

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 |
| ONT P..... | 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

is the subject of the covenant. It allows amendment of the environmental covenant without the holder's consent if the holder has already waived the right to consent to an amendment in a signed record.

LD 1566

**An Act Concerning Full Faith and Credit for Legal Documents
Executed in Other Jurisdictions**

PUBLIC 284

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------------|-------------------------|---------------------------|
| RICHARDSON J HOBBINS | OTP-AM | H-468 |

LD 1566 proposed to amend the Probate Code to provide that powers of attorney validly executed in other jurisdictions are valid in this State, even if the Maine requirements for that document are not met. It proposed to create a presumption that the out-of-state power of attorney was executed in compliance with the law of the jurisdiction in which it was executed. It proposed to exempt from the specific protective notice provisions of the Maine Revised Statutes, Title 18-A, section 5-508 certain financial powers of attorney. It proposed that durable financial powers of attorney that are executed for the limited purpose of providing for the representation of the principal in specific real estate transactions would not need to include the cautionary language about the authority of agents and principals that is required for other financial powers of attorney.

Committee Amendment "A" (H-468) proposed to delete the language that exempts from the specific protective notice provisions of the Maine Revised Statutes, Title 18-A, section 5-508 certain financial powers of attorney. The amendment also proposed to strike the language relative to the reliance on powers of attorney. The amendment also proposed to delete health care powers of attorney from the list of powers of attorney from other jurisdictions that would be valid in Maine.

Enacted law summary

Public Law 2005, chapter 284 amends the Probate Code to provide that powers of attorney validly executed in other jurisdictions are valid in this State, even if the Maine requirements for that document are not met. The types of powers of attorney covered are both durable and nondurable, and include financial powers of attorney and health care powers of attorney. It also creates a presumption that the out-of-state power of attorney was executed in compliance with the law of the jurisdiction in which it was executed.

LD 1567

**Resolve, Encouraging the Continuing Education of Physicians
Regarding Disclosure of Confidential Medical Information**

RESOLVE 94

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------------|-------------------------|---------------------------|
| RICHARDSON J HOBBINS | OTP-AM | H-501 |

LD 1567 proposed to amend the model advance health care directive contained in the Uniform Health-care Decisions Act to ensure that health care providers are not limited in the medical information they can provide to the patient's agent under the federal Health Insurance Portability and Accountability Act of 1996.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-501) proposed to replace the bill to create a resolve directing the Department of Health and Human Services to encourage health care providers to include information in their continuing education programs that will assist in clarifying the rights of agents to receive confidential medical information.

Enacted law summary

Resolve 2005, chapter 94 directs the Department of Health and Human Services to encourage health care providers to include information in their continuing education programs that will assist in clarifying the rights of agents to receive confidential medical information.

LD 1569 An Act To Abolish the Maine Indian Tribal-State Commission CARRIED OVER

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

LD 1569 proposed to abolish the Maine Indian Tribal-State Commission and create in its place the Intergovernmental Tribal-State Board. The board would consist of two members appointed by the Passamaquoddy Tribe, two members appointed by the Penobscot Nation, two members appointed by the Houlton Band of Maliseet Indians, four members appointed by the Governor and subject to review by the Joint Standing Committee on Judiciary and confirmation by the Legislature, two members appointed by the Attorney General subject to review by the Joint Standing Committee on Judiciary and confirmation by the Legislature, one member of the Senate appointed by the President of the Senate and one member of the House of Representatives appointed by the Speaker of the House.

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

LD 1575 An Act To Require Parental Notification of Teenage Abortions ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| DUPREY | ONTP MAJ | |
| SNOWE-MELLO | OTP-AM MIN | |

LD 1575 proposed to require parental notification before an abortion is performed or induced on a pregnant minor. The bill proposed to include an exception for a medical emergency in which the pregnant minor's life is in danger, and a judicial bypass procedure.

Committee Amendment "A" (H-649), the minority report of the Joint Standing Committee on Judiciary, proposed to revise the exceptions to the parental notification requirements to provide an exception when, in the physician's best judgment, the abortion is necessary for the preservation of the life or health of the pregnant minor. (Not adopted)