

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JULY 1997

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

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. 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:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Regular 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 IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</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/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</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>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</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>Bill held by Governor</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 First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101/107/135

LD 263

An Act to Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment

PUBLIC 438

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOLDTHWAIT	OTP-AM MAJ ONTP MIN	S-227 S-322 GOLDTHWAIT

LD 263 proposed to authorize a physician's assistant or a nurse practitioner to sign the emergency papers required for protective custody and emergency commitment procedures under the mental health laws.

Committee Amendment "A" (S-227) (Majority Report) proposed to expand the list of medical personnel authorized to sign the emergency transfer documents to include certified psychiatric clinical nurse specialists.

Senate Amendment "A" to Committee Amendment "A" (S-322) proposed to authorize physician's assistants, nurse practitioners and certified nurse practitioners to perform the examination and sign the documents in hospital emergency rooms.

Senate Amendment "A" (S-229) proposed to make a technical change. (Not adopted.)

Enacted law summary

Public Law 1997, chapter 438 authorizes physician's assistants, nurse practitioners and certified psychiatric clinical nurse specialists to evaluate a person brought into a hospital emergency room for the purposes of emergency involuntary commitment and to sign the necessary papers.

See also LD 1806.

LD 292

An Act to Modify Waiver of a Defense in the Criminal Law

PUBLIC 185

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-254

LD 292 proposed to expressly overrule State v. Berube, 669 A.2d 170 (Me. 1995) and predecessor cases interpreting the statute as requiring that a jury instruction be given as to any generated statutory defense, absent an express waiver by a defendant. The bill also proposed to make clear that the proper source of law respecting waiver decisions is the Supreme Judicial Court exercising its rule-making authority.

Committee Amendment "A" (H-254) proposed to delete mention of whether a defense is waived explicitly or implicitly when determining whether a trial judge has discretion concerning giving jury instructions on a defense. The amendment proposed to clarify that Title 17-A, section 101, subsection 1 is not properly a source of law respecting waiver decision, the proper source being instead the Supreme Judicial Court exercising its rule-making authority.

Enacted law summary

Public Law 1997, chapter 185 clarifies that the trial judge in a criminal case is not required to instruct the jury on all defenses generated by the evidence, irrespective of the wishes of the defendant. This change seeks to make clear that Title 17-A, section 101, subsection 1 is not properly a source of law respecting waiver decision, the proper source being instead the Supreme Judicial Court exercising its rule-making authority.

LD 325 An Act to Improve Access to Enhanced 9-1-1 Emergency Records ONTP

<u>Sponsor(s)</u> JONES K		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 325 proposed to repeal current law making confidential any record, recording or information obtained by a public or private safety agency, including a public safety answering point, for the purpose of providing emergency 9-1-1 services. See also LD 976, Public Law 1997, chapter 291.

LD 326 An Act to Streamline the Eviction Process PUBLIC 151

<u>Sponsor(s)</u> WHEELER E		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-190
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LD 326 proposed to require the court to ensure that hearings for all forcible entry and detainer actions occur within 14 days after return of service and to make service of a writ of possession easier.

Committee Amendment "A" (H-190) proposed to require that the hearing be held within 10 days of the return of service, regardless of whether a recorded hearing has been requested. The amendment proposed to preserve the court's discretion to grant a continuance for good cause shown. The amendment proposed to make service of a writ of possession easier, but would have required good faith attempts to serve the writ in person on separate days.

Enacted law summary

Public Law 1997, chapter 151 requires the hearing in a forcible entry and detainer action to be held within 10 days of the return of service, regardless of whether a recorded hearing has been requested. The court retains its discretion to grant a continuance for good cause shown. The law also permits service of a writ of possession by first-class mail and by leaving a copy at the defendant's last known address, but only after at least three good faith attempts on three different days have been made to serve the defendant.