

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 & 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.

LD 1811 **An Act to Correct Errors and Inconsistencies in the Laws of
Maine**

PUBLIC 625
EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-541
S-555

LD 1811 proposed to correct technical errors and inconsistencies in the Laws of Maine.

Committee Amendment "A" (S-541) proposed to correct technical errors and inconsistencies in the Laws of Maine. It also proposed to correct errors and inconsistencies that may be considered substantive, contained in Part C.

Senate Amendment "A" To Committee Amendment "A" (S-555) proposed to remove provisions correcting a conflict in the laws regarding vacancies in the office of sheriff. That section of the Maine Revised Statutes was contained in LD 1700 in the State and Local Government Committee.

Enacted law summary

Public Law 1995, chapter 625 corrects errors and inconsistencies in the Laws of Maine. Any corrections which may be considered substantive are included in Part C.

Public Law 1995, chapter 625 is effective April 8, 1996.

LD 1842 **An Act to Recodify and Revise the Maine Revised Statutes,
Title 19**

PUBLIC 694

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-897

LD 1842 proposed to recodify and revise Title 19 of the Maine Revised Statutes.

Part A of the bill proposed to amend the law in response to the recent law court case, White v. Allen, 667 A.2d 112 (Me. 1995) governing the calculation of past child support awards

Parts B, C and D proposed to recodify and revise the Maine Revised Statutes, Title 19 pursuant to Public Law 1995, chapter 484. The Joint Standing Committee on Judiciary combined the draft recodifying the Title with substantive changes.

Committee Amendment "A" (H-897) proposed changes to the bill and current law. Significant changes include the following.

1. The amendment proposed to establish the Family Law Advisory Commission beginning in 1996.
2. It proposed updated language and removal of inconsistencies in the marriage license statutes.
3. It proposed to amend the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
4. It proposed to revise the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities.

5. It proposed to reinstate program review and establish biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.
6. It proposed to clarify language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves that employment.
7. It proposed an unallocated section of law concerning rule-making authority and legislative review of the rules.
8. It proposed to amend the waiver of notice provision in the adoption laws to specifically state the effect of a waiver of notice, and to include an option that allows the person to neither admit nor deny that he is the father of the child named in the waiver of notice.
9. It proposed to revise the language concerning consents or surrender and releases executed in other states.
10. It proposed a study to be undertaken by the Family Law Advisory Commission on parental rights and responsibilities and the treatment of fathers and mothers in law and practice.
11. It proposed an effective date of October 1, 1997 for all Parts other than Part A.

Enacted law summary

Public Law chapter 694 recodifies and revises Title 19 of the Maine Revised Statutes.

Part A of the Chapter 694 amends the law in response to the recent law court case White v. Allen, 667 A.2d 112 (Me. 1995), governing the calculation of past child support awards. The child support tables must be used in all cases to calculate past support. Part A also amends the adoption laws, including a revision of the waiver of notice requirements for putative fathers and legal fathers who are not the biological fathers. The provisions governing reciprocity with other states are also revised. Part A also establishes the Family Law Advisory Commission and requires the Commission to study and report back on parental rights and responsibilities and how fathers and mothers are treated under the law and in practice. Part A is effective July 4, 1996.

Part B of Chapter 694 repeals and replaces Title 19 of the Maine Revised Statutes in order to update language, make provisions consistent and reorganize the Title to be easier to use. Chapter 694 also does the following.

1. It makes corrections in the terms relating to recording intentions to be married and the resulting marriage license.
2. It repeals the exemption from the 3-day marriage license waiting period for newly arrived immigrants.
3. It deletes the revision of the judicial separation statutes proposed in the bill and replaces it with the current judicial separation process. The filing fee for judicial separation is deleted, leaving it to court rules that establish filing fees for other actions.
4. It amends the language referring to incarceration for nonsupport to be gender neutral by applying to all spouses, not just husbands.
5. It changes the term "alimony" to "spousal support."
6. It amends the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
7. It revises the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities. Instead, the term "departure from the family residence" is used to eliminate negative connotations associated with the term "abandonment." "Departure" is used as a broader term. In addition, new language is inserted in recognition of the fact that one of the spouses may depart from the family residence by mutual agreement of the spouses.
8. It reinstates program review and establishes biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.

9. It clarifies language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves. Current law requires an employer to report the termination to the Department of Human Services within 15 days if the pay was withheld pursuant to an income-withholding order, but within 30 days if the pay was withheld pursuant to an order to withhold and deliver or an assignment of earnings. This amendment maintains that dichotomy. It also makes consistent the information reported.
10. It gives the State Registrar of Vital Statistics the authority to file an action in District Court to have a marriage performed in violation of the statute declared void.
11. It amends the grounds and procedures for divorce by deleting "collusion" and specifies that the court may not grant a divorce to parties who seek a divorce for fraudulent purposes. It also combines provisions concerning the payment of attorneys fees.
12. It makes the provisions concerning protection from abuse, located in Title 19-A, chapter 101, consistent with the changes in LD 1758.
13. It states that rules adopted under Title 19 continue in effect until amended or repealed. It also states that the rule-making authority contained in the new Title 19-A is a continuation of existing rule-making authority in Title 19, and is not new rule-making authority delegated after January 1, 1996 for the purposes of the Maine Administrative Procedure Act concerning legislative review of rules.
14. It amends language to be gender neutral to clarify that either a husband or a wife may bring an action for loss of consortium.
15. It revises certain notice provisions in the adoption laws.
16. It creates a Part E listing the major policy changes in the bill as amended.

Parts B, C, D and E are effective October 1, 1997.

**LD 1847 An Act to Amend the Freedom of Access Laws to Include
Advisory Boards and Commissions in the Definition of Public
Proceedings**

PUBLIC 608

Sponsor(s)

BUTLAND
MITCHELL EH

Committee Report

OTP-AM

Amendments Adopted

S-529

LD 1847 proposed to add policy-influencing and fact-finding advisory boards and commissions to the definition of "public proceedings" in the freedom of access laws.

Committee Amendment "A" (S-529) proposed to replace the bill. It would have expanded the entities to which the freedom of access laws apply to include advisory organizations, including authorities, boards, commissions, committees, councils, task forces and similar organizations that are advisory in nature and that are created by law or resolve or by an Executive Order of the Governor. Under the amendment, the law, resolve or Executive Order may exempt the organization from the freedom of access laws by including a specific statement that the organization is exempt from the freedom of access laws. The meetings of all these organizations would have been subject to the public meeting and public notice requirements.

The amendment proposed an exemption from the definition of "public records" for the working papers and internal documents of an advisory organization.