

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

Public Law 2005, chapter 275 provides that a governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency may not be charged for the share of common expenses chargeable to the time-share estate during the period the governmental entity owns the time-share estate unless used by the entity. Although liens for prior unpaid common expenses will be extinguished as a result of the foreclosure by the governmental entity, all common expenses that accrue during the period of the governmental entity's ownership may be charged to a purchaser of a foreclosed time-share estate when the purchaser obtains title to the unit from the governmental entity. The governmental entity must disclose in writing to a prospective purchaser that the purchaser may be charged for the common expenses accrued while the governmental entity owned the time-share estate.

LD 1229 **An Act To Strengthen the Enforcement of Divorce Decrees** **CARRIED OVER**

| | | | | |
|-------------------------------|--|-------------------------|--|---------------------------|
| <u>Sponsor(s)</u> MCKENNEY | | <u>Committee Report</u> | | <u>Amendments Adopted</u> |
|-------------------------------|--|-------------------------|--|---------------------------|

LD 1229 proposed to enhance the sanctions available for violations of parental rights and responsibilities orders, particularly concerning contact between the child and the parent who does not provide the primary residence of the child. It also proposed to direct the Governor to designate an appropriate state agency to develop a parenting time enforcement program.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1232 **An Act To Protect Children from Individuals Who Have Engaged in Sexual Abuse of Children in the Past** **PUBLIC 366**

| | | | | |
|--------------------------------|--|-----------------------------------|--|------------------------------------|
| <u>Sponsor(s)</u> FAIRCLOTH | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> H-655 |
|--------------------------------|--|-----------------------------------|--|------------------------------------|

LD 1232 proposed to provide that when a court finds that a person has been convicted of certain sexual offenses in which the victim was under 14 years of age, there is a rebuttable presumption that that person would create a situation of jeopardy for the child if any contact were to be permitted and that any contact is not in the best interest of the child.

Committee Amendment "A" (H-655) proposed to replace the bill. It proposed to revise the presumption of jeopardy to apply when the person seeking adoption, contact, primary residence, custody or visitation has any of a number of specific convictions for sexual abuse of a minor. The amendment proposed to limit the convictions to crimes committed when the person was at least five years older than the victim at the time of the abuse, except that a conviction for gross sexual assault of a child under 14 years of age or under 12 years of age results in the presumption if the child submitted because of compulsion, regardless of the age difference.

This amendment also proposed to add a parallel provision in the child protection laws relating to the hearing and disposition of jeopardy petitions.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 366 provides that when a court finds that a person has been convicted of certain sexual offenses in which the victim was a minor, there is a rebuttable presumption that that person would create a situation of jeopardy for a child if any contact were to be permitted and that any contact is not in the best interest of the child. The presumption of jeopardy applies when the person seeking adoption, contact, primary residence, custody or visitation has any of a number of specific convictions for sexual abuse of a minor. The crimes are the same offenses for which special provisions apply when courts are ordering custody, contact or primary residence under the adoption laws, parental rights and responsibilities laws, grandparent visitation laws and the child protective laws. The crimes are limited to crimes committed when the person was at least five years older than the victim at the time of the abuse, except that a conviction for gross sexual assault of a child under 14 years of age or under 12 years of age results in the presumption if the child submitted because of compulsion, regardless of the age difference. The person seeking the contact, custody or primary residence may produce evidence to rebut the presumption. Chapter 366 contains a parallel provision in the child protection laws relating to the hearing and disposition of jeopardy petitions. It provides a rebuttable presumption that there is jeopardy with regard to a parent or other person responsible for the child who allows, encourages or fails to prevent contact between the child and a person who has been convicted of one of the listed offenses. The same presumption arises when the person has been adjudicated in a child protection action under Title 22, chapter 1071 of having sexually abused a minor. The parent or other person responsible for the child may produce evidence to rebut the presumption.

LD 1245 **Resolve, To Increase Safety for Domestic Abuse Victims** **ONTP**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|--------------------|-------------------------|---------------------------|
| BARSTOW HOBBINS | ONTP | |

LD 1245 proposed to direct the Office of the Attorney General and the Department of Public Safety to study ways to increase safety for domestic abuse victims and to submit a report to the Second Regular Session of the 122nd Legislature by December 7, 2005.

LD 1248 **An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint** **PUBLIC 326**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| | OTP-AM | H-498 |

LD 1248 proposed to make statutory changes to the Maine Criminal Code in light of recent amendments to the Maine Rules of Criminal Procedure that eliminate the need for a bind-over hearing by starting a case that involves murder or at least one Class A, Class B or Class C crime, accompanied or unaccompanied by related Class D or Class E crimes, in the Superior Court rather than the District Court.

Committee Amendment "A" (H-498) proposed to remove the District Court's jurisdiction to bind over for the Grand Jury certain crimes. This amendment proposed to add an effective date to make the bill take effect January 1, 2006, which is the effective date of the amendments to the Maine Rules of Criminal Procedure related to this bill that were recently adopted by the Supreme Judicial Court. The rules will not eliminate the bind-over