

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

MEMBERS:

Sen. Susan W. Longley, Chair

Sen. Lloyd P. LaFountain III

Sen. John W. Benoit

Rep. Richard H. Thompson, Chair

Rep. Elizabeth Watson

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Staff:

Margaret J. Reinsch, Principal Analyst

Lisa C. Copenhaver, Legislative Analyst

Thomas Eyman, 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 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:

- CARRIED OVER*.....*Bill carried over to Second Regular Session*
- 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 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 398 proposed to create a uniform prospective remedy for recovery of economic loss caused by tobacco exposure. Related costs and legal fees would also be recoverable. The liabilities created by the law would apply only to manufacturers and not to other members of the tobacco industry.

Manufacturers would be held prospectively to a strict liability standard and deprived of the contributory negligence defense; but victims would not recover noneconomic damages. This is parallel to the trade-off created by workers' compensation laws. Group losses asserted by the State, insurers or health care providers would be provable on the basis of market share liability with the aid of certain presumptions that the manufacturers are permitted to rebut or adjust. The bill is derived in part from legislation in Florida and Massachusetts.

Committee Amendment "A" (S-293) (Minority Report) proposed to limit the recoverable damages to medical costs, and to clarify that the remedy would not be exclusive.

See LD 1138 (Supplemental Budget), Public Law 1997, chapter 395, Part E, which clarifies the authority of the Commissioner of Human Services and the Attorney General to bring an action against any 3rd party who is or may be liable for any medical costs incurred by a beneficiary of Medicaid or the Maine Health Program.

See also LD 1904, Public Law 1997, chapter 560, Part F, establishing the Health Care Fund for Maine Citizens, to receive the proceeds of any settlement or award from the tobacco industry.

LD 407 **An Act to Revise Judicial Separation** **PUBLIC 224**

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| <u>Sponsor(s)</u> LAFOUNTAIN | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> S-171 |
|---------------------------------|--|-----------------------------------|--|------------------------------------|

LD 407 proposed to revise and update the judicial separation statutes.

Committee Amendment "A" (S-171) proposed to prohibit the court from granting a judicial separation when the parties are seeking the judicial separation for fraudulent purposes.

Enacted law summary

Public Law 1997, chapter 224 provides specific provisions that may be included in the court's judicial separation order pending a final separation decree. It also provides for spousal and child support, property disposition and modification and termination of a separation decree. Chapter 224 coordinates judicial separation procedures with divorce procedures to provide for dismissal of the separation action if a divorce is granted. A judicial separation may not be granted if sought for fraudulent purposes.

LD 417 **An Act to Amend the Fee Schedule for Probate Filings** **PUBLIC 18**

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|----------------------------|--|--------------------------------|--|--|
| <u>Sponsor(s)</u> MILLS | | <u>Committee Report</u> OTP | | <u>Amendments Adopted</u> S-13 MURRAY |
|----------------------------|--|--------------------------------|--|--|

LD 417 proposed to amend the fee schedule for probate filings.

Senate Amendment "A" (S-13) proposed to make technical corrections.

Enacted law summary

Public Law 1997, chapter 18 amends the fee schedule for probate filings.

LD 435 **An Act to Amend the Entry and Detainer Law as It Relates to Occupancy Incidental to Short-term Employment** **ONTP**

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|-----------------------------|--|---------------------------------|--|---------------------------|
| <u>Sponsor(s)</u> LAYTON | | <u>Committee Report</u> ONTP | | <u>Amendments Adopted</u> |
|-----------------------------|--|---------------------------------|--|---------------------------|

LD 435 proposed to provide separate eviction procedures when residential occupancy is incidental to short-term or seasonal employment and the employment relationship has ended.

LD 444 **An Act to Establish the Maximum and Minimum Number of Grand Jurors to Be Summoned and Impaneled** **ONTP**

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| <u>Sponsor(s)</u> POVICH | | <u>Committee Report</u> ONTP | | <u>Amendments Adopted</u> |
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LD 444 proposed to require that the grand jury consist of not less than 13 nor more than 23 jurors.

LD 453 **An Act to Give District Attorneys the Option of Appearing in Civil Proceedings** **ONTP**

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| <u>Sponsor(s)</u> CLUKEY | | <u>Committee Report</u> ONTP | | <u>Amendments Adopted</u> |
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LD 453 proposed to give district attorneys discretion as to whether to appear in all actions and civil proceedings in which any county within the district is a party or is interested, or in which the official acts of the county commissioners are called into question, or when requested by the commissioners.

LD 457 **An Act to Discourage Frivolous Lawsuits by Prisoners** **PUBLIC 75**

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| <u>Sponsor(s)</u> CLUKEY KIEFFER | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> H-80 |
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