

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

4. It proposed to make Department of Health and Human Services employees in child protective matters civilly and criminally liable for conduct with malicious intent or for severe dereliction of duty. It also proposed to create a commission to study the standard for when the termination of parental rights is appropriate.

Committee Amendment "A" (H-611) proposed to replace the bill. It proposed to amend the purposes of the Child and Family Services and Protection Act to include placement of a child with an adult relative when possible when the child has been removed from the custody of the child's parents. It also proposed to provide that a person making an oral report regarding abuse or neglect of a child who does not believe the report to be true commits a Class E crime

House Amendment "A" to Committee Amendment "A" (H-656) proposed to remove the provision that provides that a person making an oral report regarding abuse or neglect of a child who does not believe the report to be true commits a Class E crime.

Enacted law summary

Public Law 2005, chapter 374 amends the purposes of the Child and Family Services and Protection Act to include placement of a child with an adult relative when possible when the child has been removed from the custody of the child's parents.

LD 1365

An Act To End Discrimination

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN PERCY	ONTP	

LD 1365 proposed to provide that all citizens, regardless of their sexual orientation, have the same civil rights protections now guaranteed in employment, housing, public accommodations and credit to citizens on the basis of race, color, religion, sex, age, national origin and physical or mental handicap. The bill proposed that a religious organization that does not receive public funds would be exempt from the prohibition against discrimination based on sexual orientation. The bill proposed language stating that this change in the Maine Human Rights Act does not confer legislative approval of or special rights to anyone or any group.

See also LD 1196.

LD 1372

**RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Establish a Victims' Bill of Rights** **CARRIED OVER**

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

LD 1372 proposed to amend the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights for victims of crime.

Joint Standing Committee on Judiciary

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

LD 1378 **An Act To Amend the Medical Liability Laws Concerning Communications of Sympathy or Benevolence** **PUBLIC 376**

<u>Sponsor(s)</u> TURNER SAVIELLO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-323
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LD 1378 proposed to establish the types of and limit of damages available in medical malpractice actions. Compensatory damages that are economic damages would be unlimited. Compensatory damages that are noneconomic damages would be limited to \$250,000. Punitive damages would be limited to \$75,000. It proposed to prevent a health care practitioner's or health care provider employee's statement of sympathy or apology to a patient who has suffered an unanticipated medical outcome from being used against the practitioner or employee in a medical malpractice action.

The bill proposed to require the findings of the prelitigation screening panels to specify the damages attributable to the defendant or defendants in a medical malpractice action.

The bill proposed to provide that each defendant in a civil action is liable only for damages in direct proportion to the defendant's percentage of fault.

Committee Amendment "A" (S-323) proposed to replace the bill, but retain the bulk of the proposed language on communications of sympathy or benevolence. This amendment proposed to change the terminology to cover "civil actions for professional negligence" to be consistent with the rest of the Maine Health Security Act. This amendment also proposed to delete the term "fault" from the listing of subjects of communications expressed by a health care practitioner or provider or an employee of either in a medical liability case to the plaintiff or the plaintiff's relatives that are not admissible as evidence of an admission of liability or as an admission against interest. This amendment proposed to specifically provide that the section does not prohibit the admissibility of a statement of fault.

Enacted law summary

Public Law 2005, chapter 376 prevents a health care practitioner's or health care provider employee's statement of sympathy or apology to a patient who has suffered an unanticipated medical outcome from being used against the practitioner or employee in a civil action for professional negligence.

LD 1394 **An Act To Require That Judicial Hearings Be Conducted in Hospitals Providing Involuntary Inpatient Psychiatric Services** **ONTP**

<u>Sponsor(s)</u> BRENNAN MARLEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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