

# 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. Joan M. Pendexter*

*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 &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 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.

**LD 1729      Resolve, to Require the Study of the Medical Liability  
Prelitigation Screening Panels**

RESOLVE 76  
EMERGENCY

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-821

LD 1729, a recommendation of the Health Care Reform Commission created by Public Law 1993, chapter 707, proposed to require the Bureau of Insurance to convene a committee of experts in research methods to design an analysis of the effectiveness of the mandatory prelitigation screening and mediation panels required by the Health Security Act. The Bureau would have been required to collect the data needed for the study and then commission a study to be conducted by experts in medical liability.

**Committee Amendment "A" (H-821)** proposed to replace the resolve entirely but would have retained the objective of conducting a study of the effectiveness of the prelitigation screening panels. The amendment proposed that the Bureau of Insurance provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The amendment also proposed that the bureau retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation would be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The amendment would have required the bureau to convene an advisory panel to provide advice on the subject of the study. The amendment also would have added an emergency preamble, an emergency clause, an allocation section and a fiscal note to the resolve.

***Enacted law summary***

Resolve 1995, chapter 76, enacted as an emergency, requires the Bureau of Insurance to provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The bureau is also required to retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation must be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The bureau must convene an advisory panel to provide advice on the subject of the study. An allocation section is included to cover the cost of retaining a research consultant.

Resolve 1995, chapter 76 is effective April 8, 1996.

**LD 1739      An Act Authorizing Officers of Closely Held Corporations  
to Represent those Corporations before Any Court**

PUBLIC 599

Sponsor(s)  
CARR

Committee Report  
ONTP      MAJ  
OTP-AM    MIN

Amendments Adopted  
H-770

LD 1739 proposed to allow officers of closely held corporations to represent those corporations before any court.

**Committee Amendment "A" (H-770)** is the Minority Report. It proposed to limit a nonattorney's activity in court on behalf of a corporation. If the corporation has one or two shareholders, an officer of the corporation would have been permitted to represent the corporation in any court, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

***Enacted law summary***

Public Law 1995, chapter 599 allows an officer of a corporation to represent the corporation in court if the corporation has one or 2 shareholders, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

**LD 1758      An Act to Amend the Protection from Abuse and Protection from Harassment Statutes      PUBLIC 650**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-751 S-581

LD 1758 was submitted on behalf of the Judicial Department, whose Protection from Abuse and Protection from Harassment Team proposed the changes. The bill proposed a number of language and allocation changes necessary to clarify and harmonize the statutes that govern protection from abuse and protection from harassment actions.

The bill proposed to repeal and replace the definition of "harassment." Jurisdiction over a juvenile, either a plaintiff or defendant, would have been clarified in the jurisdiction sections of both types of actions. LD 1758 proposed to amend the relief sections for both types of actions to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The bill proposed to amend the definition of household members in protection from abuse actions to provide coverage for sexual partners, whether or not the partners have actually lived together in a household. LD 1758 proposed to remove landlords and their property and tenants from the protection from harassment law. Equivalent protection would have been provided by creating a new section in the landlord and tenant laws giving landlords the right to commence an action for the protection of rental property or tenants.

**Committee Amendment "A" (H-751)** proposed to retain the provisions of current law allowing a business to be a plaintiff in seeking and receiving protection from harassment.

The amendment proposed to update the definition of "member of the actor's family or household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household.

The amendment proposed to allow a person to seek protection under a domestic abuse order if the person and the accused abuser are currently living together or formerly lived together, whether or not they are or were sexual partners.

**Senate Amendment "A" (S-581)** proposed to specify that the definition of "harassment" does not include any act protected by law.