

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

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.

COMMITTEE AMENDMENT "A" (S-316) updates the name of the crime of gross sexual assault.

LD 1371 An Act Relating to Civil Actions, Providing for the Defense of Assumption of Risk, Providing for Standards of Liability in Product Liability Actions and Providing for Standards and Procedures in Awarding Punitive Damages

CARRIED OVER

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CIANCHETTE		

SUMMARY

This bill proposes to alter several related aspects of the State's liability law to limit the liability exposure of manufacturing companies, which will reduce the cost of doing business in Maine and therefore the price of Maine-made products. First, the bill proposes to establish assumption of risk as an independent defense. Under current law, assumption of risk is relevant only as a factor to be considered in the comparative negligence determination.

Second, the bill proposes to provide that a product manufacturer or seller may not be held liable for damage caused by an aspect of the product that is an inherent characteristic of that type of product and that is known to the ordinary consumer.

Third, the bill proposes to provide that a plaintiff claiming that a product was defectively designed must establish that a safer alternative design existed that would have avoided the harm. This provision is a modification of Maine's existing "danger-utility" test for product defects, under which the existence of a feasible alternative design is one of three relevant factors.

Fourth, the bill proposes to establish certain procedural and substantive rules relating to the award of punitive damages in civil cases.

LD 1391 An Act to Establish a Statute of Limitations for Claims against the Dalkon Shield Claimants Trust

ONTP

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

SUMMARY

The bill would have established a special statute of limitations for the claims of Maine women injured by the Dalkon Shield as has been done in several other states. Under this bill, a Dalkon Shield victim's claim would be extended for a period of 15 years from the date of injury, except in cases of fraud or fraudulent concealment, to August 21, 1985, the date the A.H. Robins Company, Inc., filed for protection under the provisions of Chapter 11 of the United States Bankruptcy Code, and would be deemed tolled from that date until one year following certification to proceed with litigation under the procedures established by the Dalkon Shield Claimants Trust.

COMMITTEE AMENDMENT "A" (H-616) would have clarified that the statute of limitations is extended for only those Dalkon Shield victims who began to pursue remedies for their injuries before March 1, 1995. It also included a fiscal note.