

# 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 1398**     **Resolve, to Authorize the Joint Standing Committee  
on Judiciary to Study and Make Recommendations Concerning  
the Enactment of the Uniform Adoption Act**

ONTP  
EMERGENCY

**SPONSOR(S)**  
MILLS

**COMMITTEE REPORT**  
ONTP

**AMENDMENTS ADOPTED**

**SUMMARY**

This resolve would have authorized the Joint Standing Committee on Judiciary to form a 4-member subcommittee to review the Uniform Adoption Act and report its findings and recommendations to the full Joint Standing Committee on Judiciary and the Legislature no later than November 1, 1995.

**LD 1400**     **An Act to Amend the Adoption Laws**

PUBLIC 412  
EMERGENCY

**SPONSOR(S)**  
MILLS

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
S-350

**SUMMARY**

This bill makes several changes to the new adoption laws.

COMMITTEE AMENDMENT "A" (S-350) replaces the bill and incorporates certain proposals included in the bill, LD 629 and LD 1182. The following changes to the adoptions laws are included:

1. The definition of "birth parent" is amended to clarify that use of the term "parent" means the legal parent, which is not necessarily the birth parent.
2. The term "parent" is defined to include a guardian when no parent exists. A guardian is not authorized to execute a consent or a surrender and release if one or both parents are alive and retain their legal rights as parents.
3. The number of places where the petition for adoption may be filed is expanded to include the county in which the petitioners reside.
4. The chapter is made consistent concerning the transfer to the District Court of cases in which the adoption is not finalized within a specific period of time.
5. A reference is added to the Indian Child Welfare Act to state that the federal law applies as defined.
6. An application section is added to the chapter to cover the cases in which preliminary steps toward adoption were taken before the effective date of PL 1993, c. 686, but for which an adoption petition was not filed until after that date.
7. The provisions concerning notice to a putative father by publication is amended to cover situations in which the mother has already signed a consent or a surrender and release. It also requires that publication be made in accordance with the Maine Rules of Civil Procedure.
8. A putative father or the legal father who is not the biological father is given the opportunity to waive his right to notice of the proceedings by executing a document before a notary public or a judge. Once executed and filed with the Probate Court, the father or putative father will not be notified of further proceedings, and his consent is not required.

9. The law is clarified to require the consent or the surrender and release to be executed in the presence of the judge. The judge can reject the consent or the surrender and release if it is not in the best interest of the child.
10. Current law requires that the birth parents receive counseling, or provide a certificate showing they were offered and refused counseling. This requirement is amended to not apply to adoptions in which one of the petitioners is a blood relative of the adoptee, such as step-parent adoptions, and adoptions in which the adoptee is an adult.
11. The Probate Judge must inform the parents signing the consent or the surrender and release that they have 3 days in which to revoke the consent or the surrender and release.
12. The consent or surrender and release must be executed in duplicate. One original stays with the court in which it was executed; the other is sent to the court in which the adoption petition is filed. Attested copies will be available for all other uses.
13. The current law contains no reciprocity provision authorizing acceptance of adoption proceedings in other states. A new subsection is added to require the acceptance of consents, surrender and releases and waivers executed in another state in accordance with that state's laws. An unallocated section is added requiring the Advisory Committee on Probate Rules to develop a form the Probate Courts may use to send to other jurisdictions to explain to birth parents the effect of Maine adoption law. This is important when the consent or surrender and release is executed in another state and the adoption will be completed in Maine, so Maine law will govern the adoption and its confidential nature.
14. Current law requires the appointment of a guardian ad litem. This amendment gives the court discretion to appoint one.
15. When a child is not adopted or an adoption is not finalized after 18 months, the court is required to review the case. If adoption is not a viable plan, the court is required to notify the birth parents. This amendment requires the court to attempt to notify the birth parents.
16. The requirement that the adoption petition contain a timetable for adoption is repealed.
17. The section requiring service of notice of a petition to adopt is repealed. The requirement of notice of finalization of an adoption is retained, although the terminology is revised to refer to the completion of the adoption.
18. The language governing the investigation of the birth parents, the child and the adoptive parents is revised to allow a child placing agency to provide the services directly rather than through the Department of Human Services. The court is given discretion on whether to order an adoption study and investigation or a homestudy if one of the petitioners is a blood relative.
19. The limits on what expenses of the birth mother and the adoption may be paid by the adoptive parents does not apply when one of the petitioners is a blood relative or if the adoptee is an adult. The list of allowable expenses is expanded to include fees to a licensed child placing agency.
20. The requirement that the petitioner file an accounting of expenses paid does not apply to adoptions in which one of the petitioners is a blood relative or in which the adoptee is an adult.
21. In determining whether the best interests of the adoptee will be served, the court is to consider the capacity and disposition of the petitioners to provide an appropriate home consistent with the background of the child. This provision is amended to be consistent with the federal Multiethnic Placement Act. It also prohibits the delay or denial of an adoption solely because the adoptive parent and the child are not of the same race, color or national origin.

