

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.

other provisions of the Maine Probate Code's wrongful death statute, including caps on the amount of damages recoverable, will apply.

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

LD 1486 **An Act to Include Fraudulent Billing by Attorneys under the Unfair Trade Practices Act** **ONTP**

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

LD 1486 proposed to amend the Maine Unfair Trade Practices Act to allow its civil remedies to apply to attorneys' billing practices that are unfair competition or deceptive acts.

LD 1487 **An Act to Bring Equity into Custodial Agreements** **ONTP**

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

LD 1487 proposed to create a presumption in custody cases that an equal allocation of parental rights and responsibilities is in the best interest of the child.

Committee Amendment "A" (H-530), the minority report of the committee, proposed to strike out the language in the bill referring to an agreement of the parties for an allocation other than equal allocation of parental rights and responsibilities. (Not adopted)

LD 1488 **An Act to Ensure Compliance with Court Orders Relating to Child Visitation** **DIED BETWEEN BODIES**

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

LD 1488 proposes to require a judge to provide compensatory visitation if the parent who has primary physical residence with the child denies visitation.

LD 1514 **An Act to Amend the Filing Requirements to Perfect a Purchase Money Security Interest in Consumer Goods** **ONTP**

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

LD 1514 proposed to amend the Uniform Commercial Code, secured transactions, to eliminate the dollar limitation in the provision allowing perfection of a purchase money security interest in consumer goods without filing a financing statement. See also LD 2245.

LD 1523

An Act to Amend Criminal Law Procedures Regarding Defendants Found Incompetent to Stand Trial

PUBLIC 503

<u>Sponsor(s)</u> WINSOR BENNETT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-637
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LD 1523, a concept draft pursuant to Joint Rule 208, proposed to require a court to order that a defendant found incompetent to stand trial be confined by the State for the purpose of obtaining treatment, and confined until the court found that the defendant was competent to stand trial.

Committee Amendment "A" (H-637) proposed to replace the original bill by deleting the one-year limitation on how long a defendant can be held if found incompetent to stand trial, and by requiring the court to order the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to start involuntary commitment procedures for a defendant who the court has determined is not competent and there does not exist a substantial probability that the defendant will be competent in the foreseeable future if the defendant is charged with specific serious crimes: crimes against the person; sexual assault; criminal restraint and kidnapping; harassment; arson; and causing a catastrophe .

Enacted law summary

Public Law 1999, chapter 503 amends the current law to establish a procedure to deal with defendants who are found incompetent to stand trial by a court. First, consistent with State v. Dedekian, 680 A.2d 441 (1996), the one-year limitation on how long a defendant may be confined by the State is eliminated, as long as there is a substantial probability that the defendant will attain capacity in the foreseeable future. Second, the court is required to order the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to start involuntary commitment procedures for a defendant who the court has determined is not competent and there does not exist a substantial probability that the defendant will be competent in the foreseeable future if the defendant is charged with specific serious crimes: crimes against the person; sexual assault; criminal restraint and kidnapping; harassment; arson; and causing a catastrophe.

LD 1538

An Act to Grant Immunity to Medical Professionals Conducting Body Cavity Searches for Drugs

PUBLIC 290

<u>Sponsor(s)</u> SCHNEIDER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-460
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LD 1538 proposed to provide protection from criminal and civil liability for medically trained personnel, such as medical doctors and registered nurses, who conduct body cavity searches pursuant to a body cavity search warrant. This bill is the recommendation of the Attorney General.

Committee Amendment "A" (H-460) proposed to replace the bill. It proposed to provide immunity to persons authorized by rules adopted by the Attorney General to conduct body cavity searches if the person, exercising due care, conducts a body cavity search pursuant to a search warrant directing a body cavity search.

Enacted law summary