

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

MAY 1998

MEMBERS:

Sen. Susan W. Longley, Chair

Sen. Lloyd P. LaFountain III

Sen. John W. Benoit

Rep. Richard H. Thompson, Chair

Rep. Elizabeth Watson

Rep. David Etnier

Rep. Joseph M. Jabar, Sr.

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Rep. G. Paul Waterhouse

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ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
May 1998

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. 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 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. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

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:

- CON RES XXX*..... Chapter # of Constitutional Resolution passed by both Houses
- CONF CMTE UNABLE TO AGREE*.....Committee of Conference unable to agree; bill died
- DIED BETWEEN BODIES*.....House & Senate disagree; bill died
- DIED IN CONCURRENCE*.....One body accepts ONTP report; the other indefinitely postpones the bill
- DIED ON ADJOURNMENT*.....Action incomplete when session ended; bill died
- EMERGENCY*.....Enacted law takes effect sooner than 90 days
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*.....Emergency bill failed to get 2/3 vote
- FAILED ENACTMENT/FINAL PASSAGE*.....Bill failed to get majority vote
- FAILED MANDATE ENACTMENT*.....Bill imposing local mandate failed to get 2/3 vote
- INDEF PP*.....Bill Indefinitely Postponed
- ONTP*..... Ought Not To Pass report accepted
- OTP ND*..... Committee report Ought To Pass In New Draft
- OTP ND/NT*..... Committee report Ought To Pass In New Draft/New Title
- P&S XXX*..... Chapter # of enacted Private & Special Law
- PUBLIC XXX*..... Chapter # of enacted Public Law
- RESOLVE XXX*..... Chapter # of finally passed Resolve
- UNSIGNED*.....Bill held by Governor
- VETO SUSTAINED*.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

Joint Standing Committee on Judiciary

LD 29

An Act to Amend the Wrongful Death Laws

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP MAJ	
LEMAIRE	OTP-AM MIN	

LD 29 proposed to eliminate the current cap of \$150,000 that may be awarded in wrongful death actions for loss of comfort, society and companionship and the current cap of \$75,000 that may be awarded as punitive damages.

Committee Amendment "A" (S-508) (Minority Report) proposed to add a fiscal note to the bill. (Not adopted)

LD 30

**An Act to Exclude Intentional Tort Claims from the Application of
the Maine Workers' Compensation Act of 1992**

**DIED IN
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	OTP-AM MAJ	
DAVIDSON	ONTP MIN	

LD 30 proposed to allow an employee to pursue an action outside of the Maine Workers' Compensation Act of 1992 for injuries arising out of an intentional act against that employee. The bill proposed to reverse the decision in *Li v. C.N. Brown Company*, 645 A.2d 606 (Me. 1994), where an employee's death resulted from her intentional exposure to a robbery by her employer.

Committee Amendment "A" (S-574) (Majority Report) proposed to replace the bill. It proposed to authorize a civil suit against an employer outside of the Workers' Compensation Act of 1992 in limited circumstances: If the employer engages in an intentional act that is punishable under the Maine Criminal Code, Title 17-A, chapter 9 (dealing with offenses against the person) or section 253 (dealing with gross sexual assault) and the intentional act causes an injury or death. (Not adopted)

LD 76

An Act to Amend the Uniform Health Care Decisions Law

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARLETON	OTP-AM MAJ	
	ONTP MIN	

LD 76 proposed to adopt the language of the Uniform Health-care Decisions Act concerning the authority of a surrogate to make a health-care decision for a patient if the patient has been determined by the primary physician to lack capacity and no agent or guardian has been appointed.

Committee Amendment "A" (H-942) (Majority Report) proposed to replace the bill. It proposed to authorize a surrogate to make any health care decision for a patient other than withholding or withdrawing life-sustaining treatment for a patient in any circumstance as long as there is no guardian or agent. The amendment also proposed to expand the list of persons who can act as a surrogate for a patient to include, after immediate family members, an adult who shares with the patient a relationship that is similar to a spousal relationship, i.e., an emotional, physical and financial relationship. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-967) proposed to prevent surrogates from withholding or withdrawing life-saving treatment. (Not adopted)

LD 253 **An Act Concerning Entry to Investigate Private Property for the Purpose of Forestry Examinations** **PUBLIC 694**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO BENNETT	OTP-AM	H-975

LD 253 was referred to the Judiciary Committee from the Joint Standing Committee on Agriculture, Conservation and Forestry. It proposed to require agents of the Department of Conservation, Bureau of Forestry to obtain a search warrant prior to entering onto private land to investigate possible forest practices violations unless the agent has the consent of the landowner.

Committee Amendment "A" (H-975) proposed to replace the bill. It proposed to amend the "right of entry" provision in the forest practices law to remove the sentence exempting agents of the Department of Conservation, Bureau of Forestry from the application of trespass laws.

House Amendment "A" to Committee Amendment "A" (H-985) proposed to prohibit agents of the Department of Conservation, Bureau of Forestry from entering upon parcels of land less than 200 acres in size if the owner of that parcel resides there without first obtaining either the permission of the owner or a search warrant. (Not adopted)

Enacted law summary

Public Law 1997, chapter 694 amends the "right of entry" provision in the forest practices law to remove the sentence exempting agents of the Department of Conservation, Bureau of Forestry from the application of trespass laws.

LD 582 **An Act to Amend the Procedures for Medical Malpractice Screenings** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JABAR	ONTP	

LD 582 proposed to limit medical malpractice screening panels to a review of professional negligence claims solely for the purpose of determining whether a claim is frivolous, rather than permitting panels to determine, as under