

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

Rep. David R. Madore

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

LD 1573

An Act to Enact the Uniform Principal and Income Act of 1997

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT RAND		

LD 1573 proposed to amend the Probate Code to include the Uniform Principal and Income Act of 1997, adopted by the National Conference of Commissioners on Uniform State Laws in 1997. The Act provides rules for handling trust principal, income, receipts and disbursements.

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

LD 1581

An Act to Allow the Department of Human Services Abuse and Neglect Investigators Access to Certain Baxter School for the Deaf Records

PUBLIC 265

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGLEY	OTP-AM	S-177

LD 1581 proposed to give the out-of-home abuse and neglect investigating team established in the Maine Revised Statutes, Title 22, section 4088 the authority to obtain access to personnel records for persons licensed by the Department of Education, including those in the Baxter School for the Deaf.

Committee Amendment "A" (S-177) proposed to replace section 4 of the bill and specifically limit the information that the out-of-home abuse and neglect investigating team may review relating to a person at the Governor Baxter School for the Deaf who is subject to licensure by the Department of Education.

Enacted law summary

Public Law 2001, chapter 265 gives the out-of-home abuse and neglect investigating team established in the Maine Revised Statutes, Title 22, section 4088 the authority to obtain access to personnel records for persons licensed by the Department of Education, including those in the Governor Baxter School for the Deaf.

The Governor Baxter School for the Deaf and the Department of Education must disclose to the team records related to the following:

Background checks related to the person who is the subject of the investigation. The team can review the information that the school or the department has collected or note when a background check was not completed;

Joint Standing Committee on Judiciary

The person's credentials. The team can review the education, training and experience of the person to help understand the context of the alleged conduct, as well as review whether the person had the appropriate background for the position;

Any conduct on the part of the person related to the allegation. The team will be able to determine if the alleged conduct was an isolated occurrence or simply one episode in a series of similar or escalating instances; and

Any action the school or the Department of Education took in response to the conduct of any person at the school that is similar to the conduct alleged. This allows the team to review what sanctions, if any, have been imposed upon similar conduct.

LD 1599

An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP A	
TURNER	OTP-AM B	
	OTP-AM C	

LD 1599 proposed to clarify whether individuals acting in the interest of an employer are personally liable for employment discrimination under the Maine Human Rights Act. In April 2000, the Maine Law Court issued an opinion in the case of Gordan v. Cummings (Docket #Cum-99-254, April 19, 2000) that found a supervisor individually liable for employment discrimination. However, the Court reconsidered that opinion and issued an opinion in July 2000 declining to decide the question of whether supervisors are individually liable under the Act. LD 1599 proposed to state that individuals are not personally liable. The Judiciary Committee issued three reports on the bill: two "ought to pass as amended" reports, and one "ought not to pass" report.

Committee Amendment "A" (H-561) proposed to replace the bill with language that more clearly ensures that individual employees, such as supervisors, are not personally liable for employment discrimination. It also removed language from the bill that may have changed the law in Maine regarding when employers are responsible for actions of their employees and other agents. (Not adopted)

Committee Amendment "B" (H-562) proposed to replace the bill with language providing for individual liability only when the individual supervisor or other agent created a hostile work environment, and only if such an environment was created with malice or reckless disregard of the rights of an individual protected by the Maine Human Rights Act. Remedies against the individual could include civil penal damages, cease and desist orders and a requirement to pay costs and attorney's fees to the complainant and would be in addition to any remedies against the employer. (Not adopted)