

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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Staff:

Margaret J. Reinsch, Principal Analyst

Lisa Copenhaver, Legislative Analyst

Office of Policy and Legal Analysis

Room 101/107/135, 13 State House Station

Augusta, ME 04333

(207)287-1670



**Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

**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.

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

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
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.

Enacted law summary

Public Law 1995, chapter 650 clarifies and harmonizes the statutes that govern protection from abuse and protection from harassment actions.

The definition of "harassment" is repealed and replaced to clarify that harassment means 3 or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing, and do in fact cause, fear, intimidation or damage to property. "Harassment" also means 3 or more events that are intended to interfere with a person's constitutional rights, consistent with the current interpretation of existing law. The new definition further provides that a single serious act, defined by reference to certain criminal acts and to civil provisions governing "hate crimes," may also serve as the basis for protection from harassment actions. Chapter 650 provides that the definition of "harassment" does not include any act protected by law.

Chapter 650 updates the definition of "member of the actor's family of 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 to be consistent with the definition in the protective orders statutes as amended in 1995.

Jurisdiction over a juvenile, either a plaintiff or defendant, is clarified in the jurisdiction sections of both protection from harassment and protection from abuse actions. In order to ensure both legal notice and functional notice, both the juvenile and the juvenile's representative must be noticed or served with process.

The relief sections for both types of actions are amended to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The definition of household members in protection from abuse actions is amended to provide coverage to sexual partners, whether or not the partners have actually lived together in a household, and to persons living together, whether or not they are sexual partners.

Landlords and their property and tenants are removed from the protection from harassment law. Equivalent protection is 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.

LD 1765 An Act to Amend the Standards for Appointing the Guardian of a Minor PUBLIC 623

Sponsor(s)
MITCHELL JE

Committee Report
OTP-AM

Amendments Adopted
H-792

LD 1765 proposed to provide for the appointment of a guardian even though all parental rights of custody have not been terminated. The bill also proposed to clarify that once a guardian has been appointed, termination of the guardianship can not occur until a review of the best interests of the child has occurred.

Committee Amendment "A" (H-792) proposed to clarify language to require each parent who still retains parental rights and responsibilities to consent to a "guardianship by consent," but would have eliminated the need for consent from a parent whose parental rights and responsibilities have been terminated.