

# 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*

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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 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 arranged alphabetically by committee name 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](http://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:

<i>CON RES XXX</i> .....	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i> .....	<i>House &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i> .....	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i> .....	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i> .....	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i> .....	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i> .....	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i> .....	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>PASSED</i> .....	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i> .....	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i> .....	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i> .....	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's Veto</i>

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

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.

## Joint Standing Committee on Judiciary

4. It proposed to eliminate the requirement that the Department of Human Services file with the court treatment plans and report subsequent to the issuance of a court order for involuntary medical treatment, subject to the requirement that any such order must be subject to judicial review within 30 days.
5. It proposed to allow the Department of Human Services to dispose of the remains of victims of a communicable disease during a public health emergency if there are no less restrictive alternatives to protecting public health or safety from the threat of communicable disease.
6. It proposed to require that if the Governor or another person declares by proclamation a state of public health emergency, the Governor or that person shall, to the extent feasible, also disseminate that proclamation to persons with disabilities.
7. It proposed to require the Governor to convene the Public Health Emergency Planning Commission to review the provisions of state law relevant to public health emergency preparedness, consider measures to safeguard individual dignity and medical record confidentiality and examine strategies to protect the public from the threat of communicable diseases and acts of bioterrorism and report back to the Joint Standing Committee on Health and Human Services and the Legislative Council.
8. It proposed to require the Joint Standing Committee on Appropriations and Financial Affairs to develop a mechanism for the financing of a response to a declaration of a state of public health emergency by the Governor, the Governor's designee or a person acting in place of the Governor.

**Committee Amendment "A" (H-1062)**, the majority report of the combined committees, proposed to replace the bill. It proposed to establish a system for the Department of Human Services to address extreme public health emergencies, including ordering isolation, quarantine and prescribed care. It proposed a process of judicial review, with court-appointed counsel for the indigent, as soon as reasonably possible but not later than 48 hours after the person becomes subject to the prescribed care. It proposed to establish a medical-legal advisory group to advise the Commissioner of Human Services regarding extreme public health emergencies and to provide advice to the Governor after an extreme public health emergency has been declared. It proposed that the entire Act be repealed on October 31, 2003.

**Committee Amendment "B" (H-1063)**, a minority report of the combined committees, proposed to replace the bill. It proposed to establish the Task Force to Study Extreme Health Emergencies, consisting of 12 legislative members, with a reporting date of November 6, 2002. (Not adopted)

**House Amendment "A" to Committee Amendment "A" (H-1095)** proposed to require that the rules, concerning communicable diseases, to be adopted by the Department of Human Services are major substantive rules, rather than routine technical rules. (Not adopted)

**House Amendment "B" to Committee Amendment "A" (H-1098)** proposed to authorize the convening of the Public Health Emergency Planning Commission to review the law relevant to public health emergency and extreme public health emergency preparedness. It proposed development of proposals for financing a response to a declaration of a state of extreme public health emergency by the Governor, response of the Judicial Department in the event of a public health emergency and educational materials for health care professionals and members of the public. (Not adopted)