

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

May 2002

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:

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120th Legislature
Second Regular Session

Summary Of Legislation Before The Joint Standing Committees
May 2002

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 organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number.

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:

- 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
PASSED..... Joint Order passed in both bodies
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 Second Regular Session (unless otherwise specified in a particular law) is July 25, 2002.

Patrick T. Norton, Interim Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Judiciary

provides that if the Indian human remains are subject to the Medical Examiner Act, the Chief Medical Examiner may retain the remains until they are no longer necessary for legal purposes. This requirement does not apply to human remains or persons and entities covered by the federal Native American Graves Protection and Repatriation Act, NAGPRA. Public Law 2001, chapter 601 also addresses human remains that are subject to NAGPRA that fall into the definition of Medical Examiner cases. The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the procedures the Chief Medical Examiner must follow when in possession of Indian human remains that are subject to NAGPRA. NAGPRA includes a limited period of study prior to repatriation; the memorandum of understanding will address that period for human remains that are subject to NAGPRA and are Medical Examiner cases.

LD 1950 **An Act to Change the Requirement for Court-ordered Mental Examination** ONTP

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

LD 1950 proposed to increase the flexibility available to the courts in requesting so-called stage 2 evaluations when a criminal defendant is being examined to determine the defendant's mental condition. Currently, such evaluations must be completed by a clinical psychologist and a psychiatrist. The change in the bill proposed to allow the stage 2 evaluation to be completed by a licensed psychologist or a psychiatrist and, for an additional evaluation by a licensed psychologist or psychiatrist, to be assigned if deemed necessary or desirable by the court or the director of the State Forensic Service.

LD 1969 **An Act Concerning Custody and Visitation for Sex Offenders** PUBLIC 665

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARR MICHAUD MH	OTP-AM	H-1033

LD 1969 proposed to prohibit a court from awarding custody of a minor child to a person who is a convicted sex offender. The bill proposed to allow visitation with a minor child to a convicted sex offender only if there is another adult present to supervise the visitation.

Committee Amendment "A" (H-870), the majority report, proposed to slightly modify the title and replace the bill. It proposed to require the court, when establishing parental rights and visitation concerning a child, to take into account a parent's convictions for sex offenses and sexually violent offenses. The court would retain discretion to weigh the information and how the existence of any convictions affects the best interests of the child. The same consideration would be taken when establishing grandparents' visitation. (Not adopted)

Committee Amendment "B" (H-871), the minority report, proposed to expand the bill to prohibit the court from ordering custody of a child to a sexually violent predator as well as a sex offender. It proposed to expand the bill to impose restrictions on visitation and contact with grandparents who are sexually violent predators, and to clarify conditions that may be imposed when the court orders supervised visitation. (Not adopted)

Joint Standing Committee on Judiciary

Committee Amendment "C" (H-1033) was the unanimous report when the bill was recommitted to committee. It proposed to replace the bill. It proposed to require the court, when establishing parental rights and visitation concerning a child, to take into account a parent's convictions for sex offenses and sexually violent offenses. The court would retain discretion to weigh the information and how the existence of any convictions affects the best interests of the child. The same consideration must be taken when establishing grandparents' visitation.

This amendment proposed to require that in order to award primary residence to a person who is convicted of a child-related sexual offense, the court must find that it is in the best interests of the child and that adequate provision can be made to ensure the child's safety.

The same finding would be required when the court orders visitation and contact with a grandparent who is convicted of a child-related sexual offense.

House Amendment "A" to Committee Amendment "A" (H-888) proposed to prohibit the court from awarding primary custody to a person who is convicted of a child-related sexual offense.

This amendment proposed to permit the court to award parent-child contact with a person convicted of a child-related sexual offense, but only if the contact is appropriately supervised. The same supervision is required when the court orders visitation and contact with a grandparent who is convicted of a child-related sexual offense. (Not adopted)

Enacted law summary

Public Law 2001, chapter 665 requires the court, when establishing parental rights and visitation concerning a child, to take into account a parent's convictions for sex offenses and sexually violent offenses. The court retains discretion to weigh the information and how the existence of any convictions affects the best interests of the child. The same consideration must be taken when establishing grandparents' visitation.

Chapter 665 also requires that in order to award primary residence to a person who is convicted of a child-related sexual offense, the court must find that it is in the best interests of the child and that adequate provision can be made to ensure the child's safety. The same finding is required when the court orders visitation and contact with a grandparent who is convicted of a child-related sexual offense.

LD 1980

An Act to Extend the Period During Which the Passamaquoddy Tribe May Acquire Land in the City of Calais

**VETO
SUSTAINED**

Sponsor(s)
MORRISON
YOUNGBLOOD

Committee Report
OTP

Amendments Adopted

LD 1980 proposed to extend until the year 2020 the option for the Passamaquoddy Tribe to acquire land in the City of Calais. This bill was vetoed by the Governor, and the House of Representatives sustained the veto.