

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

for the property or affairs of another person, referred to as the principal. Chapter 283 lists the information that must be included in the petition, including facts describing how the petitioner has been adversely affected by the lack of management of the principal's property or affairs.

Public Law 2005, chapter 283 was enacted as an emergency measure effective June 1, 2005.

LD 1196

An Act To Extend Civil Rights Protections to All People Regardless of Sexual Orientation

PUBLIC 10

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER	OTP A	H-92 FISCHER
	OTP-AM B	
	ONTP C	

LD 1196 proposed to forbid the denial of rights in employment, housing, public accommodations, credit and education opportunity to individuals based on their sexual orientation.

Committee Amendment "A" (S-38), the minority report of the Joint Standing Committee on Judiciary, proposed to add a referendum section that requires approval by the voters before the law becomes effective. (Not adopted)

House Amendment "A" (H-82) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

House Amendment "B" (H-83) proposed to remove the phrase "bona fide" in order to extend the exemptions for educational facilities to those owned by all religious corporations, associations or societies. It also proposed to require that a person who alleges discrimination on the basis of sexual orientation specifically plead and prove the nature of the person's sexual orientation. (Not adopted)

House Amendment "C" (H-84) proposed to add a referendum section that requires approval by the voters before the law becomes effective. (Not adopted)

House Amendment "D" (H-85) proposed to provide that the bill may not be construed as preempting the provisions of law that prohibit same-sex marriage. (Not adopted)

House Amendment "E" (H-86) proposed to provide that the Maine Human Rights Act may not be construed to permit a person to use a locker room or the bathroom facilities of a public rest room designated for use for a gender other than the gender of that person at birth unless the person has undergone a medical procedure to change the person's gender. (Not adopted)

House Amendment "F" (H-87) proposed to provide that it is not unlawful employment discrimination for an employer to set a dress code of appropriate attire to be worn in the workplace. An employer may specify attire in that dress code that is different based on gender. (Not adopted)

House Amendment "G" (H-88) proposed to change the definition of "sexual orientation" to mean a person's actual or perceived homosexuality. (Not adopted)

Joint Standing Committee on Judiciary

House Amendment "H" (H-89) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

House Amendment "I" (H-92) proposed to provide that the bill may not be construed to change any right to marry that exists under the United States Constitution, the Maine Constitution or any law of this State.

House Amendment "J" (H-94) proposed to remove the requirement that a religious corporation, association or organization not receive public funds in order to qualify for an exemption from the provisions of the Maine Human Rights Act that proposed to make discrimination on the basis of sexual orientation in employment, housing and educational opportunity unlawful. It also proposed to remove language that provides that any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemption in the Maine Human Rights Act for certain religious organizations. (Not adopted)

House Amendment "K" (H-95) proposed to provide that an employer may ask an employee after that employee is hired to identify that employee's sexual orientation. Information provided by an employee would be confidential and may be used only to ensure that that employee is not discriminated against in the workplace. This amendment also proposed to require an employee to notify an employer if that employee's sexual orientation changes. (Not adopted)

Senate Amendment "A" (S-44) proposed to make the provisions of the bill contingent upon the approval of the voters at a referendum. (Not adopted)

Senate Amendment "B" (S-48) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

Enacted law summary

Public Law 2005, chapter 10 prohibits the denial of rights in employment, housing, public accommodations, credit and education opportunity to individuals based on their sexual orientation. Chapter 10 includes an unallocated construction section that provides that the Act may not be construed to change any right to marry that exists under the United States Constitution, the Maine Constitution or any law of this State.

Pursuant to Article IV, Part Third, Section 17 of the Maine Constitution, Public Law 2005, Chapter 10, although scheduled to take effect June 29, 2005, was stayed pending certification of the validity of the "People's Veto" petition which was approved for circulation April 7, 2005. If the petition is determined valid by the Secretary of State, the question of whether to reject Public Law 2005, Chapter 10 will appear on the November 8, 2005 ballot. If the petition is determined to be invalid, the law takes effect on the day following the determination.