

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2003

Members:

Sen. Peggy A. Pendleton, Chair

Sen. Mary R. Cathcart

Sen. Chandler E. Woodcock

Rep. William S. Norbert, Chair

Rep. Thomas D. Bull

Rep. Deborah L. Simpson

Rep. Stan Gerzofsky

Rep. Philip R. Bennett, Jr.

Rep. Janet T. Mills

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Brian M. Duprey

Rep. Joan Bryant-Deschenes

Rep. Donna M. Loring

Staff:

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint 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).

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>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<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 & 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>P&S XXX</i>	<i>Chapter # of enacted Private & 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 that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Judiciary

LD 1203

An Act Concerning Executive Sessions of Public Bodies

ONTP

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

Current freedom of access laws require an agency or body to record the vote on the motion to go into executive session. LD 1203 proposed to direct that the record of the vote must include the discussion in the executive session.

LD 1211

An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act and To Create the Maine Elder Death Analysis Review Team

PUBLIC 433

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON	OTP-AM MAJ OTP MIN	H-493

LD 1211 proposed to amend the laws concerning death certificates and the Medical Examiner Law.

Committee Amendment "A" (H-493), the majority report, proposed to create the Maine Elder Death Analysis Review Team to examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults.

Enacted Law Summary

Public Law 2003, chapter 433 amends the laws concerning medical certification of cause of death that require the certifying physician to be "authorized to practice in the State;" clarifies that the ultimate determination as to whether a reported death constitutes a medical examiner case is to be determined by the Chief Medical Examiner, barring a directive from the Attorney General or district attorney having jurisdiction; adds a new category of death that must be reported but need not be accepted by the Chief Medical examiner as a medical examiner case; and creates the Maine Elder Death Analysis Review Team to examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults.

LD 1214

An Act Regarding Confidentiality and Mental Health

ONTP

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

LD 1214 proposed to revise and expand the current laws regarding the privilege against disclosure of confidential communications between patients and licensed counseling professionals, such as marriage and family therapists, and between patients and licensed clinical social workers. It proposed to provide a number of exceptions to the privilege, including allowing disclosure: in certain criminal proceedings; when the patient is deceased and the information is needed regarding a will or deed; when reporting is required by law, such as reporting of child

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abuse or elder abuse; and when needed to determine certain matters in a child protection proceeding. The bill also proposed to specify when the privilege is considered to be waived and set forth procedures for courts in handling claims of privilege.

LD 1218 **An Act To Enact the Revised Uniform Arbitration Act** **ONTP**

<u>Sponsor(s)</u> DAVIS G	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1218 proposed to replace the Uniform Arbitration Act with the Revised Uniform Arbitration Act, approved by the National Conference of Commissioners on Uniform State Laws in 2000.

LD 1246 **Resolve, Regarding Searches of Curtilage by Certain State Agencies** **ONTP**

<u>Sponsor(s)</u> SNOWE-MELLO SAWYER	<u>Committee Report</u> ONTP MAJ OTP-AM MIN	<u>Amendments Adopted</u>
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LD 1246 proposed to require the Department of Environmental Protection, the Department of Conservation and the Department of Inland Fisheries and Wildlife to review their policies and procedures governing searches of private property, including curtilage, and to conform those policies and procedures to those followed by the Department of Public Safety, Bureau of State Police.

Committee Amendment "A" (H-489) was the minority report. It proposed to replace the resolve to require the Department of Environmental Protection, the Department of Conservation and the Department of Inland Fisheries and Wildlife to adopt written policies and procedures for searches of private property, including curtilage, that are approved by the Attorney General and that conform to the prohibition on unreasonable searches and seizures in the United States Constitution Amendment IV. It also proposed to require the Executive Department, State Planning Office to include written policies and procedures approved by the Attorney General for searches and seizures in the training that the State Planning Office establishes for municipal code enforcement officers.

This amendment proposed to require the Attorney General to report during the First Regular Session of the 122nd Legislature to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the written policies and procedures required pursuant to this resolve. (Not adopted)

LD 1262 **An Act To Implement the Maine Assistance Program for Lawyers** **PUBLIC 148**

<u>Sponsor(s)</u> NORBERT PENDLETON	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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The purpose of LD 1262 was to provide immunity from civil liability for persons or organizations involved with the Maine Assistance Program for Lawyers, which was established by a court order dated September 1, 2002.