

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
BANKING AND INSURANCE

MAY 1998

MEMBERS:

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Sen. Robert E. Murray, Jr.
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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.

LD 1243**An Act to Protect the Privacy of Genetic Information****PUBLIC 677**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAND	OTP-AM	S-584 S-594 LAFOUNTAIN

LD 1243 was carried over from the First Regular and First Special Session and proposed to provide measures for the protection of the privacy of genetic information. It proposed to prohibit discrimination in any form of insurance regulated by the Bureau of Insurance on the basis of genetic information and requires informed consent for obtaining genetic information. It also proposed to provide individuals who are tested the right to inspect genetic information concerning them and to be informed of the results of genetic tests. The bill also proposed to prohibit discrimination in employment on the basis of genetic information.

Committee Amendment “A” (S-584) replaced the bill. It proposed to prohibit discrimination in employment on the basis of genetic information, on the basis that an employee or applicant received genetic testing or genetic counseling, or because an employee or applicant refused to submit to genetic testing or make available genetic test results.

The amendment proposed to prohibit discrimination in health insurance against individuals or eligible dependents on the basis of genetic information, on the basis that an individual received genetic testing or genetic counseling, or because an individual refused to submit to genetic testing or make available genetic test results.

The amendment proposed to prohibit unfair discrimination in the application of genetic information or genetic test results in life, disability, long-term care insurance and other limited health benefit policies regulated by the Bureau of Insurance.

The amendment also proposed to enact the provisions of the National Association of Insurance Commissioner's "Insurance Information and Privacy Protection Model Act" governing the collection, use and disclosure of personal information about insurance consumers gathered in connection with insurance transactions by regulated insurance entities and insurance support organizations. It exempts workers' compensation, property, casualty, medical malpractice, fidelity, suretyship, boiler and machinery and title insurance from the application of these provisions.

The amendment also proposed to add an application section and a fiscal note to the bill.

Senate Amendment “A” to Committee Amendment “A” (S-594) proposed to clarify the definition of health care.

Enacted law summary

Public Law 1997, chapter 677 prohibits discrimination in employment on the basis of genetic information, on the basis that an employee or applicant received genetic testing or genetic counseling, or because an employee or applicant refused to submit to genetic testing or make available genetic test results. The Maine Human Rights Commission is assigned responsibility for enforcement of this provision.

Public Law 1997, chapter 677 prohibits discrimination in health insurance against individuals or eligible dependents on the basis of genetic information, on the basis that an individual received genetic testing or genetic

counseling, or because an individual refused to submit to genetic testing or make available genetic test results. The law prohibits the use of genetic information and genetic testing in the issuance, withholding, extension or renewal of health insurance policies and in the fixing of rates, terms or conditions for health insurance.

The law prohibits unfair discrimination in the application of genetic information or genetic test results in life, disability, long-term care insurance and other limited health benefit policies regulated by the Bureau of Insurance. “Unfair discrimination” is defined to include the application of the results of a genetic test in a manner that is not reasonably related to anticipated claims experience. The Bureau of Insurance has authority to investigate and enforce practices or acts of insurers that permit unfair discrimination. Insurers that use genetic tests in a manner that does not unfairly discriminate must notify individuals that genetic tests are required and obtain the individual’s authorization in accordance with the provisions of the Insurance Information and Privacy Protection Act, Maine Revised Statutes, Title 24-A, chapter 24. Insurers must also ensure that individuals state in writing whether or not the individual wants to be informed of the results and provide a copy of the test results to the individual or a designated health care practitioner.

Public Law 1997, chapter 677 also enacts core provisions of the National Association of Insurance Commissioner’s “Insurance Information and Privacy Protection Model Act” governing the collection, use and disclosure of personal information about insurance consumers gathered in connection with insurance transactions by regulated insurance entities and insurance support organizations. Personal information is defined to include health information about an insurance consumer. The law exempts workers’ compensation, property, casualty, medical malpractice, fidelity, suretyship, boiler and machinery and title insurance from the application of these provisions.

The law requires regulated insurance entities to provide written notice of information practices to applicants, policyholders and claimants in connection with consumer insurance transactions. The notice must state whether or not personal information may be collected from persons other than the consumer; what types of information may be collected and the sources and investigative techniques used to collect that information; what types of disclosures about the consumer that may be made without prior authorization, and the rights of consumers to access personal information recorded by regulated insurance entities and to correct, amend or delete that recorded personal information.

The law establishes requirements for disclosure authorization forms used by regulated insurance entities and insurance support organizations. Disclosure authorization forms must include the signature or other authorization of the consumer; specify the nature of the information to be disclosed; indicate the types of persons authorized to disclose information; and specify the time period of the authorization. In the case of life, disability and long-term care insurance, disclosure authorizations may not remain valid for more than 30 months for the purpose of collecting information in connection with a policy application, policy reinstatement or request for a change in policy benefits. The authorization may remain valid for the duration of a claim if the information is being collected in connection with a claim for benefits. In the case of health and medical insurance, the authorization remains valid for the term of coverage of the policy and any renewals of that policy.

The law prohibits regulated insurance entities and insurance support organizations from disclosing personal information about a consumer collected or received in connection with a consumer insurance transaction unless the disclosure is made with due consideration for the safety and reputation of all persons who may be affected by the disclosure, is limited to the minimum amount necessary to accomplish a lawful purpose and is disclosed with the consumer’s written authorization or within a specific exception that authorizes disclosure without prior authorization. Disclosures that may be made without prior authorization include disclosures reasonably necessary to accomplish a business, professional or insurance function of the regulated insurance entity; disclosures to health care providers to verify benefits, inform consumers of a medical problem or to conduct an operations or services audit of the provider; disclosures to insurance regulatory authorities or law enforcement agencies; disclosures for

the purpose of conducting actuarial and research studies that do not identify insurance consumers; and disclosures in connection with the marketing of a product or service if health information is not disclosed.

The law also governs the use and disclosure of adverse underwriting decisions, investigative consumer reports and pretext interviews by regulated insurance entities and insurance support organizations. It sets standards and procedures for insurance consumers to have access to recorded personal information held by insurance entities or support organizations and to correct, amend or delete that information.

Public Law 1997, chapter 677 takes effect June 30, 1998, except that the provisions concerning the use of personal information about insurance consumers apply to consumer insurance transactions that take place on or after January 1, 1999.

LD 1540

An Act to Establish a State Disaster Relief Trust Fund

**DIED
BETWEEN
BODIES**

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

LD 1540 was carried over from the First Regular and First Special Session and proposed to establish a disaster relief trust fund to be administered by the Maine Emergency Management Agency to match federal disaster assistance funds and provide other local disaster assistance. The trust fund is funded by a surcharge on homeowners' and business property insurance policies. The bill was originally referred to the Joint Standing Committee on Banking and Insurance, but was rereferred to the Joint Standing Committee on Appropriations and Financial Affairs in the Second Regular Session.

Committee Amendment “A” (H-846) is the minority report of the Joint Standing Committee on Appropriations and Financial Affairs. The amendment proposed to strike those provisions of the original bill that would have capitalized the Disaster Relief Trust Fund by imposing a surcharge on homeowners' and business property insurance policies. In its place, the amendment proposed to allow the fund to receive General Fund appropriations, transfers from the General Fund at the end of a fiscal year in an amount not to exceed \$2,000,000 in any fiscal year, any federal money deposited in the fund and all interest earned on the fund's balance.

The amendment proposed to authorize the Disaster Relief Trust Fund to be the first resource utilized when the Maine Revised Statutes, Title 37-B, section 742, regarding emergency proclamation or Title 37-B, section 744, regarding disaster relief, is invoked by the Governor.

The amendment also adds a fiscal note to the bill. Committee Amendment “A” was adopted in the House, but was not adopted in the Senate.