

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. 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 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:

1. It limits depositions to the parties and the experts designated by the parties, although the chair of the prelitigation screening panel may authorize deposing additional persons. Depositions must be admitted to the panel hearing regardless of whether the person deposed is available for the hearing; and
2. It requires the panel to maintain a tape recorded record of the panel proceedings. That record remains confidential except that testimony made under oath in the panel proceeding may be used in subsequent proceedings for purposes of impeachment. In addition, the person who made the statement or presented that evidence may agree to its submission, use or disclosure outside of the panel proceeding.

LD 1341

An Act to Provide Additional Funding for the Maine Indian Tribal-State Commission

P&S 51

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AHEARNE CATHCART	OTP-A	H-161

LD 1325 proposed to provide additional funding (\$75,000 in fiscal year 1999-00 and \$100,000 in fiscal year 2000-01) to the Maine Indian Tribal-State Commission to meet its obligations under the Maine Indian Claims Settlement Act. (This bill was referred to the Joint Standing Committee on Appropriations and Financial Affairs.)

Committee Amendment "A" (H-161) proposed to reduce the General Fund appropriation in the bill to \$15,000 in each of fiscal years 1999-00 and 2000-01.

Enacted law summary

Private and Special Law 1999, chapter 51 provides a General Fund appropriation to the Maine Indian Tribal-State Commission of \$15,000 on each of fiscal years 1999-00 and 2000-01.

LD 1371

An Act Regarding the Collection of Child Support by Custodial Parents

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS MITCHELL B	ONTP	

LD 1371 is a concept draft pursuant to Joint Rule 208. It proposed to establish better methods to ensure that noncustodial parents who have been ordered or obligated to pay child support in fact make those child support payments in a timely fashion.

LD 1375

An Act to Provide Post-judgment Interest in Small Claims Actions

PUBLIC 109

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	OTP-AM	H-137

LD 1375 proposed to provide for prejudgment and post-judgment interest on money judgments awarded in small claims actions.