

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 1957

An Act To Implement the Recommendations of the Committee to Study Compliance with Maine's Freedom of Access Laws

PUBLIC 709

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	H-866 RINES S-502 PENDLETON

LD 1957 is the report of the Joint Standing Committee on Judiciary pursuant to Resolve 2003, chapter 83, which established the Committee to Study Compliance with Maine's Freedom of Access Laws. LD 1957 proposed to make changes in Maine's Freedom of Access laws concerning the following:

1. Motions to go into executive session;
2. Charges associated with providing copies of requests for public records; and
3. Exceptions from the definition of "public record".

It also proposed to extend the Committee to Study Compliance with Maine's Freedom of Access Laws and add to its duties.

House Amendment "A" (H-866) proposed to correct the enactment and amendment of unallocated law.

Senate amendment "A" (S-502) proposed to clarify that all the elements of completing a request for a public record must be considered in estimating the cost and determining whether to require payment in advance.

Senate Amendment "B" (S-573) proposed to add an emergency preamble, an emergency clause and an effective date section to the bill to allow the Committee to Study Compliance with Maine's Freedom of Access Laws to resume its work immediately. The other sections of the bill amending the Maine Revised Statutes were proposed to take effect 90 days after adjournment of the Second Special Session of the 121st Legislature. (Not adopted)

Enacted law summary

Public Law 2003, chapter 709 is the report of the Joint Standing Committee on Judiciary pursuant to Resolve 2003, chapter 83, which established the Committee to Study Compliance with Maine's Freedom of Access Laws. The study committee submitted its report and presented recommended legislation.

Chapter 709 amends Maine's Freedom of Access laws concerning executive sessions, charges for responding to request for public records and the management and review of exceptions to the definition of "public record." It also extends the work of the Committee to Study Compliance with Maine's Freedom of Access Laws, requiring a report in November 2004.

Chapter 709 amends the executive session law to require that the motion to enter executive session must include a citation of one or more sources of statutory or other authority permitting the executive session for the nature of the business stated in the motion.

Joint Standing Committee on Judiciary

The current law on the public's right to inspect and copy public records at the location of the records or the record custodian is repealed and replaced to clarify certain provisions and to ensure reasonable costs for copies of public records. New language is added to clarify that the agency or official must provide the public record requested within a reasonable period of time after the request. Inspection, copying and translation into usable form may be scheduled to occur when the regular activities of the agency or official will not be delayed or inconvenienced. The law is clarified to provide that only a reasonable fee may be charged for copies of public records. New to the law are provisions governing the recoupment of costs of searching for, retrieving and compiling records to satisfy a request. After the first hour of staff time to search for, retrieve and compile records, the agency or official may charge up to \$10 per hour for such staff services for each request. Compiling a public record includes reviewing the record and redacting confidential information.

Chapter 709 requires the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to produce a bill that lists in the freedom of access laws all the public records exceptions that exist in the Maine Revised Statutes. Chapter 709 also requires that provisions excepting records from the definition of "public records" be reviewed to determine if the exceptions should be continued, modified or repealed. A cyclical review process is established for a legislative review committee, the joint standing committee of the Legislature having jurisdiction over judiciary matters, to review and evaluate all the identified exceptions at least once every 10 years. Criteria are established for the review and evaluation. The legislative committees of jurisdiction will have an opportunity to participate in the review and evaluation process. The review committee is authorized to report out legislation that carries out the review committee's recommendations to continue, modify or repeal each exception reviewed and evaluated.

Chapter 709 amends Resolve 2003, chapter 83 to extend the reporting date of the Committee to Study Compliance with Maine's Freedom of Access Laws to November 3, 2004. Four additional meetings are authorized. The unexpended balance of the money originally appropriated for the study committee will be used to fund the completion of the study. The duties of the study committee are expanded to include several issues identified by the study committee. The issue of whether public employees' home contact information should be kept confidential, as proposed by Legislative Document 1727, is added as an issue for the study committee to review.