

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

*State Of Maine
120th Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2001

Members:

Sen. Anne M. Rand, Chair

Sen. Michael J. McAlevey

Sen. Norman K. Ferguson, Jr.

Rep. Charles C. LaVerdiere, Chair

Rep. Thomas D. Bull

Rep. Patricia T. Jacobs

Rep. Charles E. Mitchell

Rep. Christopher T. Muse

Rep. Deborah L. Simpson

Rep. David R. Madore

Rep. G. Paul Waterhouse

Rep. Stavros J. Mendros

Rep. Roger L. Sherman

Rep. Donna M. Loring

Staff:

Margaret J. Reinsch, Principal Analyst

Deborah C. Friedman, Senior Analyst

Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207) 287-1670



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

120th Legislature
First Regular Session

Summary Of Legislation Before The Joint Standing Committees
August 2001

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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*
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... *Emergency bill failed to get 2/3 vote*
FAILED ENACTMENT/FINAL PASSAGE..... *Bill failed to get majority vote*
FAILED MANDATE ENACTMENT..... *Bill imposing local mandate failed to get 2/3 vote*
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 21, 2001**.

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

Joint Standing Committee on Judiciary

LD 745

**An Act to Require the Audio Recording of Interviews of Children
by the Department of Human Services**

ONTP

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

LD 745 proposed to require the Department of Human Services to make an audio recording of all interviews with children subject to child protective proceedings. If a recording is not made, the department would not be able to use the information in a child protective proceeding unless a judge decides that exigent circumstances exist to require the information to be used. The department would be required to provide the parent of the child a copy of the recording before the proceeding in which the information is used.

See also LD 1793 and HP 1385.

LD 751

An Act to Amend the Maine Tort Claims Act

ONTP

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

LD 751 proposed to amend the Maine Tort Claims Act to allow a person to sue a governmental entity when its employees, with malicious intent, act or fail to act in a manner that causes injury to that person.

Committee Amendment "A" (H-338) was the minority report. It proposed to add an appropriation and fiscal note. (Not adopted)

LD 783

An Act to Update the Probate Code

PUBLIC 57

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAWYER MENDROS	OTP-AM	S-37

LD 783 proposed to increase the homestead allowance from \$5,000 to \$10,000. The bill also proposed to increase the exempt property from an estate allowed to a surviving spouse from \$3,500 to \$7,000. The bill also proposed to increase the spouse or family allowance from periodic installments of \$500 a month to \$1,000 a month.

Committee Amendment "A" (S-37) proposed to increase the maximum lump sum amount for the family allowance from the deceased's estate to \$12,000. This would be consistent with the increase of the periodic payments, up to \$1,000 per month for one year, contained in the bill.

Joint Standing Committee on Judiciary

Enacted law summary

Public Law 2001, chapter 57 increases the homestead allowance from \$5,000 to \$10,000, increases the exempt property from an estate allowed to a surviving spouse from \$3,500 to \$7,000, increases the spouse or family allowance from periodic installments of \$500 a month to \$1,000 a month; and increases the maximum lump sum amount for the family allowance from the deceased's estate to \$12,000.

LD 789

An Act to Discourage Frivolous Appeals

PUBLIC 81

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

LD 789 proposed to allow the Superior Court to award treble costs to the prevailing party in an appeal if the court finds that the appeal was frivolous.

Enacted law summary

Public Law 2001, chapter 81 allows the Superior Court to award treble costs to the prevailing party in an appeal if it finds that the appeal was frivolous.

LD 791

**An Act to Allow a District Attorney to Appeal Court Rulings
Without Attorney General Approval**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WATERHOUSE	ONTP	

Current law allows an assistant district attorney to appeal an adverse decision only with the written approval of the Attorney General. LD 791 proposed to allow both the Attorney General and the district attorney for the district in which the appeal is taken to approve the appeal of cases prosecuted by an assistant district attorney.

LD 807

**An Act to Provide for Plenary Proceedings in Actions for Forcible
Entry and Detainer**

PUBLIC 133

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ABROMSON	OTP	

LD 807 proposed to allow a plaintiff in an action for forcible entry and detainer of personal property to choose whether to proceed by summary proceeding or by plenary proceeding. The summary proceeding is the current