

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JULY 1999

MEMBERS:

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Sen. Sharon Anglin Treat

Sen. John W. Benoit

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ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION

Summary Of Legislation Before The Joint Standing and Select Committees
August 1999

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. 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 and select committees.

The document is organized for convenient reference to information on bills considered by the 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:

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
ENACTMENT FAILED..... Bill failed to get vote required for enactment or final passage
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
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 September 18, 1999.

Enacted law summary

Public Law 1999, chapter 90 authorizes a minor to consent to a sexual assault forensic examination by a physician or in a hospital to collect evidence after an alleged sexual assault.

LD 703

An Act to Create the Maine Civil Rights Act of 1999

ONTP

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

LD 703 proposed to prohibit the State and its subdivisions and instrumentalities from discriminating or granting preferential treatment in the operation of public employment, education or contracting to any person on the basis of race, sex, color, ethnicity or national origin.

Committee Amendment "A" (H-194), the minority report, proposed to add a fiscal note to the bill. (Not adopted)

LD 706

An Act to Expedite Treatment of Certain Persons with Mental Illness

PUBLIC 423

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SKOGLUND KILKELLY	OTP-AM MAJ OTP-AM MIN	H-659

LD 706 proposed to provide for a voluntary agreement for mental health treatment or services. The procedure proposed to allow a person with mental illness who has the capacity to make decisions to voluntarily sign a form naming individuals who may later certify that the person requires mental health treatment or services.

Committee Amendment "A" (H-659), the majority report of the committee, proposed to replace the bill, and amend the Uniform Health-care Decisions Act to specifically provide for advance health care directives that authorize mental health treatment, including hospitalization.

Committee Amendment "B" (H-660), the minority report of the committee, differed from the majority report in that it contained a sunset of January 1, 2002 for all changes concerning advance health care directives for mental health treatment. Part A proposed to enact the changes with a self-repealing date of January 1, 2002. (Not adopted)

Enacted law summary

Public Law 1999, chapter 423 provides for advance health care directives authorizing mental health treatment and services, including hospitalization. The directive may contain conditions that specify when the directive becomes effective, and it may specify a particular method for determining when those conditions are met. It may also provide consent to hospitalization for mental health treatment, which may be honored if the person at the time of examination and hospitalization lacks capacity, even if the person objects to the hospitalization. The duration of the stay in the hospital of the person may not exceed 5 working days. Further hospitalization is possible only with the consent of the person or through the emergency admission procedures.

Chapter 423 also authorizes a law enforcement officer to take into protective custody a person that the officer knows has an advance health care directive authorizing mental health treatment if the officer has reasonable grounds to believe, based on probable cause, that the person lacks capacity. The law enforcement officer must then deliver the person

immediately for examination in accordance with the Uniform Health-care Decisions Act to determine whether the person is competent and whether the conditions of the advance health care directive are met.

LD 722

An Act to Increase Adoptions

PUBLIC 78

<u>Sponsor(s)</u> BRAGDON		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 722 proposed to bring Maine law into compliance with the federal laws by removing references to cultural, ethnic and racial background from the adoption law.

This bill was submitted on behalf of the Department of Human Services.

Enacted law summary

Public Law 1999, chapter 78 brings Maine law into compliance with federal law concerning the placement of children for adoption by removing references to cultural, ethnic and racial background from the adoption law.

LD 724

An Act to Define Paralegals and Legal Assistants

PUBLIC 379

<u>Sponsor(s)</u> MADORE KONTOS		<u>Committee Report</u> OTP MAJ ONTP MIN		<u>Amendments Adopted</u>
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LD 724 proposed to require any person who uses the title "paralegal" or "legal assistant" to be qualified by education, training or work experience; and supervised by an attorney to the extent that the attorney is ultimately responsible for the work.

Enacted law summary

Public Law 1999, chapter 379 requires any person who uses the title "paralegal" or "legal assistant" to be qualified by education, training or work experience; and supervised by an attorney to the extent that the attorney is ultimately responsible for the work. A person who claims to be a paralegal or a legal assistant and does not meet the statutory definition commits a civil violation for which a forfeiture of up to \$1000 may be adjudged.

LD 748

An Act to Strengthen the Collection of Money Judgments

ONTP

<u>Sponsor(s)</u> O'NEIL		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 748 proposed to impose a monetary penalty on judgment debtors who fail to appear in court in response to subpoenas or at disclosure hearings. The bill also proposed to require the court to allow a judgment creditor five hours to appear in court after a civil order of arrest has been accomplished.