

# 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*

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*Rep. Roderick W. Carr*

*Rep. Joan Bryant-Deschenes*

*Rep. Joan M. Nass*

*Rep. Donna M. Loring*

**Staff:**

*Margaret J. Reinsch, Senior Analyst*

*Office of Policy and Legal Analysis*

*13 State House Station*

*Augusta, ME 04333*

*(207) 287-1670*



Maine State Legislature

OFFICE OF POLICY & LEGAL ANALYSIS

13 State House Station, Room 215 Cross State Office Building
Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

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

Chapter 371 requires the court to set forth in all orders making appointments of guardians the basis for determining that the appointment is in the best interest of the child. It also provides that when a person seeks to terminate a guardianship against the guardian's consent, the person seeking to change the status quo has the burden of proving by a preponderance of the evidence that the termination of the guardianship is in the best interest of the ward. In a contested termination proceeding, the court may appoint counsel for any indigent guardian or petitioner.

**LD 1405**

**An Act To Prepare Maine for Public Health Emergencies**

**PUBLIC 383**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MAYO<br>MILLER    | OTP-AM                  | S-336                     |

LD 1405 proposed to amend the laws regarding the control of communicable diseases in the following ways:

1. To remove the repeal of the laws regarding the ability of the Department of Health and Human Services to respond to an extreme public health emergency;
2. To allow for isolation or quarantine in a private home;
3. To grant the department rulemaking authority to address workforce needs and the need for dispensing drugs in an emergency situation;
4. To remove reference to the term "medical provider" and clarify reporting requirements of medical laboratories;
5. To rename the chapter to acknowledge that notifiable conditions include communicable, environmental and occupational diseases;
6. To eliminate the Medical Legal Advisory Panel;
7. To clarify that protected health information may be disclosed to health providers in the event of an actual or threatened outbreak or epidemic as declared by the Director of the Bureau of Health;
8. To clarify that, under the Maine Medical Laboratory Act, licensed and unlicensed laboratories have public health reporting requirements; and
9. To provide employment protection in an extreme public health emergency by protecting from unfavorable employment actions an employee who has been quarantined or isolated or who provides care to someone who has been isolated or quarantined during an extreme public health emergency.

**Committee Amendment "A" (S-336)** proposed to: revise the language concerning the adoption of rules pertaining to extreme public health emergencies; clarify the provision amending inspection requirements; designate rules regarding health care workers and the dispensing of drugs in an extreme public health emergency as major substantive rules; clarify that in the event of an actual or threatened epidemic or outbreak the Department of Health and Human Services, Bureau of Health may share only the amount of information necessary with health and human services providers for the purpose of carrying out their public health functions; clarify that

## *Joint Standing Committee on Judiciary*

employers have a hardship exemption and that the leave and related benefits apply only during an extreme public health emergency, or to diseases or conditions that are contracted or exposures that occur during the extreme public health emergency; clarify that the investigation that an individual may be subject to in order to qualify for leave is a public health investigation, as opposed to a potential criminal investigation for causing the extreme public health emergency; allow an employee to miss work only to care for the employee's spouse or domestic partner, the employee's parent or the employee's child; provide that the employer has a right to ask for and receive written documentation from a physician or public health official supporting the employee's leave once the employee returns to work; limit the duration of leave to the time period of the extreme public health emergency as well as a reasonable and necessary time period following for diseases or conditions contracted or exposures that occurred during the emergency; and provide that the leave does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees.

### *Enacted law summary*

Public Law 2005, chapter 383 amends the laws regarding the control of communicable diseases in the following ways.

1. It removes the repeal of the laws regarding the ability of the Department of Health and Human Services to respond to an extreme public health emergency.
2. It allows for isolation or quarantine in a private home.
3. It grants the department rulemaking authority to address workforce needs and the need for dispensing drugs in an emergency situation.
4. It removes reference to the term "medical provider" and clarifies reporting requirements of medical laboratories. "Medical provider," which is undefined, is replaced with "health care provider" and medical laboratories are added to the list of those from whom the department may request information in an extreme public health emergency.
5. The chapter has been renamed to acknowledge that notifiable conditions include communicable, environmental and occupational diseases. It provides definitions of "public health threat" and "notifiable disease or condition" to allow for reporting related to toxins or other agents that could have serious implications either in the severity of the impact on individuals or potential for impact on a large number of people.
6. It eliminates the Medical Legal Advisory Panel.
7. It clarifies that protected health information may be disclosed to health providers in the event of an actual or threatened outbreak or epidemic as declared by the Director of the Bureau of Health.
8. It clarifies that, under the Maine Medical Laboratory Act, licensed and unlicensed laboratories have public health reporting requirements. This provision requires all laboratories that receive, forward or analyze specimens of materials from the human body or referred cultures of specimens from the human body and report the results to health care providers who use the data for purposes of patient care to comply with the law regarding control and reporting of notifiable diseases and conditions. This provision allows compliance with these requirements to be considered when laboratories are evaluated and applications for licenses or renewals are considered.

## Joint Standing Committee on Judiciary

9. It provides employment protection in an extreme public health emergency by protecting from unfavorable employment actions an employee who has been quarantined or isolated or who provides care to someone who has been isolated or quarantined during an extreme public health emergency. The proposal is modeled after legislation that was passed in Toronto as a result of SARS and draws from several Maine laws providing employment protection to those who are victims of abuse, on family medical leave or serving in the military. Chapter 383 provides that employers have a hardship exemption; the leave and related benefits apply only during an extreme public health emergency, or to diseases or conditions that are contracted or exposures that occur during the extreme public health emergency. The leave does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. For any leave beyond the defined period, the employer must make it possible for the employee to retain employee benefits at the employee's expense, although the employer and employee may negotiate for the employer to maintain the benefits at the employer's expense.

**LD 1409**                      **An Act To Assist in the Investigation and Prosecution of Theft Offenses**                      **PUBLIC 320**

|   |                                   |                                    |
|---|-----------------------------------|------------------------------------|
| <u>Sponsor(s)</u><br>ROSEN K<br>SNOWE-MELLO | <u>Committee Report</u><br>OTP-AM | <u>Amendments Adopted</u><br>H-499 |
|---|-----------------------------------|------------------------------------|

LD 1409 proposed to permit local law enforcement agencies to consolidate theft investigations in multiple jurisdictions in order to simplify the investigative aspects of theft crimes, to conserve limited economic and time resources of the agencies and to strengthen the deterrent effect of successful investigations and prosecutions of theft crimes.

**Committee Amendment "A" (H-499)** proposed to expand the proposed authority of police officers to investigate and assist in the prosecution of related crimes to include, in addition to theft, forgery and negotiating a worthless instrument. The amendment proposed that the multijurisdictional cooperation must first be expressly authorized by the police officer's municipal officers.

### *Enacted law summary*

Public Law 2005, chapter 320 permits local law enforcement agencies to consolidate theft, forgery and negotiating a worthless instrument investigations in multiple jurisdictions in order to simplify the investigative aspects of the crimes, to conserve limited economic and time resources of the agencies and to strengthen the deterrent effect of successful investigations and prosecutions of these crimes. The multijurisdictional cooperation must first be expressly authorized by each police officer's municipal officers.

**LD 1415**                      **An Act Regarding Confidentiality in Litigation**                      **ONTP**

|  |                                 |                           |
|--|---------------------------------|---------------------------|
| <u>Sponsor(s)</u><br>GERZOFSKY<br>BRYANT B | <u>Committee Report</u><br>ONTP | <u>Amendments Adopted</u> |
|--|---------------------------------|---------------------------|