

# 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.

### ***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 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 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.

The amendment would have required that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian would have to specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

The amendment proposed to assign the burden of proof when a parent wants to terminate a guardianship.

***Enacted law summary***

Public Law 1995, chapter 623 provides for the appointment of a guardian even when all parental rights of custody have not been terminated. Each parent who still retains parental rights and responsibilities must consent to a guardianship by consent; the need for consent from a parent whose parental rights and responsibilities have been terminated is eliminated. The term "natural parent" is replaced to encompass situations in which adoptive parents consent to the appointment of a guardian.

Chapter 623 requires that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian must specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

Chapter 623 clarifies 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. The guardian has the burden of proving by a preponderance of the evidence that the termination of the guardianship is not in the best interest of the minor if a petition for termination is filed. If the court determines that the guardianship should not terminate, the court may dismiss subsequent petitions for termination unless there is a substantial change of circumstances.

**LD 1787      An Act to Place Penobscot Land in Trust**

PUBLIC 601

Sponsor(s)  
BISULCA

Committee Report  
OTP

Amendments Adopted  
S-524

LD 1787 proposed to place in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S.

**Senate Amendment "A" (S-524)** proposed to clarify the description of the property to be transferred.

***Enacted law summary***

Public Law 1995, chapter 601 places in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S. This land is approximately 5,464 acres. Under the terms of the Act to Implement the Maine Indian Claims Settlement, the Maine Revised Statutes, Title 30, section 6205, subsection 5, this conversion needs the express consent of the Maine Legislature, the legislative body of the town and the Maine Indian Tribal-State Commission.