

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

STATE OF MAINE  
118TH LEGISLATURE

SECOND REGULAR SESSION  
AND  
SECOND SPECIAL SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
HEALTH AND HUMAN SERVICES

MAY 1998

*MEMBERS:*

*Sen. Judy Paradis, Chair*  
*Sen. Susan W. Longley*  
*Sen. Betty Lou Mitchell*

*Rep. J. Elizabeth Mitchell, Chair*  
*Rep. Joseph E. Brooks*  
*Rep. Elaine Fuller*  
*Rep. Thomas J. Kane*  
*Rep. Wendy Pieh*  
*Rep. Michael W. Quint*  
*Rep. Glenys P. Lovett*  
*Rep. Jeffery G. Joyner*  
*Rep. Tarren R. Bragdon*  
*Rep. Lois A. Snowe-Mello*

*Staff:*

*Jane Orbeton, 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**  
**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](http://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.

**House Amendment "A" to Committee Amendment "A" (H-1078)** proposed to clarify that legislators are entitled to the legislative per diem and expenses for attendance at the Maine Millennium Commission on Hunger and Food Security meetings.

*Enacted law summary*

Resolve 1997, chapter 117 comprises the provisions of Committee Amendment "A" and House Amendment "A" to Committee Amendment "A". It establishes the Maine Millennium Commission on Hunger and Food Security to work from December 15, 1999 to December 15, 2001. The commission is required to hold hearings around the state and to assess the progress being made on relieving hunger and ensuring food security. The commission is required to submit a report to the 120th Legislature together with necessary implementing legislation by December 15, 2001.

**LD 1677**

**An Act to Improve Children's Health**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGLEY MITCHELL E	ONTP	

LD 1677 proposed to establish the Children's Health Care Program to maximize the access of children to primary, preventive and acute health care; health programs; and information about illness, prevention of illness and health maintenance. The program would have been administered by the Commissioner of Human Services and the advisory committee on Medicaid.

The bill proposed to establish a tobacco use reduction initiative, administered by the Commissioner of Human Services in cooperation with the Director of the Bureau of Public Health, to educate the public, particularly persons under 19 years of age, regarding the risks of tobacco use.

The initiatives proposed to be established by the bill would have been funded by increases in the cigarette tax, the tax on smokeless tobacco and the tax on other tobacco products.

See LD 2225.

**LD 1737**

**An Act to Provide for Confidentiality of Health Care Information**

**PUBLIC 793**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FULLER	OTP-AM MAJ ONTP MIN	H-1066 H-1069 BRUNO H-1073 LOVETT H-1096 FULLER S-716 MICHAUD

LD 1737 proposed to establish safeguards for maintaining the confidentiality, security and integrity of health care information. It proposed to establish requirements for confidentiality and authorization by patients for disclosure of

their health care information and exceptions to the requirement of authorization. It proposed to remove the requirement that HIV information be treated differently from other health information.

**Committee Amendment "A" (H-1066)** (Majority Report) proposed to replace the bill. It proposed to retain the provisions of the bill declaring an individual's health care information to be confidential.

The amendment proposed to specify the requirements for disclosure pursuant to an authorization to disclose and when no authorization has been given. In specifying the requirements for disclosure and authorization to disclose, the amendment proposed to provide that authorizations to disclose and disclosures that are subject to the provisions of state or federal law, rule or regulation are governed by those provisions. The amendment proposed to restrict disclosures to information requested in the authorization or required for the purposes of the disclosure.

The amendment proposed to bring the handling of information related to human immune deficiency virus, or HIV, into conformance with the handling of other health information with the exception that it would have prohibited reliance on implied consent for HIV information.

The amendment proposed to allow for enforcement through a civil action brought by the Attorney General or an individual aggrieved by conduct in violation of the provisions of the amendment. It proposed to allow the recovery of an individual's costs but not attorney's fees in such an action.

The amendment proposed to apply the requirements for authorizations and disclosures of health care information to all authorizations and disclosures on or after January 1, 1999.

The amendment proposed to add a fiscal note.

**House Amendment "A" to Committee Amendment "A" (H-1069)** proposed to amend the committee amendment concerning the prohibition of disclosure of health care information for the purpose of marketing or sales without written authorization. This amendment proposed to allow such disclosure with written or oral authorization.

**House Amendment "B" to Committee Amendment "A" (H-1073)** proposed to prohibit disclosure of mental health services health care information based upon consent implied from the individual's conduct.

**House Amendment "C" to Committee Amendment "A" (H-1096)** proposed to clarify the definition of health care information.

**Senate Amendment "A" to Committee Amendment "A" (S-716)** proposed to replace the fiscal note on the committee amendment.

### *Enacted law summary*

Public Law 1997, chapter 793 comprises the provisions of Committee Amendment "A" and House Amendments "A", "B" and "C" and Senate Amendment "A" to Committee Amendment "A". The law establishes safeguards for maintaining the confidentiality, security and integrity of health care information. It establishes requirements for confidentiality and authorization by patients for disclosure of their health care information and exceptions to the requirement of authorization. The law provides that authorizations to disclose and disclosures that are subject to the provisions of 42 United States Code, Section 290ee-3 (Supplement 1997), the Maine Revised Statutes, Title 5, section 200-E; Title 22, chapters 710 and 711; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation are governed by those provisions. The law restricts disclosures to information requested in the authorization and required for the purposes of the disclosure.

The law brings the handling of information related to human immune deficiency virus, or HIV, into conformance with the handling of other health information with the exception that it prohibits reliance on implied consent for HIV information. Reliance on consent implied from a person's conduct is also prohibited for disclosures of mental health information. Written or oral authorization may be the basis for disclosures for the purpose of marketing or sales.

The law allows for enforcement through a civil action brought by the Attorney General or an individual aggrieved by conduct in violation of the provisions of the law. It allows for the recovery of an individual's costs but not attorney's fees in such an action.

The law applies the requirements for authorizations and disclosures of health care information to all authorizations and disclosures on or after January 1, 1999.

**LD 1750**

**An Act Concerning the Rights of Children with Special Needs**

**ONTP**

<u>Sponsor(s)</u> MITCHELL J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
---------------------------------	--	---------------------------------	--	---------------------------

LD 1750 proposed to address the issue posed in In Re: Shawn H., 667 A. 2d 1377 (Me. 1995), in which a parent of a child with special needs who did not have the resources to meet those needs was forced to relinquish custody of the child to the State even though the parent was not unfit. This bill proposed principles of operation that the Department of Mental Health, Mental Retardation and Substance Abuse Services, in cooperation with the Department of Human Services, the Department of Education and the Department of Corrections, would be required to adhere to in developing and delivering services to children with special needs. The bill proposed to require the department biennially to provide an assessment to the parent or guardian of a child with special needs identifying that child's special needs and the resources necessary to meet those needs. The bill proposed to require the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to report annually to the Legislature on the individual assessments performed, the needs identified and the estimated costs to meet those needs.

This bill proposed to establish Interdepartmental Children's Ombudsmen who would be hired by and report to the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, the Commissioner of Education and the Commissioner of Human Services. The ombudsmen would have been directed to advocate for the rights and dignity of children with special needs, receive complaints, resolve disputes, act as information sources and make recommendations.

See the committee bill on children's mental health, LD 2295.