

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2006

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

Rep. Deborah L. Simpson, Chair

Rep. Sean Faircloth

Rep. Stan Gerzofsky

Rep. Marilyn E. Canavan

Rep. Mark E. Bryant

Rep. Michael Edward Dunn

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Joan Bryant-Deschenes

Rep. Joan M. Nass

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Maine State Legislature



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122nd Maine Legislature Second Regular 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 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 (Pocket Veto).....	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 August 23, 2006.

Joint Standing Committee on Judiciary

LD 61 **An Act To Authorize a Judge To Order Involuntary Commitment of a Person with Mental Illness Not Taking Prescribed Medication** **ONTP**

<u>Sponsor(s)</u> JACKSON MARTIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 61 is a concept draft pursuant to Joint Rule 208.

The bill proposed to amend the emergency application procedures for involuntary commitment under the laws governing the Department of Health and Human Services. Under the bill, if a person with mental illness is under the care of a health care professional and is under a current prescription for medication to address the mental illness, a judge could order involuntary commitment if the person is not taking the medication.

See LD 151, Health and Human Services Committee.

LD 162 **An Act To Protect the Rights of Leaseholders and Ensure Their Continued Access to Land** **ONTP**

<u>Sponsor(s)</u> CLARK DAVIS P		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 162 proposed to allow a lessee the right of first refusal to continue leasing a parcel of land when the land is transferred to a different owner and the new owner intends to continue leasing the land.

See also LD 1646.

LD 816 **An Act To Replace the Common Enemy Rule with Regard to Changing the Flow of Surface Water** **PUBLIC 564**

<u>Sponsor(s)</u> ANDREWS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-542
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LD 816 proposed to classify as a nuisance the act of draining or reversing the direction of the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others. Similar to the nuisance of unlawfully diverting water from its natural course, a person who is aggrieved by the unlawful draining or changing of the direction of water would be able to maintain a civil action against the person causing the nuisance.

Committee Amendment “A” (S-542) proposed to replace the bill and changes the title. It proposed to change the applicable rule governing alteration of surface water flow that affects another person's land from the “common

Joint Standing Committee on Judiciary

enemy rule” to the “reasonable use rule.” It proposed to establish as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land.

Enacted law summary

Public Law 2005, chapter 564 changes the applicable rule governing alteration of surface water flow that affects another person's land. Existing Maine case law applies the “common enemy rule” to define a landowner's responsibility for altering the flow of surface water, also known as “diffuse surface water,” that affects another's land. Chapter 564 adopts the “reasonable use rule;” it establishes as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land. An action must be commenced within 3 years after the cause of action accrues. Chapter 564 takes effect January 1, 2007 and applies to actions for which the cause of action accrues on or after that date.

LD 986 **An Act To Amend the Maine Revised Uniform Limited Partnership Act** **ONTP**

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

LD 986 is a concept draft pursuant to Joint Rule 208. It proposed to make changes to the Maine Revised Uniform Limited Partnership Act of the Maine Revised Statutes, Title 31, chapter 11.

See LD 1609, to which the Uniform Limited Partnership Act was added as part of the Committee Amendment.

LD 1045 **An Act Regarding Contract Indemnification** **ONTP**

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

LD 1045 proposed to prohibit certain indemnification agreements by which a contracting party indemnifies itself from its own negligence or willful misconduct.

Committee Amendment “A” (S-514), the minority report of the Joint Standing Committee on Judiciary, proposed to replace the bill but maintain the purpose of prohibiting certain indemnification agreements in construction and related contracts, but only when the agreement would indemnify the promisee against liability for certain damages arising solely from the negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors. The amendment proposed to clarify that the parties would not be prohibited from agreeing that the promisee must be included as an insured or an additional insured in an insurance contract.