

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2005

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

*Rep. Deborah L. Pelletier-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

Rep. Donna M. Loring

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 organized by committees 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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).

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:

- CARRIED OVER Bill Carried Over to Second Regular Session
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
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
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 the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Judiciary

LD 948 **An Act To Shelter IRAs from the Bankruptcy Law** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER CANAVAN	ONTP	

LD 948 proposed to protect from creditors, including in bankruptcy proceedings, the full value of individual retirement accounts. Also protected would be "Roth individual retirement accounts" established under Section 408A of the United States Internal Revenue Code.

LD 955 **An Act To Prevent the Financial Exploitation of Vulnerable Citizens** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FARRINGTON BARTLETT	ONTP	

LD 955 is a concept draft pursuant to Joint Rule 208. It proposed to study the development of state laws to require notarization of a signed document in order to change the beneficiary of a will, life insurance policy, retirement benefit, annuity or other inheritable benefit.

LD 973 **An Act To Make Certain Changes in the Laws Concerning the Family Division of District Court** **PUBLIC 384**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY HOBBINS	OTP-AM MAJ ONTP MIN	H-646 H-665 PELLETIER- SIMPSON

LD 973 proposed to make several changes to the law governing the Family Division of the District Court.

It proposed to change the title of family case management officer to family law magistrate. It proposed to give family law magistrates the power of contempt that judges and justices currently have. It proposed to allow the Chief Judge of the District Court to authorize family law magistrates to wear robes when presiding over any proceeding.

Committee Amendment "A" (H-646) proposed to correct a clerical error, delete the change in the power of contempt for family case management officers, renamed "family law magistrates" in the bill, and authorize the Chief Judge of the District Court to allow family law magistrates to wear robes of any color other than black when presiding.

House Amendment "A" to Committee Amendment "A" (H-665) proposed to correct references to family case management officers, renamed family law magistrates in the bill.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 384 revises the title of family case management officer to family law magistrate. It also authorizes the Chief Judge of the District Court to allow family law magistrates to wear robes of any color other than black when presiding.

LD 974 **An Act To Amend the Guidelines Used To Determine Child Support Payments** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CURLEY ROSEN R	ONTP	

LD 974 proposed to amend the child support guidelines to provide an additional criterion for deviating from the automatic application of the child support guidelines. The bill proposed that the court or hearing officer, in establishing or modifying a child support order, must take into account the contributions that the party who provides the child's primary residence is making in improving the financial circumstances of the party and the child.

LD 985 **An Act To Amend Appellate Review Jurisdiction of the Superior Court** **PUBLIC 64**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 985 proposed to add three appeals to the list of appeals to the Superior Court by an aggrieved defendant. It also proposed to replace the outdated reference to abrogated Rule 37F of the Maine Rules of Criminal Procedure with Rule 36 of the Maine Rules of Criminal Procedure. The bill also proposed to codify what is currently done by implication alone, that the Superior Court's jurisdiction to hear appeals and petitions is limited to only the appeals and petitions from the District Court that are specified in Title 15, section 1, subsection 2.

Enacted law summary

Public Law 2005, chapter 64 adds the following three appeals to the list of appeals to the Superior Court by an aggrieved defendant: an appeal from a revocation of supervised release ruling in a revocation of supervised release proceeding in the District Court pursuant to the Maine Revised Statutes, Title 17-A, section 1233 and Rule 36 of the Maine Rules of Criminal Procedure; an appeal from a revocation of administrative release ruling in a revocation of administrative release proceeding in the District Court pursuant to Title 17-A, section 1349-F and Rule 36 of the Maine Rules of Criminal Procedure; and an appeal from the denial in the District Court of a petition by a petitioner seeking to be declared indigent for purposes of assignment of counsel on appeal or from the granting of a conditional order pursuant to Title 15, section 2111 and Maine Rules of Criminal Procedure, Rule 44A(c). Chapter 64 replaces the outdated reference to abrogated Rule 37F of the Maine Rules of Criminal Procedure with Rule 36 of the Maine Rules of Criminal Procedure. Chapter 64 also codifies what is currently done by implication alone, that the Superior Court's jurisdiction to hear appeals and petitions is limited to only the appeals and petitions from the District Court that are specified in Title 15, section 1, subsection 2.