

# 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*

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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.

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

## Joint Standing Committee on Judiciary

for protection from harassment be held within 21 days of the filing of the complaint. It proposed to allow the judge to require the parties to engage in alternative dispute resolution.

Finally, the bill proposed to allow a court to require a plaintiff to pay court costs and attorney's fees if the complaint is dismissed.

**Committee Amendment "A" (H-840)** proposed to delete from the bill the requirement that a plaintiff first report the harassment to a law enforcement agency before seeking a protection from harassment order, language concerning case management conferences and alternative dispute resolution and the authorization to charge the plaintiff for court costs and attorney's fees.

**House Amendment "A" (H-889)** proposed to remove the emergency preamble and the emergency clause.

### *Enacted Law Summary*

Public Law 2003, chapter 658 amends the Protection From Harassment laws to remove the requirement that the hearing on the complaint be held within 21 days.

### **LD 1916**

### **An Act To Correct Errors and Inconsistencies in the Laws of Maine**

**PUBLIC 688  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-907 H-923 NORBERT H-946 NORBERT H-947 NORBERT H-950 NORBERT H-952 NORBERT H-953 NORBERT S-552 PENDLETON S-555 PENDLETON S-559 PENDLETON

LD 1916 proposed to correct technical errors and inconsistencies in the laws of Maine.

**Committee Amendment "A" (H-907)** proposed to label the sections of the bill as Part A, and add Part B, consisting of technical changes, Part C, consisting of changes that are or may be considered substantive, Part D, correcting a conflict involving the Pine Tree Development Zones, Part E amending the bottle redemption law to refer to vintners, and Part F, amending the law governing prosecution of civil and criminal inland fisheries and wildlife violations.

**House Amendment "A" to Committee Amendment "A" (H-923)** proposed to require the Department of Human Services to start the rule-making process for the Community Health Access Program no later than January 1, 2007.

**House Amendment "B" to Committee Amendment "A" (H-946)** proposed to correct cross-references to the laws governing Pine Tree Development Zones.

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**House Amendment "C" to Committee Amendment "A" (H-947)** proposed to change the definition of "net operating revenue" in the laws governing the hospital tax to provide that bad debts may not be deducted from gross charges in the calculation of net operating revenue.

**House Amendment "D" to Committee Amendment "A" (H-950)** proposed to remove language from the optional form for power of attorney for health care that provides the agent the authority to serve as personal representative for all purposes of the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA."

**House Amendment "E" to Committee Amendment "A" (H-952)** proposed to make corrections in the language to reflect the intent of the Joint Standing Committee on Education and Cultural Affairs concerning educational technicians in private schools.

**House Amendment "F" to Committee Amendment "A" (H-953)** proposed to change the statute pertaining to the challenge of voter qualifications to reflect the change in age for persons voting in primary elections made by Public Law 2003, chapter 577.

**Senate Amendment "A" to Committee Amendment "A" (S-552)** proposed to correct an erroneous repeal in the utility laws.

**Senate Amendment "B" to Committee Amendment "A" (S-555)** proposed to repeal a cross-reference and remove the conflicting and inconsistent compulsory attendance provision.

**Senate Amendment "C" to Committee Amendment "A" (S-559)** proposed to provide that benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.

### *Enacted Law Summary*

Public Law 2003, chapter 688 makes technical and substantive corrections to the laws of Maine. Parts A and B make technical corrections.

Part C makes corrections that are or may be considered substantive concerning the following:

1. The authority of family case management officers;
2. Assessments to be paid by certain towns and plantations to the General Fund to support the work of the Maine Land Use Regulation Commission;
3. Changes to Title 12 that Public Law 2003, chapter 614 made to the recodified inland fisheries and wildlife laws;
4. The number of civil jurors;
5. Temporary interim non-administrative space in schools;

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6. Enforcement of Medicaid laws;
7. The reporting period and the reporting date for the reporting of prescription drug marketing costs;
8. Pharmacy benefit managers;
9. The definition of "assisted living services";
10. Violations of motor vehicle inspection standards;
11. The Lincoln and Sagadahoc multicounty jail authority;
12. Adult entertainment ordinances;
13. Certified public accountants; and
14. The name of the Northern Maine General Hospital.

PART D corrects conflicts concerning Pine Tree Development Zones.

PART E includes vintners within the exemption to commingling requirements and handling fee increases.

PART F provides flexibility to the District Court to handle civil and criminal prosecutions of inland fisheries and wildlife violations by authorizing prosecutions in the District Court division nearest the location of the alleged violation.

Part K requires the Department of Human Services to start the rule-making process for the Community Health Access Program no later than January 1, 2007.

Part L changes the definition of "net operating revenue" in the laws governing the hospital tax to provide that bad debts may not be deducted from gross charges in the calculation of net operating revenue.

Part M removes language from the optional form for power of attorney for health care that provides the agent the authority to serve as personal representative for all purposes of the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA."

Part J makes corrections concerning educational technicians in private schools.

Part G corrects an erroneous repeal in the utility laws.

Part H repeals a cross-reference and removes a conflict and inconsistent compulsory attendance provision.

Part I provides that benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.

Public Law 2003, chapter 688 was enacted as an emergency measure effective May 6, 2004, except as otherwise specifically provided.