

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:

Margaret J. Reinsch, Senior Analyst

Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207) 287-1670

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

of Labor, Bureau of Unemployment Compensation and the Department of Administrative and Financial Services, Bureau of Revenue Services employees.

Enacted Law Summary

Public Law 2003, chapter 278 adds non-attorney employees of the Department of the Attorney General to the list of those who may serve civil process and represent the State in District Court in disclosure proceedings, along with the Department of Labor, Bureau of Unemployment Compensation and the Department of Administrative and Financial Services, Bureau of Revenue Services employees.

Public Law 2003, chapter 278 was enacted as an emergency measure effective May 23, 2003.

LD 1419 **An Act To Protect Campers by Making Personal Information Confidential** **PUBLIC 409**

<u>Sponsor(s)</u> BRYANT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-216
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LD 1419 proposed to protect campers by making confidential camper names, other identifying information and reservation dates during the calendar year for which the reservation is made. The purpose of this bill was to prevent situations involving possible domestic and child custody problems and potential unwanted contacts.

Committee Amendment "A" (S-216) proposed to provide that the Department of Conservation, Bureau of Parks and Lands campsite reservation system may disclose the information concerning campers and campsite reservations to law enforcement upon request.

Enacted Law Summary

Public Law 2003, chapter 409 protects campers in state campgrounds by making confidential camper names, other identifying information and reservation dates during the calendar year for which the reservation is made. It provides that the Department of Conservation, Bureau of Parks and Lands campsite reservation system may disclose the information concerning campers and campsite reservations to law enforcement upon request.

LD 1424 **An Act Relating to the Award of Attorneys' Fees and Damages under the Maine Human Rights Act** **PUBLIC 279**

<u>Sponsor(s)</u> NORBERT PENDLETON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-332
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LD 1424 proposed to make clear that if a plaintiff establishes that prior to filing a complaint in court, the plaintiff filed a charge of discrimination with the Maine Human Rights Commission and the commission dismissed the case for any reason, the court may award attorneys' fees and damages if the plaintiff prevails at trial.

Committee Amendment "A" (H-332) proposed to replace the bill. It proposed to authorize a court to award attorneys' fees and damages to a plaintiff who prevails at trial on a discrimination complaint if the plaintiff

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establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

Enacted Law Summary

Public Law 2003, chapter 279 authorizes a court to award attorneys' fees and damages to a plaintiff who prevails at trial on a discrimination complaint if the plaintiff establishes that, prior to filing with the court, the plaintiff filed the charge with the Maine Human Rights Commission and the commission erroneously dismissed the case.

LD 1425

An Act Relating to the Protection of Whistleblowers

PUBLIC 357

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON PENDLETON	OTP-AM	H-395

LD 1425 proposed to provide protection for an employee who is retaliated against because the employee has refused to carry out a directive of the employer that the employee has reasonable cause to believe compels the employee to violate the law. The Law Court has held that the existing statutory language protects only those employees who refuse to carry out a directive that would result in serious injury or death. See Devoid v. Clair Buick Cadillac, Inc., 699 A. 2d 749 (Me. 1996). The bill was intended to correct the problem noted by the Law Court.

Committee Amendment "A" (H-395) proposed to clarify that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

Enacted Law Summary

Public Law 2003, chapter 357 clarifies that an employee is protected under the Whistleblowers' Protection Act if the employee, acting in good faith, refuses to carry out a directive that would be a violation of law or rule.

LD 1454

An Act To Clarify that the Unauthorized Sale of Public Records Is a Crime

PUBLIC 365

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP BRYANT	OTP-AM	H-417

The purpose of LD 1454 was to reduce the illegal market in public records, especially historic public records. This bill proposed to prohibit the sale or transfer of public records, which, according to the Maine Revised Statutes, Title 5, section 92-A, excludes publications and copies or documents intended for distribution.

Committee Amendment "A" (H-417) proposed to clarify that a person may not transfer or sell a record unless authorized by law. "Record" is currently defined as "all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the