

# 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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Sen. Joan M. Pendexter  
Sen. Sean F. Faircloth*

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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 &amp; 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&amp;S XXX</i>	<i>Chapter # of enacted Private &amp; 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

**LD 1337**      **An Act Making Comprehensive Changes to the Child and Family Services and Child Protection Act**      ONTP

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
LANE	ONTP            MAJ	
	OTP-AM        MIN	

**SUMMARY**

This bill would have made a number of changes to the Child and Family Services and Child Protection Act by amending the procedures by which the Department of Human Services may remove a child from a parent's custody. The bill would have required any mental health evaluation required by the department to be conducted by a professional chosen by the family and at the expense of the State. The bill also would have required certain professional persons making a report of abuse or neglect to provide clinical evidence that the abuse has occurred. The bill also would have amended the Maine Tort Claims Act.

COMMITTEE AMENDMENT "A" (H-595) is the Minority Report. It would have deleted several sections of the bill, and it contained an appropriation section.

**LD 1358**      **An Act to Authorize the Formation of Limited Liability Partnerships**      CARRIED OVER

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
HARRIMAN		
DORE		

**SUMMARY**

This bill proposes to allow the formation of limited liability partnerships under the Uniform Partnership Act. This bill also proposes to conform amendments to other chapters of the statutes and to clarify that the transfer of real property within a limited liability partnership is not a taxable event. The Judiciary Committee has requested that the Secretary of State work with interested parties to develop a new draft for the Second Regular Session.

**LD 1359**      **An Act to Establish a New Prosecutorial District Consisting of Oxford County and Franklin County**      ONTP

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
FERGUSON	ONTP	

**SUMMARY**

Under current law, prosecutorial District 3 consists of Androscoggin, Oxford and Franklin Counties. This bill would have changed Prosecutorial District 3 so that it consists of Androscoggin County only and would have created a new Prosecutorial District 9 covering Oxford and Franklin Counties. District attorneys would be elected to begin serving in the new districts in 1999.

**LD 1360**      **An Act Concerning Judicial Endorsement for Persons Transported and Held for Evaluation and Treatment**      PUBLIC 364

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
FAIRCLOTH	OTP-AM	S-261
MILLS		

**SUMMARY**

This bill continues to allow a person for whom admittance to a mental hospital on an emergency basis is sought to be held for evaluation and treatment at the hospital pending judicial endorsement of the application for admittance and the certificate of mental condition if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m.

COMMITTEE AMENDMENT "A" (S-261) revises the language concerning the status of persons law enforcement officers identify as needing mental health evaluations between the time the law enforcement officer picks them up and the time a judge endorses the certificate authorizing temporary detention for the purpose of evaluation and treatment. This amendment authorizes the law enforcement officer to transport the person to a hospital, and that hospital can hold the person for evaluation and treatment until a judge endorses the admittance to the hospital. "Hospital" is defined in the Maine Revised Statutes, Title 34-B, section 3801 to mean a state mental health institution or a nonstate mental health institution. This amendment also removes the sunset that was enacted by the 116th Legislature and that was already extended by this Legislature.

**LD 1366      Resolve, to Provide Clear Title for the Maine Judicial Center      RESOLVE 25**  
EMERGENCY

**SPONSOR(S)**                      **COMMITTEE REPORT**                      **AMENDMENTS ADOPTED**  
BUSTIN                                      OTP

**SUMMARY**

The Judicial Department was given a house and adjoining grounds located at 65 Stone Street in Augusta for use as chambers for the Chief Justice, as a meeting center for the Judicial Department and as offices for Judicial Department staff. The gift was accepted for the Judicial Department by the Governor, acting under the Governor's authority under the Maine Revised Statutes, Title 2, section 5. However, the right to use the property for those purposes is or may be limited by a deed restriction dating from 1936, limiting the property to residential uses. Almost all of the neighboring owners have consented to waive this restriction, but 2 owners have indicated that they will not consent to permit the proposed use.

This resolve authorizes the State Court Administrator to clear the title to the property by purchase, negotiated settlement or eminent domain so that the gift can be utilized in accordance with the purposes of the donor and further requires that the State Court Administrator proceed under the procedures currently established for the Bureau of Parks and Recreation to compensate any affected owners if any taking by eminent domain is finally required.

HOUSE AMENDMENT "A" (H-414) would have authorized the Chief Justice of the Supreme Judicial Court to enter into an agreement with the municipal officers of the City of Augusta to make payments in lieu of property taxes. (Not adopted)

**LD 1367      An Act Concerning the Termination of Parental Rights      PUBLIC 481**

**SPONSOR(S)**                      **COMMITTEE REPORT**                      **AMENDMENTS ADOPTED**  
PINGREE                                      OTP-AM                                      S-316  
PLOWMAN

**SUMMARY**

This bill amends the definition of abandonment of a child by changing the period of time from one year to 6 months for determining a parent's failure to communicate meaningfully with the child and a parent's failure to maintain regular visitation with the child. The bill also adds additional grounds that may be considered in determining the termination of parental rights.