

# 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  
Health and Human Services*

*May 2004*

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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](http://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.

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*Joint Standing Committee on Health and Human Services*

**LD 1890**

**An Act To Ensure Disclosure of Prescription Drug Prices**

**PUBLIC 667**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT LEMOINE	OTP-AM MAJ ONTP MIN	S-496

LD 1890 proposed to require that drug manufacturers doing business in the State report and certify to the Department of Human Services, for each of their drugs, the actual average wholesale price, the wholesale acquisition cost, the average manufacturer price and the best price as defined by federal law.

**Committee Amendment "A" (S-496)** was the majority report of the committee. It proposed to restrict application of the bill to manufacturers of prescription drugs dispensed in the State under a health program directed or administered by the State. It proposed to add confidentiality language that prohibits disclosure of information by the department, with exceptions for certain court-related situations. The amendment proposed to add enforcement under the Maine Unfair Trade Practices Act. The amendment proposed to prohibit the use of General Fund funds. The amendment proposed to delay the effective date of the bill until 30 days after the Commissioner of Human Services receives notice from the Attorney General that funds are available for the implementation of these provisions, except that the provisions may not take effect before January 1, 2005.

***Enacted Law Summary***

Public Law 2003, chapter 667 requires that drug manufacturers of prescription drugs dispensed in the State under a health program directed or administered by the State report and certify to the Department of Human Services, for each of their drugs, the actual average wholesale price, the wholesale acquisition cost, the average manufacturer price and the best price as defined by federal law.

The law contains confidentiality language that prohibits disclosure of information by the department, with exceptions for certain court-related situations. The law provides for enforcement under the Maine Unfair Trade Practices Act. The law prohibits the use of General Fund funds. The law contains an effective date that is 30 days after the Commissioner of Human Services receives notice from the Attorney General that funds are available for the implementation of these provisions, except that the provisions may not take effect before January 1, 2005.

**LD 1913**

**An Act To Establish the Department of Health and Human Services**

**PUBLIC 689  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE MARTIN	OTP-AM	H-890

LD 1913 proposed to reorganize the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services, establishing the new Department of Health and Human Services. The goals of the reorganization would be to improve services, increase programs and fiscal efficiency and improve relations with consumers and community organizations.

## *Joint Standing Committee on Health and Human Services*

1. The bill proposed to establish the Department of Health and Human Services. The department would assume the duties of the current Department of Human Services and the Department of Behavioral and Developmental Services. Services and programs that would be delivered to children through the new Department of Health and Human Services would include home visiting services for families with newborn children; mental health and behavioral health services; mental retardation and developmental disability services; substance abuse prevention and treatment services; maternal and child health services; Head Start and child care services; child welfare services; physical health services; establishment of paternity and child support; economic assistance to needy families, TANF, and employment-related services, ASPIRE; residential and long-term care services for children with disabilities; health planning for children's services; and health data and program management.

Services and programs that would be delivered to adults through the new Department of Health and Human Services include physical health programs; public health and health engineering; long-term care services for adults; adult protective services; mental health and behavioral health services for adults; mental retardation and developmental disability services for adults; health data and program management; assistance services, including, but not limited to, general assistance, food stamps, and disability determination; and substance abuse prevention and treatment services.

2. This bill proposed to establish a Health and Human Services Advisory Board to advise the commissioner of the department. The board membership would consist of 9 members appointed by the Governor.
3. This bill proposed to provide transition language to enable the affected departments to plan for an orderly transition to the new Department of Health and Human Services.

**Committee Amendment "A" (H-890)** proposed to replace the bill. Consistent with the bill, the amendment proposed to reorganize the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services through the establishment of the new Department of Health and Human Services. The amendment proposed to do the following.

1. Add an emergency preamble and an emergency clause that provide for an effective date of July 1, 2004.
2. Retain the provisions of the bill that establish the new Department of Health and Human Services; clarify the mission of the department and the programs and services provided by the department; and add guiding principles for the department, drawing those principles from the "Report of the Advisory Council for the Reorganization and Unification of the Department of Human Services and the Department of Behavioral and Developmental Services."
3. Set forth qualification requirements for bureau directors and delay the adoption of a bureau structure until one is approved by the Legislature.
4. Remove the provision of the bill that establishes a permanent Health and Human Services Advisory Board to advise the Commissioner of Health and Human Services and instead require the establishment of working groups to advise the commissioner on planning and implementation issues through December 2005.
5. Retain the provisions of the bill that provide for orderly transition from the Department of Human Services and the Department of Behavioral and Developmental Services to the new Department of Health and Human Services.

## *Joint Standing Committee on Health and Human Services*

6. Retain the provision of the bill that transfers the Commissioner of Human Services to the position of Commissioner of Health and Human Services without need of appointment or confirmation and add a statement of legislative intent to this provision.
7. Clarify the provision of the bill regarding the rights of employees of the new department who were employees of the Department of Human Services and the Department of Behavioral and Developmental Services.
8. Retain the provision of the bill that requires the commissioner to consolidate certain administrative components of the Department of Health and Human Services, including auditing, financial management, human resources and information technology.
9. Retain the requirement that the Commissioner of Health and Human Services consolidate adult protective functions, but delay the consolidation of guardianship and conservatorship functions.
10. Clarify the provision of the bill that requires the Commissioner of Health and Human Services to submit a report with recommendations and legislation by January 31, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The amendment proposed to require the report to include recommendations on the following issues related to the establishment and implementation of the new department: bureau structure, administrative structure and functions, program and service delivery functions, advisory boards and the child welfare ombudsman program. The amendment also proposed to require the commissioner to convene working groups of consumers, providers, advocates and members of the public to advise the commissioner on these issues. The amendment proposed to authorize the committee to report out legislation to the 122nd Legislature following review of the commissioner's report and recommendations.
11. Retain the provision of the bill that requires the Commissioner of Health and Human Services to review and report on the delivery of child development services and juvenile justice services.
12. Clarify the provisions of the bill regarding the interpretation of conflicting laws and rules by the Commissioner of Health and Human Services and adoption of rules to settle those conflicts.
13. Clarify the provision of the bill that requires the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Commissioner of Health and Human Services to agree on a format and organization of the Maine Revised Statutes, Title 22-A by November 30, 2005 and submit necessary legislation by November 30, 2006.
14. Add a provision that authorizes the joint standing committee of the Legislature having jurisdiction over health and human services matters to meet at least 3 times during the 2004 legislative interim to review planning and implementation issues and authorize the committee to report out legislation to the First Regular Session of the 122nd Legislature.
15. Retain the provisions of the bill that establish the salary range for the Commissioner of Health and Human Services and the Director of the Bureau of Medical Services within the Department of Human Services.

## *Joint Standing Committee on Health and Human Services*

### *Enacted Law Summary*

Public Law 2003, chapter 689 reorganizes the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services, establishing the new Department of Health and Human Services. The goals of the reorganization are to improve services, increase programs and fiscal efficiency and improve relations with consumers and community organizations.

1. The law establishes the Department of Health and Human Services. The department assumes the duties of the current Department of Human Services and the Department of Behavioral and Developmental Services.
2. The law contains a statement of mission for the department and the programs and services provided by the department and adds guiding principles for the department, drawing those principles from the "Report of the Advisory Council for the Reorganization and Unification of the Department of Human Services and the Department of Behavioral and Developmental Services."
3. The law sets forth qualification requirements for bureau directors and delays the adoption of a bureau structure until one is approved by the Legislature.
4. The law contains provisions for the orderly transition from the Department of Human Services and the Department of Behavioral and Developmental Services to the new Department of Health and Human Services.
5. The law transfers the Commissioner of Human Services to the position of Commissioner of Health and Human Services without need of appointment or confirmation and adds a statement of legislative intent to this provision.
6. The law contains a provision regarding the rights of employees of the new department who were employees of the Department of Human Services and the Department of Behavioral and Developmental Services.
7. The law requires the commissioner to consolidate certain administrative components of the Department of Health and Human Services, including auditing, financial management, human resources and information technology.
8. The law requires the Commissioner of Health and Human Services to consolidate adult protective functions, but delays the consolidation of guardianship and conservatorship functions.
9. The law requires the Commissioner of Health and Human Services to submit a report with recommendations and legislation by January 31, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. It requires the report to include recommendations on the following issues related to the establishment and implementation of the new department: bureau structure, administrative structure and functions, program and service delivery functions, advisory boards and the child welfare ombudsman program. The law requires the commissioner to convene working groups of consumers, providers, advocates and members of the public to advise the commissioner on these issues. The law authorizes the committee to report out legislation to the 122nd Legislature following review of the commissioner's report and recommendations.
10. The law requires the Commissioner of Health and Human Services to review and report on the delivery of child development services and juvenile justice services.

## *Joint Standing Committee on Health and Human Services*

11. The law provides for interpretation of conflicting laws and rules by the Commissioner of Health and Human Services and adoption of rules to settle those conflicts.
12. The law requires the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Commissioner of Health and Human Services to agree on a format and organization of the Maine Revised Statutes, Title 22-A by November 30, 2005 and submit necessary legislation by November 30, 2006.
13. The law authorizes the joint standing committee of the Legislature having jurisdiction over health and human services matters to meet at least 3 times during the 2004 legislative interim to review planning and implementation issues and authorizes the committee to report out legislation to the First Regular Session of the 122nd Legislature.
14. The law establishes salary ranges for the Commissioner of Health and Human Services and the Director of the Bureau of Medical Services within the Department of Human Services.

Public Law 2003, chapter 689 was enacted as an emergency effective July 1, 2004.

**LD 1940**

**An Act To Clarify Departmental Reporting Requirements for  
Developmental Disability Prevention Activities**

**PUBLIC 602**

Sponsor(s)

Committee Report

Amendments Adopted

LD 1940 proposed to implement the recommendations of the Maine Developmental Disabilities Council regarding prevention of developmental disabilities. The bill proposed to amend the reporting requirements for the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Education relating to the prevention of developmental disabilities and to clarify the scope of the annual report. The bill proposed to enact definitions of developmental disabilities and mental and physical impairments for the purposes of reporting requirements. It also proposed to prohibit the definitions and reporting requirements from expanding or otherwise affecting the requirements of the Department of Behavioral and Developmental Services to provide services to children and families.

### ***Enacted law summary***

Public Law 2003, chapter 602, implements the recommendations of the Maine Developmental Disabilities Council regarding prevention of developmental disabilities. The law amends the reporting requirements for the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Education relating to the prevention of developmental disabilities and clarifies the scope of the annual report. The law enacts definitions of developmental disabilities and mental and physical impairments for the purposes of reporting requirements, and it prohibits the definitions and