

# 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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Rep. William Lemke  
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Rep. Frederick Moore III*

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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 1445 An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning**

CARRIED OVER

**SPONSOR(S)**

BERUBE

**COMMITTEE REPORT**

**AMENDMENTS ADOPTED**

**SUMMARY**

This bill proposes to limit the liability of landlords for lead poisoning to \$250,000 unless the landlord has actual notice of conditions likely to cause lead poisoning and refused to take corrective action. See also LD 1504, Joint Standing Committee on Human Resources (PL 1995, c. 453).

**LD 1448 An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters**

CARRIED OVER

**SPONSOR(S)**

BERUBE

**COMMITTEE REPORT**

**AMENDMENTS ADOPTED**

**SUMMARY**

This bill proposes to reconcile the respective rights and responsibilities of individuals, business and organizations with respect to issues of sexual orientation and related matters.

The bill proposes to amend the Maine Human Rights Act to prohibit discrimination in employment and housing against a person who has been the victim of a crime involving violence or the threat of violence and who reports that crime to law enforcement, provided that person was not involved in criminal conduct or misconduct relating to employment.

The bill proposes to amend the Maine Human Rights Act to prohibit discrimination in employment, housing, access to public accommodations and credit based on sexual orientation. The term "sexual orientation" is defined as the status or tendency toward homosexual or heterosexual attraction but the bill expressly does not protect any form of sexual behavior, conduct or life-style that may be related to a sexual orientation.

The bill proposes to exempt religious organizations and certain nonprofit organizations from the provisions of the Act relating to sexual orientation.

The bill proposes that an employer or insurer is not required to provide insurance or other employee benefits to persons involved in homosexual relationships with an employee because the employer provides those benefits to employees' spouses and children and that employers are not required to engage in affirmative action or to keep employment records relating to sexual orientation.

The bill proposes to prohibit lawsuits under the Maine Human Rights Act that force participation of groups in privately sponsored events such as parades or conventions for the purpose of advocating a certain life-style based on sexual orientation.

The bill proposes to prohibit lawsuits based on sexual orientation discrimination against employers with less than 15 employees who are exempt from a lawsuit under the federal Americans with Disabilities Act and against landlords who own less than 5 rental units or who reside in the building in question.

The bill proposes to prohibit lawsuits to force any school to incorporate any particular view of homosexual orientation or behavior in its curriculum and proposes expressly to leave these other decisions under the jurisdiction of local school boards and governing bodies of educational institutions.

The bill proposes to not require the placement of any child for adoption or foster care when one or more of the prospective parents is homosexual and any person or agency responsible for the placement of a child may lawfully consider the sexual orientation of the prospective parents.

The bill proposes expressly to affirm public policy in support of marriage and makes clear that marriage is limited to one female and one male and that other forms of relationships or arrangements, whether or not sanctioned by another state, are not recognized in Maine as a marriage or marriage-equivalent.

The bill proposes to make it a crime of sexual abuse of a minor for a person to engage in a sexual act or sexual contact with a minor of the same gender who is more than 3 years younger than the actor. Current law applies only when the actor is at least 5 years older, if the minor is between 14 and 16 years of age and an adult of any age can lawfully engage in sexual activity with a minor who is 16 or 17 years of age.

See also LD 310.

## **LD 1468 An Act Regarding Custody and Support of Children**

ONTP

**SPONSOR(S)**  
DIPIETRO

**COMMITTEE REPORT**  
ONTP

**AMENDMENTS ADOPTED**

### **SUMMARY**

This bill would have made comprehensive changes to child custody and child support laws, including the following:

1. If a parent complains that another parent has abused or abandoned the child, the court would have been authorized to order the appointment of an attorney for the child to conduct an investigation into the legal best interests of the child and to represent the child at court and the appointment of a qualified licensed mental health professional to conduct an evaluation of the child and all parties concerned and issue a report to the child's appointed attorney. A fee cap of \$1,000 each would be imposed on the child's attorney and the licensed mental health professional. The fee cap would not be increased unless a party files a motion for a fee increase and the court approves an increase in the fees after a hearing.
2. Under current law, when parties agree to an award of shared parental rights and responsibilities, the court is directed to make that award unless there exists a "fair preponderance of the evidence" that it should not be ordered. This bill would have changed that law to require that, unless the court finds by clear and convincing evidence a parent has abused or neglected the child, the court would be required to award parental rights and responsibilities as follows.
  - A. When one parent resides or is going to reside in another state special parental rights and responsibilities as defined by the bill must be awarded with primary physical residence granted to the parent who resides in this State.
  - B. When the parents agree in writing to an order of parental rights and responsibilities, the court shall make that award unless there exists clear and convincing evidence that the child has been or will be subject to abuse or abandonment by one of the parents.
  - C. After a contested hearing, the court shall order shared or special parental rights and responsibilities unless there exists clear and convincing evidence that the child has been or will be subject to abuse or abandonment by one of the parents.