

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 1771 proposes a limit of \$250,000 on noneconomic damages in medical liability actions. The bill proposes that a plaintiff is still entitled to the full economic loss, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and any other verifiable monetary losses.

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

LD 1783 **An Act to Clarify the Limited Liability for Recreational or Harvesting Activities** **ONTP**

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

LD 1783 proposed to specify that the limit on liability for recreational or harvesting activities does not apply to a person who has been invited onto the premises.

LD 1791 **An Act to Promote Effective Management of Occupational Exposure to HIV** **PUBLIC 429**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOLDTHWAIT	OTP-AM MAJ OTP-AM MIN	S-326

LD 1791 proposed to expand the options for obtaining authorization to conduct an HIV test on a blood or tissue sample when an occupational exposure has occurred in a health care setting and the person who was the source of the blood or body fluid that caused the exposure is unavailable or unable to give consent, such as when the person is unconscious.

Committee Amendment "A" (S-326), the majority report of the committee, proposed to clarify when a source person is unavailable or unable to give consent to the test, specifies who may receive the test results and clarifies that, if the person contacted for authorization refuses to authorize a test, the test may not be performed without the source person's consent or judicial authorization.

The amendment also proposed to clarify that the law applies to volunteer emergency services personnel, including volunteer firefighters and licensed emergency medical services persons.

The amendment proposed to require the Department of Human Services, Bureau of Health, to study options for expanding the application of the law to other groups of employers and to report back to the Joint Standing Committee on Judiciary by December 31, 1999. The committee would be authorized to report out legislation in response to the report.

Committee Amendment "B" (S-327), the minority amendment of the committee proposed to expand the application to all places of employment subject to the Occupational Safety and Health Act regulation on blood-borne pathogens. A place of employment is subject to that OSHA standard if employees there are "reasonably anticipated" to come into contact with blood, other body fluids or other infectious material.

This amendment proposed to clarify when a patient is unavailable to give consent, specify who may receive the test results and clarify that if any person refuses to give authorization, the test may not be performed without judicial consent or the consent of the source patient. It also proposed to clarify that the law applies to exposures of volunteer emergency services personnel, including volunteer firefighters and licensed emergency medical services persons. (Not adopted)

Enacted law summary

Public Law 1999, chapter 429 expands the options for obtaining authorization to conduct an HIV test on a blood or tissue sample when an occupational exposure has occurred in a health care setting and the source person is unavailable or unable to give consent, e.g., when the source person is unconscious. In that situation, the source person's legal guardian, adult relative, person with power of attorney for health care, certain other adults, or a physician familiar with occupational exposure to HIV may authorize the test. If any person on the list refuses to authorize the test, the test may not be performed without judicial consent or the consent of the source person. The law specifies who may receive the test result, and what information may be kept in personal records. The law clarifies that exposures received by members of a rescue team during performance of emergency services are occupational exposures, even if the person is not paid for services.

The law requires the Department of Human Services, Bureau of Health, to study options for expanding the application of the law to other groups of employers and to report back to the Joint Standing Committee on Judiciary by December 31, 1999. The Judiciary Committee is authorized to report out legislation in response to the report.

LD 1792

An Act Relating to the Admissibility of Medical Records and Reports

ONTP

Sponsor(s)
MILLS

Committee Report
ONTP

Amendments Adopted

LD 1792 proposed to authorize the admission of medical records into court proceedings without requiring the maker of the record or the record custodian to be called as a witness to authenticate the record.

LD 1795

**An Act to Validate Pierringer Releases and Reform Procedures in
Multiparty Lawsuits**

CARRIED OVER

Sponsor(s)
MILLS

Committee Report

Amendments Adopted

LD 1795 proposes to restructure the comparative negligence laws and define how they should apply in cases with multiple defendants.

The bill also proposes to restructure the laws dealing with release of joint tortfeasors when settlement is not reached and clarify how the judge applies offsets against subsequent verdicts when there have been prejudgment settlements.

The bill also proposes to authorize the courts to approve Pierringer release procedures in complex litigation. In a Pierringer settlement, the plaintiff gives up that share of recovery that is proportional to the settling defendant's fraction of responsibility. The purpose of a Pierringer release is to permit one defendant to settle with the plaintiff and to withdraw finally from the suit even when there are cross-claims against the defendant.

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