

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

MEMBERS:

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Sen. Sean F. Faircloth*

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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:

CARRIED OVER	<i>Bill carried over to Second Session</i>
CON RES XXX	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
CONF CMTE UNABLE TO AGREE	<i>Committee of Conference unable to agree; bill died</i>
DIED BETWEEN BODIES	<i>House & Senate disagree; bill died</i>
DIED ON ADJOURNMENT	<i>Action incomplete when session ended; bill died</i>
EMERGENCY	<i>Enacted law takes effect sooner than 90 days</i>
FAILED EMERGENCY ENACTMENT	<i>Emergency bill failed to get 2/3 vote</i>
FAILED ENACTMENT	<i>Bill failed to get majority vote</i>
FAILED MANDATE ENACTMENT	<i>Bill imposing local mandate failed to get 2/3 vote</i>
INDEF PP	<i>Bill Indefinitely Postponed</i>
ONTP	<i>Ought Not to Pass report accepted</i>
P&S XXX	<i>Chapter # of enacted Private & Special Law</i>
PUBLIC XXX	<i>Chapter # of enacted Public Law</i>
RESOLVE XXX	<i>Chapter # of enacted Resolve</i>
UNSIGNED	<i>Not signed by Governor within 10 days</i>
VETO SUSTAINED	<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

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.

3. This bill would have added definitions of terms used throughout the child custody and child support laws.

See LD 1439.

LD 1474 An Act to Establish the Maine Judicial Compensation Commission

PUBLIC 451

SPONSOR(S)
CIANCHETTE
DIPIETRO

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-525 TUTTLE
S-260

SUMMARY

This bill establishes the Judicial Compensation Commission to develop findings, conclusions and recommendations as to the proper salary and benefits, including retirement, to be paid for all justices and judges of this State. The Commission consists of 3 members—one appointed by Governor, one by the President of the Senate, and one by the Speaker of the House. The members are not compensated and may not hold any other public office or be a state employee or member of any state board or commission. The Commission is required to report by December 1st of each odd-numbered year on their findings and conclusions including any necessary implementing legislation. The bill includes various factors for the Commission to consider in determining appropriate compensation levels. The bill provides that the recommendations of the Commission are binding unless a majority of either the House or the Senate votes to reject any or all of the recommendations within 180 days of the filing of the report.

COMMITTEE AMENDMENT "A" (S-260) establishes a Judicial Compensation Commission similar to that presented in the original bill but gives the commission only the limited authority to make recommendations and propose legislation in its biennial report. The amendment adds a sunset provision to repeal the law establishing the Commission in 1999 and the terms of the commission members are shortened to 4 years accordingly. A standard method of convening the first meeting is provided and language is added to clarify the limited availability of staff and expenses for commission members. The amendment also specifies that the commission is to report to the joint standing committees of the Legislature having jurisdiction over appropriations matters and judicial matters. The amendment also adds a fiscal note to the bill.

HOUSE AMENDMENT "A" TO COMMITTEE AMENDMENT "A" (H-525) corrects improper internal cross-references.

LD 1488 An Act to Amend the Real Estate Laws Concerning Validation of Defects

PUBLIC 304

SPONSOR(S)
WINGLASS

COMMITTEE REPORT
OTP

AMENDMENTS ADOPTED

SUMMARY

This bill makes changes to the real estate laws concerning validation of defects in order to validate certain deeds or other instruments affecting real estate made prior to January 1, 1990 that contain technical defects. This bill also reformat the provisions for clarity in reading the law.