

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Judiciary*

May 2004

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. Philip R. Bennett, Jr.

Rep. Stan Gerzofsky

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
Second Regular Session and
Second Special 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/billsumm.htm).

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
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 that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

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

Joint Standing Committee on Judiciary

LD 1295 **An Act To Enact the Uniform Mediation Act** **ONTP**

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

LD 1295 proposed to enact the Uniform Mediation Act, effective January 1, 2004.

LD 1473 **An Act To Amend the Laws Governing Public Easements** **ONTP**

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

LD 1473 proposed to allow a person who is directly benefited by a public easement to collect funds to maintain that easement and proposed that a municipality may only retain a public easement in a discontinued road by stating in the discontinuance order that a public easement is retained.

LD 1525 **An Act To Clarify the Freedom of Access Laws as They Pertain to the Penobscot Nation** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LORING CATHCART	ONTP MAJ OTP-AM MIN	

LD 1525 proposed to provide that the Freedom of Access laws concerning public proceedings and public records do not apply to the Penobscot Nation.

Committee Amendment "A" (H-626) was the minority report and proposed to amend the bill to provide that the freedom of access laws concerning public records do not apply to the Passamaquoddy Tribe. (Not adopted)

LD 1579 **An Act To Promote the Financial Security of Maine's Families and Children** **PUBLIC 672**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY DAGGETT	OTP-AM A ONTP B OTP-AM C	H-774 H-871 MILLS P

Joint Standing Committee on Judiciary

LD 1579 proposed to provide for domestic partners in certain provisions of the Probate Code and in the laws governing the custody of remains of deceased persons.

Committee Amendment "A" (H-774) proposed to replace the bill to amend certain provisions of the Probate Code and laws governing the custody of remains of deceased persons, governing conservators and guardians and governing domestic violence to extend to domestic partners provisions that currently apply to spouses.

This amendment proposed to create a separate account to provide funds for the registers of probate to pay for the reprinting of probate forms necessitated by this amendment. The amendment proposed to authorize the State Court Administrator to accept gifts and donations to the account to offset the costs of funding the local mandate created by this amendment.

Committee Amendment "B" (H-775) proposed to strike and replace the bill, removing the part of the bill that authorizes a statewide domestic partnership registry and the part that affects intestate succession. At the same time, the amendment proposed to clarify that a long-standing domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.

This amendment proposed to create a separate account to provide funds for the registers of probate to pay for the reprinting of probate forms necessitated by this amendment. The amendment proposed to authorize the State Court Administrator to accept gifts and donations to the account to offset the costs of funding the local mandate created by this amendment. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-782) proposed to add the definition of "domestic partner" to the statutes governing protective orders between family members. It also proposed to add the definition to the Probate Code and to the statutes governing death certificates and the responsibility for the remains of the deceased. The definition proposed to clarify that the 2 partners must have been legally domiciled together for the immediately preceding 12 months and that joint financial arrangements and joint property ownership must have existed for the same period. It proposed to delete amendments to laws for protection from abuse.

This amendment proposed to delete cross-references to the "domestic partner" provisions in the Maine Revised Statutes, Title 24. (Not adopted)

House Amendment "B" to Committee Amendment "A" (H-871) proposed to incorporate the substance of Senate Amendment "B" to Committee Amendment "A," except that this amendment proposed to provide a new definition of domestic partner and establish a domestic partner registry in the Department of Human Services, including a termination process.

Senate Amendment "A" to Committee Amendment "A" (S-472) proposed to establish a domestic partnership registry in the Office of Health Data and Program Management in the Department of Human Services, Bureau of Health. Domestic partners who meet the criteria may register as a domestic partnership by filing a notarized form with the registry. A fee that covers the cost of processing may be charged.

This amendment proposed to provide for a process of registering the termination of a domestic partnership.

This amendment proposed to make all references to "domestic partner" consistent with the Maine Revised Statutes, Title 22, section 2710.

Joint Standing Committee on Judiciary

Senate Amendment "B" to Committee Amendment "A" (S-476) proposed to establish a domestic partnership registry in the Office of Health Data and Program Management in the Department of Human Services, Bureau of Health. Domestic partners who meet the criteria may register as a domestic partnership by filing a notarized form with the registry. A fee that covers the cost of processing may be charged.

This amendment proposed to provide for a process of registering the termination of a domestic partnership.

This amendment proposed to make all references to "domestic partner" consistent with the Maine Revised Statutes, Title 22, section 2710. (Not adopted)

Senate Amendment "C" to Committee Amendment "A" (S-501) was the same as House Amendment "B" to Committee Amendment "A." (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 672 provides for domestic partners in certain provisions of the Probate Code governing intestate succession, conservators and guardians, to extend to domestic partners provisions that currently apply to spouses in the laws governing protective orders and in the laws governing the custody of remains of deceased persons.

Chapter 672 does the following.

1. It defines "domestic partners" as 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.
2. It allows domestic partners to register with the Department of Human Services, Office of Health Data and Program Management, becoming "registered domestic partners."
3. It includes as a requirement that a registered domestic partnership can not be terminated unless both partners consent to the termination or a partner wishing to terminate the partnership provides a written notice, in hand, to the other partner.
4. It requires that the declaration of domestic partnership form must contain a warning in bold type explaining that the declaration may have a significant effect on property or inheritance rights and that registration is not a substitute for a will or a formal partnership agreement.
5. It clarifies that a domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.
6. It clarifies that a registered domestic partner is entitled to priority in case of intestacy of the other registered domestic partner.