

# MAINE STATE LEGISLATURE

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*State Of Maine  
121st Legislature*

*First Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Health and Human Services*

*July 2003*

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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](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>CARRIED OVER PURSUANT TO HP 1212</i> .....	<i>Bills carried over to the 2<sup>nd</sup> 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 &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>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 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**  
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*Joint Standing Committee on Health and Human Services*

**LD 1356**

**An Act To Improve Complaint Resolution and Hearing Procedures  
in the Department of Human Services**

**PUBLIC 419**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM MAJ	S-233
DUGAY	ONTP MIN	

Under current law, the Department of Human Services is required to use independent, impartial hearing officers to hear appeals of informal review decisions of MaineCare payment and cost report issues filed by providers of nursing facility services and medical and remedial private nonmedical institution services. Part A of LD 1356 proposed to extend the requirements of that appeal process, including the impartial hearing officer requirement, to any other informal review decisions that seek to impose repayment, recovery or recoupment obligations or sanctions or fines on service providers. It also proposed to require the department to pay the legal fees of providers who prevail after a hearing on alleged overpayment or fraud. It also proposed to establish an ombudsman to assist providers with compliance and hearings under the MaineCare program.

Part B of LD 1356 proposed to remove existing authority for the department to withhold funds owed to service providers in the MaineCare program as reimbursement for overpayments to the provider until after the commissioner has made a final decision on the overpayments. It also proposed to prohibit the department from withholding funds owed to service providers in the MaineCare program as reimbursement for overpayments by affiliated providers.

Part C of LD 1356 proposed to repeal the delayed effective date of Public Law 2001, chapter 464, which prohibits the department from paying auditors a commission based on funds received from a provider after an audit. The repeal of the future effective date would cause that law to have immediate effect.

Part D of LD 1356 proposed to place the burden of proof on the department for showing that a violation of the MaineCare law or rules has occurred. It also proposed to require the department to use evidence of standard industry practices when interpreting the laws and rules for the MaineCare program. This Part would apply retroactively to any proceedings pending before the Commissioner of Human Services on January 1, 2003.

**Committee Amendment "A" (S-233)** proposed to remove the emergency provisions, reimbursement of the service provider for attorney's and consultant's fees, the MaineCare provider ombudsman, retroactivity provisions and the requirement of a showing of no harm to the public before imposition of sanctions or withholding of payments. It proposed to provide limitations on the authority of the Department of Human Services to recover overpayments, amend the informal appeal process, allow arbitration and restrict the sanction of total recoupment. It proposed to require MaineCare provider relations personnel to assist MaineCare providers in addressing and resolving disagreements and correct outdated language. It proposed to require rulemaking to define the ownership and control relationships that apply in MaineCare offset situations. It proposed to require a report from the Department of Human Services and the Department of Behavioral and Developmental Services on recommendations regarding complaint resolution and the hearing process.

***Enacted Law Summary***

Public Law 2003, chapter 419 provides limitations on the authority of the Department of Human Services to recover overpayments, amends the informal appeal process, allows arbitration and restricts the sanction of total recoupment. It requires MaineCare provider relations personnel to assist MaineCare providers in addressing and

*Joint Standing Committee on Health and Human Services*

resolving disagreements and corrects outdated language. It requires rulemaking to define the ownership and control relationships that apply in MaineCare offset situations. It requires a report from the Department of Human Services and the Department of Behavioral and Developmental Services on recommendations regarding complaint resolution and the hearing process.

**LD 1364**                      **Resolve, Regarding Opportunities To Decrease the Occurrence of**                      **RESOLVE 69**  
**Developmental Disabilities and Mental Health Challenges in**  
**Childhood**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LERMAN	OTP-AM	H-467

LD 1364 proposed to establish the Commission to Identify the Opportunities to Decrease the Occurrence of Developmental Disabilities and Childhood Mental Health Challenges. It proposed to require the commission to submit a report to the Joint Standing Committee on Health and Human Services and the Legislative Council by January 15, 2004 and to authorize the commission and to introduce legislation. It also proposed to authorize the committee to report out legislation following receipt and review of the report.

**Committee Amendment "A" (H-467)** proposed to replace the resolve. The amendment proposed to authorize the Maine Developmental Disabilities Council to submit a report and recommendations to the Joint Standing Committee on Health and Human Services based on the results of the project it is undertaking to identify opportunities to decrease the occurrence of developmental disabilities and mental health challenges in childhood. The amendment proposed to authorize the committee to report out legislation to the Second Regular Session of the 121st Legislature based on the council's recommendations. The amendment proposed to add a fiscal note to the resolve.

*Enacted Law Summary*

Resolve 2003, chapter 69 authorizes the Maine Developmental Disabilities Council to submit a report and recommendations to the Joint Standing Committee on Health and Human Services based on the results of the project it is undertaking to identify opportunities to decrease the occurrence of developmental disabilities and mental health challenges in childhood. The resolve authorizes the committee to report out legislation to the Second Regular Session of the 121st Legislature based on the council's recommendations.

**LD 1477**                      **An Act To Amend the Laws with Regard to Legislative Reports on**                      **PUBLIC 367**  
**Children's Mental Health Services**

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

LD 1477 proposed to reduce the number of reports on children's mental health services that the Department of Behavioral and Developmental Services is required to make to the Joint Standing Committee on Health and Human Services and the Children's Mental Health Oversight Committee from 2 per year to 1 per year.