LD 916.