

MAINE STATE LEGISLATURE

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**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JUNE 1996

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Sen. Sean F. Faircloth

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**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are 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 finally passed 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>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

lead abatement. The task force is required to report to the joint standing committees of the Legislature having jurisdiction over judiciary and human resources matters by November 1, 1998. Public Law 1995, chapter 572 is effective March 29, 1996.

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

<u>Sponsor(s)</u> BERUBE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1448 proposed to reconcile the respective rights and responsibilities of individuals, business and organizations with respect to issues of sexual orientation and related matters.

LD 1448 would have amended 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.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment, housing, access to public accommodations and credit based on sexual orientation. The bill proposed to define the term "sexual orientation" as the status or tendency toward homosexual or heterosexual attraction but the bill would not have expressly protected any form of sexual behavior, conduct or life-style that may be related to a sexual orientation. LD 1448 would have exempted religious organizations and certain nonprofit organizations from the provisions of the Act relating to sexual orientation.

LD 1448 would have provided 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.

LD 1448 would have prohibited 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.

LD 1448 would have prohibited 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.

LD 1448 would have prohibited lawsuits to force any school to incorporate any particular view of homosexual orientation or behavior in its curriculum and would have expressly left these other decisions under the jurisdiction of local school boards and governing bodies of educational institutions.

LD 1448 would not have required 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 would have been lawfully able to consider the sexual orientation of the prospective parents. The bill proposed to expressly 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.

LD 1448 would have made 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.

The Committee voted ONTP without a public hearing at the request of the sponsor.

LD 1517 An Act to Create the Sunshine in Litigation Act ONTP

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1517, a bill carried over from the First Regular Session, proposed to prohibit courts from entering orders or approving agreements that would have the effect of concealing public hazards by suppressing information that would be helpful to the public in protecting themselves from public hazards.

LD 1618 An Act to Reform the Standard of Fiduciary Prudence PUBLIC 525

<u>Sponsor(s)</u> AMERO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-432
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LD 1618 proposed to remove constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same efficient way that private investors, investment advisors and custodians manage other assets. It would have created the Maine Uniform Prudent Investor Act.

The bill would have been effective January 1, 1997.

Committee Amendment "A" (S-432) proposed to correct 2 typographical errors.

Enacted law summary

Public Law 1995, chapter 525 removes constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same way that private investors, investment advisors and custodians manage other assets. The chapter creates the Maine Uniform Prudent Investor Act, as approved by the National Conference of Commissioners on Uniform State Laws in its 1994 Annual Conference.

The most significant change made by Chapter 525 is an alteration in the standard for judging whether fiduciaries have invested in accordance with the "prudent person rule." This chapter changes the focus of the prudence inquiry from each asset individually to the portfolio as a whole. This chapter also states a preference for diversification of investment portfolios in order to reduce risk. This chapter applies the new rules on prudent investing to conservators as well as to trustees.