

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 1765

An Act To Clarify the Responsibilities under the Adult Protective Services Act

PUBLIC 653

<u>Sponsor(s)</u> NORBERT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-887
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LD 1765 proposed to clarify the reporting requirements under the Adult Protective Services Act by making the reporting requirements individual to the reporter, similar to the requirements that currently exist for the reporting of abuse, neglect and exploitation in facilities. It also proposed to clarify the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and specify the types of information the department may receive as part of an investigation or protective proceeding. It also proposed to revise definitions to better reflect the population served by the Adult Protective Services Act.

Committee Amendment "A" (H-887) proposed to add language to the adult protective services program policy and legislative intent provisions to make it clear that federal confidentiality protections supersede conflicting state requirements to report abuse, neglect or exploitation of incapacitated or dependent adults.

The amendment proposed to extend a professional's discretion to report in situations in which the individual being treated is the known or suspected victim of the abuse, neglect or exploitation, and the individual is not incapacitated.

The amendment proposed to abrogate certain confidentiality requirements to the extent authorized under federal law in relation to required reporting or cooperating with the department in an investigative or other protective activity.

Enacted Law Summary

Public Law 2003, chapter 653 amends the Adult Protective Services Act regarding reporting requirements, the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and the types of information the department may receive as part of an investigation or protective proceeding.

Chapter 653 clarifies that federal confidentiality protections supersede conflicting state requirements to report abuse, neglect or exploitation of incapacitated or dependent adults. It abrogates the confidential quality of communications provided by statute with regard to hospitals, health maintenance organizations, dentists and social workers to the extent authorized under federal law in relation to required reporting or cooperating with the department in an investigative or other protective activity.

LD 1767

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships

**PUBLIC 631
EMERGENCY**

<u>Sponsor(s)</u> NORTON		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> H-771 H-819 NORBERT
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Joint Standing Committee on Judiciary

LD 1767 proposed to make changes to the laws relating to nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships that are consistent with recent changes made to the business corporation laws in the Maine Revised Statutes, Title 13-C. Additionally, certain fees in the limited entities laws would be increased to be the same as the fees in Title 13-C.

Committee Amendment "A" (H-771) proposed to make additional clarifications and corrections in the laws governing nonprofit corporations, limited partnerships, limited liability companies, limited liability partnerships and business corporations.

House Amendment "A" (H-819) proposed to delete fee increases proposed in the bill for certain filings for limited partnerships, limited liability companies and limited liability partnerships.

This amendment proposed to reduce the proposed fee for the new filing of an amended annual report for nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships.

This amendment proposed to repeal the law authorizing a \$5 fee for an information request concerning limited liability partnerships, consistent with changes to the laws applicable to other entities.

Enacted Law Summary

Public Law 2003, chapter 631 makes changes to the laws relating to nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships that are consistent with recent changes made to the business corporation laws in the Maine Revised Statutes, Title 13-C.

Public Law 2003, chapter 631 was enacted as an emergency measure effective April 14, 2004.

LD 1771

An Act Regarding Child Support Collection Practices

PUBLIC 562

Sponsor(s)
SIMPSON
HATCH PH

Committee Report
OTP-AM

Amendments Adopted
H-721

LD 1771 proposed to place limitations on a person who enters into an agreement with another to collect child support from charging a fee based upon future child support.

Committee Amendment "A" (H-721) proposed to replace the bill. The amendment proposed to clarify the restrictions on contracts to collect child support.

Enacted Law Summary

Public Law 2003, chapter 562 prohibits a person who enters into an agreement with another to collect child support from charging a fee based upon current or future child support payments. Under a contract for the collection of child support that provides for a contingent fee, the fee may be based only upon unpaid past child support arrearages that are unpaid at the time when the contract is signed. It also provides that a person who enters into an agreement with another to collect child support is subject to the provisions of the Maine Fair Debt Collection Practices Act. It requires a detailed written contract between a support obligee and a private collector and prohibits