

# 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*

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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

10. It directs the Supreme Judicial Court to consider establishing a pilot project to provide representation to parents in child protective proceedings on a contract basis with one or more attorneys or firms. A similar pilot project was undertaken to provide representation for criminal defendants.
11. It requires the Department of Human Services to report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters about planned changes to increase care by relatives and placement with relatives, and how the department will inform families about visitation and placement options for relatives.
12. It directs the Department of Human Services to apply for a waiver to allow for the reimbursement for services and for room and board for children who have not entered into the care and custody of the department.

**LD 2153**                      **An Act to Amend the Freedom of Access Laws to Protect Security Plans, Security Procedures and Risk Assessments**                      **PUBLIC 675**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT MICHAUD MH	OTP-AM    MAJ ONTP        MIN	H-1057

LD 2153 proposed to add an exception to the definition of "public records" in the freedom of access laws that would protect information concerning security plans or procedures of agencies of State Government and local government. Such information is protected under the Maine Revised Statutes, Title 16, section 614 when it is held by a law enforcement agency identified in that statute but not when held by other agencies of state, county or local government.

**Committee Amendment "A" (H-1057)**, the majority report, proposed to limit the types of records that would be exempt from public disclosure.

***Enacted law summary***

Public Law 2001, chapter 675 exempts from the definition of "public record" security-related information that specifically concerns preventing or preparing for acts of terrorism. The "terrorism" definition closely mirrors the definition in proposed changes to the Maine Criminal Code. Chapter 675 also clarifies that only that information that, if released, could pose a threat to public safety is covered by this exemption. Finally, it adds the term "risk assessments" to the description of security-related information in order to prevent the disclosure of information that could permit exploitation of existing vulnerabilities.

**LD 2157**                      **An Act Regarding the Requirements for Documenting Pretest and Post-test Counseling for HIV Tests**                      **PUBLIC 647**

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

## Joint Standing Committee on Judiciary

LD 2157 proposed to change the way a person documents the counseling provided to a person who is being tested for HIV. Current law requires that a written memorandum summarizing the contents of the discussion be given to the person tested. This bill proposed to require that an entry in the person's medical record summarizing the discussion be made. The bill also proposed to require that the provider of the HIV test give the person being counseled a written document summarizing the discussion resulting from the pretest and post-test counseling. A written consent form or other document may be used to satisfy the requirement for documenting the pretest and post-test counseling discussion.

### *Enacted law summary*

Public Law 2001, chapter 647 changes the law requiring health care providers to offer counseling to a person before and after the person is tested for HIV. Current law requires the test provider to prepare a written memorandum summarizing the counseling discussion and to give the memorandum to the person who is being tested. Chapter 647 instead requires the test provider to make an entry in the person's medical record summarizing the discussion and to give the person being counseled a written document containing information on the issues required to be covered in counseling. Written consent forms or other standardized forms may be used to meet the requirement if they provide the necessary information.

**LD 2164**                      **An Act to Provide Government with the Necessary Authority to Respond to a Public Health Emergency Caused by an Act of Bioterrorism**                      **PUBLIC 694**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL BENNETT	OTP-AM MAJ OTP-AM MIN ONTP MIN	H-1062

LD 2164 was jointly referred to the Joint Standing Committees on Health and Human Services and Judiciary. It includes the following proposals regarding the laws governing emergency health powers.

1. It proposed to relieve the Department of Human Services from the requirement to adopt emergency rules in the event of a public health emergency and instead allow the department to implement rules previously adopted designed to become effective upon the declaration of a state of public health emergency.
2. It proposed to allow the Department of Human Services to exercise its public health emergency powers upon a declaration of a state of public health emergency by the Governor.
3. It proposed to allow the Department of Human Services to have access to certain health information or take a person into temporary custody and order specific emergency care, vaccination, treatment or evaluation in the event of a public health emergency if the department has reasonable cause to believe the person has either been exposed to or is at risk of transmitting a communicable disease that poses a serious and imminent threat to human or animal life; there is no less restrictive alternative available to safeguard the public health and safety; and the delay involved in securing a court order would pose an imminent risk to the person or pose a serious risk of transmission of the communicable disease. A person could not be detained more than 48 hours without judicial review.