

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JULY 1999

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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.

LD 1255 proposed to give exclusive authority to regulate surface water use on ponds entirely within Passamaquoddy Indian territory to the Passamaquoddy Tribe and to give the Maine Indian Tribal-State Commission authority over surface water use of great ponds with at least 10%, but not all, of the shoreline within Passamaquoddy Indian territory.

LD 1284 **An Act Regarding Test Results Used in Determining Paternity** **ONTP**

<u>Sponsor(s)</u> MCNEIL		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1284 proposed to require a court to make a new paternity determination if, after the court has entered a judgment that the alleged father is the legal father, the alleged father submits to blood or tissue-typing testing and the results show the alleged father is not the father.

LD 1285 **An Act to Allow the Child Support Obligor the Right to Provide Day Care** **ONTP**

<u>Sponsor(s)</u> STANWOOD		<u>Committee Report</u> ONTP MAJ OTP-AM MIN		<u>Amendments Adopted</u>
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LD 1285 proposed to provide that the nonprimary residential care provider, or either party in case primary residential care is shared equally, may provide child care personally or by a close relative if it is consistent with the best interests of the child. As proposed, if a court does not allow child care, it must state the reasons in writing or on the record.

Committee Amendment "A" (H-644), the minority report, proposed to add a fiscal note to the bill.

LD 1294 **An Act to Provide for a Limited Waiver of Immunity** **CARRIED OVER**

<u>Sponsor(s)</u> POWERS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1294 proposes to waive immunity from liability for directors, officers and volunteers of charitable organizations when they cause harm while operating vehicles, vessels or aircraft. Liability would be limited to the amount of insurance coverage held by the director, officer or volunteer. The bill also proposes to void a provision in an insurance policy that attempts to exclude coverage for such claims.

This bill has been carried over to the Second Regular Session.

LD 1303 **An Act to Amend the Statute of Limitations for Medical Malpractice** **CARRIED OVER**

<u>Sponsor(s)</u> WATSON RAND		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1303 proposes to amend the statute of limitations relating to health care providers and health care practitioners. The bill requires an action for professional negligence to be commenced within 3 years after a plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury but not more than 6 years after the cause of action accrues.

This bill has been carried over to the Second Regular Session.

LD 1324 **An Act to Eliminate the Need for a Foster Home License for Adoptive Parents** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY	ONTP	

LD 1324 proposed to allow a child who is being adopted to stay with the child's future adoptive parent without the parent having to license the home as a children's home during the pendency of a petition for adoption. See also LD 1744.

LD 1325 **An Act to Provide Fairness to Victims of Medical Malpractice** **PUBLIC 523**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAWRENCE THOMPSON	OTP-AM MAJ ONTP MIN	S-352 S-436 LONGLEY

LD 1325 proposed to expedite the operation of prelitigation screening panels under the Maine Health Security Act by allowing the hearing to be bypassed completely if it has not been held within 4 months, shortening certain time periods and allowing statements and presentations of the case in writing. The bill also proposed to clarify the role of the prelitigation screening panels by changing the standard of proof used by the panel, and how the findings may be used. The bill proposed that testimony made under oath in the panel proceedings can be used in subsequent proceedings for the purpose of impeachment.

Committee Amendment "A" (S-352), the majority report, proposed to replace the bill. It proposed to limit depositions and require the panel to maintain a tape recorded record of the panel proceedings to be used for limited purposes in subsequent proceedings. The amendment proposed to change the standard that the panel must use to make its findings: whether the evidence, if properly substantiated, is sufficient to raise a legitimate question appropriate for judicial inquiry concerning the liability of the health care practitioner or health care provider. The panel findings would be admissible in court only if the panel were unanimous in finding against the claimant.

Senate Amendment "A" to Committee Amendment "A" (S-381) proposed to amend the comparative negligence question for the panel by requiring a finding of professional negligence before the panel considers whether the patient was also negligent. It also proposed to revise the admissibility of panel findings. (Not adopted)

Senate Amendment "B" to Committee Amendment "A" (S-436) proposed to incorporate the changes made by Senate Amendment "A" to Committee Amendment "A" to the bill and change the circumstances under which unanimous panel findings unfavorable to the person accused of professional negligence are admissible in a subsequent court action for professional negligence.

Enacted law summary

Public Law 1999, chapter 523 amends the Maine Health Security Act as follows: