

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2006

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

Rep. Deborah L. 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

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Maine State Legislature



Office of Policy and Legal Analysis Office of Fiscal and Program Review

122nd Maine Legislature Second Regular Session

Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 arranged alphabetically by committee name 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. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located 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/billsumm.htm).

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:

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
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

Joint Standing Committee on Judiciary

LD 1682

An Act To Support Sibling Rights in Child Welfare Custody Matters

PUBLIC 526

<u>Sponsor(s)</u> ANDREWS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-500
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LD 1682 proposed to give the court authority to order sibling visitation for a child in foster care when it is in the best interests of the child to do so.

Committee Amendment “A” (S-500) proposed to require the court to order sibling visitation for children who are the subjects of child protection proceedings when it is reasonable, practicable and in the best interests of the children involved to do so. It also proposed to require the Department of Health and Human Services to make reasonable efforts to obtain from prospective adoptive parents an agreement to maintain visitation with a child's siblings after the adoption of the child. It proposed to authorize a child, in a child protection action, to request visitation rights with a sibling from whom the child has been separated as a result of the child protection action.

Enacted law summary

Public Law 2005, chapter 526 requires the court to order sibling visitation for children who are the subjects of child protection proceedings when it is reasonable, practicable and in the best interests of the children involved to do so. It also requires the Department of Health and Human Services to make reasonable efforts to obtain from prospective adoptive parents an agreement to maintain visitation with a child's siblings after the adoption of the child. It authorizes a child, in a child protection action, to request visitation rights with a sibling from whom the child has been separated as a result of the child protection action.

LD 1726

An Act To Allocate Child Support Appropriately

ONTP

<u>Sponsor(s)</u> FLOOD		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1726 proposed to provide that a parent is not liable for a parental support obligation for any period of time that the child who is the subject of the parental support obligation lives with and is supported by that parent.

LD 1741

An Act To Encourage Reporting of Potential Fraud, Waste, Inefficiency and Abuse in State Government

PUBLIC 682

<u>Sponsor(s)</u> SCHNEIDER SMITH N		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-1081 SIMPSON S-543
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LD 1741 proposed to ensure the confidentiality of any information that is provided to a state-maintained hotline for the reporting of potential fraud regarding the internal financial operation of State Government.

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Committee Amendment “A” (S-543) proposed to replace the bill with new provisions in the statutes governing the State Auditor. The amendment proposed to establish confidentiality protections for certain information if the State Auditor creates a hotline or other referral service for the confidential reporting of fraud, waste, inefficiency and abuse in State Government. It also proposed that the content of the complaint is confidential, except that the State Auditor would be required to publish a report of each complaint alleging fraud, waste, inefficiency or abuse. The report must include a detailed description of the nature of the complaint, the identity of the person or persons who are the subject of the complaint and a statement indicating the degree to which the complaint has been substantiated. The amendment proposed that the State Auditor submit an annual summary of the complaints made to the hotline or other referral service. The summary must provide aggregate information, including the number of referrals to the Attorney General for fraud or other criminal conduct and the number of referrals to the Office of Program Evaluation and Governmental Accountability for performance issues.

The amendment proposed a repeal date for these provisions of July 1, 2009.

House Amendment “A” to Committee Amendment “A” (H-995) proposed to replace the State Auditor's reporting requirement concerning substantiated complaints alleging fraud, waste, inefficiency and abuse. It proposed a requirement that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. (Not adopted)

House Amendment "B" to Committee Amendment “A” (H-1027) proposed to replace the State Auditor's reporting requirement concerning substantiated complaints alleging fraud, waste, inefficiency and abuse. It proposed a requirement that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. The amendment also proposed that the State Auditor submit a written report on and publish on the auditor's publicly accessible website all other complaints within 120 days of the receipt of the complaint, indicating the nature of the complaint, the agency that is the subject of the complaint and the degree to which the complaint was substantiated. (Not adopted)

House Amendment “C” to Committee Amendment “A” (H-1081) proposed to allow a person making a complaint through a hotline or other referral service to allow that person's name to be disclosed if the person agrees in writing. It proposed that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. The amendment also proposed that the State Auditor submit a written report to the Governor and publish on the auditor's publicly accessible website all other complaints within 120 days of the receipt of the complaint, indicating the nature of the complaint, the agency that is the subject of the complaint and the degree to which the complaint was substantiated. This amendment also proposed that the State Auditor, the Attorney General and the Director of the Office of Program Evaluation and Government Accountability jointly establish criteria for the referral to the appropriate agency of complaints received by that hotline or other referral service maintained by the State Auditor and for coordination of response. The amendment proposed that the State Auditor report the criteria to the joint standing committee of the Legislature having jurisdiction over state and local government matters no later than 30 days following development of the criteria or at the next convenient meeting of the committee.

Enacted law summary

Public Law 2005, chapter 682 establishes confidentiality protections for certain information if the State Auditor creates a hotline or other referral service for the confidential reporting of fraud, waste, inefficiency and abuse in State Government. The identity of a person making a complaint alleging fraud, waste, inefficiency or abuse in State Government to a hotline or other referral service is confidential, except that the person making the complaint

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may allow disclosure. The content of the complaint and any resulting investigation are confidential, except that the State Auditor shall publish a report of each complaint alleging fraud, waste, inefficiency or abuse within 120 days of receiving the complaint. In addition, the State Auditor must submit an annual summary of the complaints made to the hotline or other referral service. Chapter 682 requires coordination between the State Auditor and the director of the Office of Program Evaluation and Governmental Accountability, and specifically gives the director access to confidential information to be shared by the State Auditor. The provisions relating to the State Auditor are repealed July 1, 2009.

Chapter 682 requires (in unallocated law) that the State Auditor, the director of the Office of Program Evaluation and Governmental Accountability and the Attorney General jointly establish criteria for the referral of complaints and the coordination of response.

LD 1743 **An Act To Allow the Department of Health and Human Services
To Locate Parents Who Are Delinquent in Child Support
Payments through Information Related to Cellular Telephones** **PUBLIC 566
EMERGENCY**

<u>Sponsor(s)</u> PLOWMAN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-535
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LD 1743 proposed to require a wireless service provider to provide at the department's request information to the Department of Health and Human Services on an owner of a cellular telephone who is a delinquent child support obligor after the department has exhausted all other avenues in attempting to locate the person.

Committee Amendment "A" (S-535) proposed to replace the bill with language based on the current law that authorizes the Department of Health and Human Services to conduct a data match with financial institutions for the purpose of locating child support obligors.

Enacted law summary

Public Law 2005, chapter 566 is based on the current law that authorizes the Department of Health and Human Services to conduct a data match with financial institutions for the purpose of locating child support obligors.

Chapter 566 allows the department to submit a list of child support obligors to wireless service providers to be used to conduct computerized matches with the wireless service providers' account holders. The wireless service providers must provide in return lists of the matched names, plus the birth dates, social security numbers, addresses and employers of those matched, if that information is available. The department may submit the list for matching no more often than once every calendar quarter.

To cover the costs of carrying out the requirements of this section, a wireless service provider may assess a reasonable fee to the department not to exceed the actual costs incurred by the wireless service provider.

Public Law 2005, chapter 566 was enacted as an emergency measure effective April 11, 2006.