

MAINE STATE LEGISLATURE

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*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

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Rep. G. Paul Waterhouse

Rep. Stavros J. Mendros

Rep. Roger L. Sherman

Rep. Donna M. Loring

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Maine State Legislature
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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

Public Law 1999, chapter 731, Part ZZZ, section 3, concerning court unification, repealed and replaced the Maine Revised Statutes, Title 4, section 105, providing for the civil jurisdiction of the Superior Court. That legislation eliminated the jurisdiction of a single Justice of the Supreme Judicial Court to sit in the Superior Court. Title 4, section 2-A currently provides for the Chief Justice of the Supreme Judicial Court to assign a justice or active retired justice to sit in the District Court and the Administrative Court until March 15, 2001, and the District Court effective March 15, 2001. Instead of amending Title 4, section 105 to correct the inadvertent error in the court unification legislation, Public Law 2001, chapter 69 places in Title 4, section 2-A the authority of the Chief Justice of the Supreme Judicial Court to appoint a single Justice of the Supreme Judicial Court to sit in the Superior Court.

Public Law 2001, chapter 69 was enacted as an emergency measure effective May 2, 2001.

LD 953

An Act Relating to Discovery Procedures under the Maine Unfair Trade Practices Act

PUBLIC 370

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE RAND	OTP-AM MAJ ONTP MIN	H-335

LD 953 proposed to amend the Attorney General's civil investigative and discovery (CID) procedures under the Maine Unfair Trade Practices Act. It proposed to repeal language exempting trade secrets from the requirement to provide information requested by the Attorney General, but it proposed to allow the Superior Court to grant a protective order with respect to trade secrets or any other matter consistent with court rules. The bill proposed to allow the Attorney General to disclose information in court filings. LD 953 also proposed to repeal the provision of law requiring a person to provide information even if it would incriminate that person, but prohibiting the Attorney General from using the information in a criminal proceeding other than a proceeding for perjury, false testimony or failure to comply with a notice under the Act. Instead, it proposed to prohibit use of information obtained through the CID procedure in a criminal prosecution for substantially identical transactions.

Committee Amendment "A" (H-335) proposed to delete the provisions expanding the Attorney General's authority to use in a criminal proceeding information acquired during a civil investigation under the Unfair Trade Practices Act. Under current law, information obtained by the Attorney General under the criminal investigative demand process may not be used in any criminal proceeding, other than a prosecution for perjury, giving a false statement or failing to comply with the investigative demand. The bill would have allowed use of the information in any criminal prosecution other than one for a transaction substantially identical to the one at issue in the Unfair Trade Practices investigation. The amendment proposed to return the language to its original form, allowing use only for perjury, false statements and failure to comply with the demand. It also proposed to return the language prohibiting a person from refusing to give information on the grounds that it may incriminate the person or subject the person to a penalty or forfeiture.

Enacted law summary

Public Law 2001, chapter 370 amends the Attorney General's civil investigative and discovery procedures under the Maine Unfair Trade Practices Act. It repeals the provision allowing a person to refuse to disclose trade secrets to the Attorney General, but allows the Superior Court to grant a protective order with respect to that information or

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any other matter consistent with court rule. Chapter 370 also allows the Attorney General to disclose information obtained during the CID process in court filings without the consent of the person who produced the information.

LD 954 **An Act to Amend the Protection from Abuse and Protection from Harassment Laws** **PUBLIC 134**

<u>Sponsor(s)</u> WATERHOUSE MCALEVEY	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 954 proposed to make the changes recommended by the Judicial Department's committee on protection from abuse and protection from harassment.

Enacted law summary

Public Law 2001, chapter 134 makes the following changes to the laws governing protection from abuse and protection from harassment.

It extends the definition of "harassment" to conduct constituting stalking and violation of privacy. It also expands the definition of "harassment" by adding the term "course of conduct" to accommodate the inclusion of stalking.

It makes violations of provisions in permanent protection from harassment orders that direct a defendant to refrain from having contact with a plaintiff punishable criminally by conferring express authority for these provisions.

It allows the clerk of court to seal identifying information in protection from abuse and protection from harassment cases.

It criminalizes the use, attempted use or threatened use of physical force in violation of a protection from abuse order by conferring express authority for such a provision.

LD 955 **An Act to Ensure Accountability in the Department of Human Services** **ONTP**

<u>Sponsor(s)</u> KASPRZAK	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 955 proposed to require the responsible employees of the Department of Human Services to pay the parent's or custodian's attorney's fees and costs when a court finds that a child was physically removed from the home when the child was not in jeopardy. This would be an exception to the Maine Tort Claims Act.

See also LD 1793 and HP 1385.