Joint Standing Committee on Judiciary

LD 29 — An Act to Amend the Wrongful Death Laws — ONTP

Sponsor(s)	Committee Report		Amendments Adopted
LAFOUNTAIN	ONTP	MAJ	
LEMAIRE	OTP-AM	MIN	

LD 29 proposed to eliminate the current cap of $150,000 that may be awarded in wrongful death actions for loss of comfort, society and companionship and the current cap of $75,000 that may be awarded as punitive damages.

Committee Amendment "A" (S-508) (Minority Report) proposed to add a fiscal note to the bill. (Not adopted)

LD 30 — An Act to Exclude Intentional Tort Claims from the Application of the Maine Workers' Compensation Act of 1992 — DIED IN CONCURRENCE

Sponsor(s)	Committee Report		Amendments Adopted
LAFOUNTAIN	OTP-AM	MAJ	
DAVIDSON	ONTP	MIN	

LD 30 proposed to allow an employee to pursue an action outside of the Maine Workers' Compensation Act of 1992 for injuries arising out of an intentional act against that employee. The bill proposed to reverse the decision in Li v. C.N. Brown Company, 645 A.2d 606 (Me. 1994), where an employee's death resulted from her intentional exposure to a robbery by her employer.

Committee Amendment "A" (S-574) (Majority Report) proposed to replace the bill. It proposed to authorize a civil suit against an employer outside of the Workers' Compensation Act of 1992 in limited circumstances: If the employer engages in an intentional act that is punishable under the Maine Criminal Code, Title 17-A, chapter 9 (dealing with offenses against the person) or section 253 (dealing with gross sexual assault) and the intentional act causes an injury or death. (Not adopted)

LD 76 — An Act to Amend the Uniform Health Care Decisions Law — DIED BETWEEN HOUSES

Sponsor(s)	Committee Report		Amendments Adopted
CARLETON	OTP-AM	MAJ	
	ONTP	MIN	

LD 76 proposed to adopt the language of the Uniform Health-care Decisions Act concerning the authority of a surrogate to make a health-care decision for a patient if the patient has been determined by the primary physician to lack capacity and no agent or guardian has been appointed.

Committee Amendment "A" (H-942) (Majority Report) proposed to replace the bill. It proposed to authorize a surrogate to make any health care decision for a patient other than withholding or withdrawing life-sustaining treatment for a patient in any circumstance as long as there is no guardian or agent. The amendment also proposed to expand the list of persons who can act as a surrogate for a patient to include, after immediate family members, an adult who shares with the patient a relationship that is similar to a spousal relationship, i.e., an emotional, physical and financial relationship. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-967) proposed to prevent surrogates from withholding or withdrawing life-saving treatment. (Not adopted)

LD 253 — An Act Concerning Entry to Investigate Private Property for the Purpose of Forestry Examinations — PUBLIC 694

Sponsor(s)	Committee Report	Amendments Adopted
SNOWE-MELLO BENNETT	OTP-AM	H-975

LD 253 was referred to the Judiciary Committee from the Joint Standing Committee on Agriculture, Conservation and Forestry. It proposed to require agents of the Department of Conservation, Bureau of Forestry to obtain a search warrant prior to entering onto private land to investigate possible forest practices violations unless the agent has the consent of the landowner.

Committee Amendment "A" (H-975) proposed to replace the bill. It proposed to amend the "right of entry" provision in the forest practices law to remove the sentence exempting agents of the Department of Conservation, Bureau of Forestry from the application of trespass laws.

House Amendment "A" to Committee Amendment "A" (H-985) proposed to prohibit agents of the Department of Conservation, Bureau of Forestry from entering upon parcels of land less than 200 acres in size if the owner of that parcel resides there without first obtaining either the permission of the owner or a search warrant. (Not adopted)

Enacted law summary

Public Law 1997, chapter 694 amends the "right of entry" provision in the forest practices law to remove the sentence exempting agents of the Department of Conservation, Bureau of Forestry from the application of trespass laws.

LD 582 — An Act to Amend the Procedures for Medical Malpractice Screenings — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
JABAR	ONTP	

LD 582 proposed to limit medical malpractice screening panels to a review of professional negligence claims solely for the purpose of determining whether a claim is frivolous, rather than permitting panels to determine, as under

current law, whether professional negligence occurred. The bill also proposed to change the current law's confidentiality provisions concerning testimony and other evidence presented to screening panels. See also LD 1050 and LD 1784.

LD 869 **An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule** **ONTP**

Sponsor(s)	Committee Report		Amendments Adopted
RAND	ONTP	MAJ	
	OTP-AM	MIN	

LD 869 proposed to enact a discovery rule with respect to the statute of limitations relating to health care providers and health care practitioners. The bill would have required an action for professional negligence to be commenced within 3 years after a plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the injury and its causal relationship to the act of professional negligence of which the plaintiff complains.

Committee Amendment "A" (S-541) (Minority Report) proposed to replace the bill. It proposed to create a modified discovery rule for medical malpractice actions. It proposed that an action for professional negligence be brought within 3 years after the cause of action accrues, but not more than 6 years after the date of the act or omission of the health care provider or the health care practitioner that caused the injury. The cause of action would accrue when the plaintiff discovers or reasonably should have discovered the injury and the fact that the injury was caused by the act or omission of the health care provider or the health care practitioner. The 6-year maximum limitation would have applied in all cases other than causes of action related to foreign objects and cases in which a minor is the injured party. (Not adopted)

LD 916 **An Act to Allow Physician-assisted Deaths for the Terminally Ill** **ONTP**

Sponsor(s)	Committee Report		Amendments Adopted
BROOKS	ONTP	MAJ	
MITCHELL B	OTP-AM	MIN	

LD 916 proposed to create the Death with Dignity Act. It would have allowed a mentally competent adult who is suffering from a terminal illness to request and obtain medication from a physician to end that patient's own life in a humane and dignified manner. The bill proposed safeguards to ensure that the patient's request is voluntary and based on an informed decision.

Committee Amendment "A" (H-788) (Minority Report) proposed to require that the counseling in which a patient participates include a discussion of choosing to die. It would have expanded the definition of "next of kin" to include an adult who has exhibited special concern for the patient and who is familiar with the patient's personal values. The amendment proposed to allocate appropriate authority to spouses and partners of a patient covered by the bill. The amendment would have given the physician the option of being present when the medication to end the patient's life is administered or ensuring that a member of the patient's next of kin is present. (Not adopted)

House Amendment "A" (H-790) proposed to make the bill contingent upon the approval of the voters at the next general election. (Not adopted)

LD 964 — An Act to Transfer Certain Tribal Holdings into a Trust — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
MOORE	ONTP	

LD 964 would have allowed lands in Albany Township that are contiguous to the current Passamaquoddy Tribe's trust land to be included in Passamaquoddy Indian Territory. The bill also proposed to extend the deadline for the United States Secretary of the Interior to acquire lands to be included as trust lands for the Passamaquoddy Tribe.

LD 1050 — An Act to Revise the Prelitigation Malpractice Screening Panel Procedures, Criteria and Composition — INDEF PP

Sponsor(s)	Committee Report		Amendments Adopted
SAVAGE	ONTP	MAJ	
	OTP-AM	MIN	

LD 1050 proposed to amend the procedures for mandatory prelitigation screening and mediation panels by changing the composition of the panel, changing the standard for the panel's decision to whether there are genuine issues of material fact, and prohibiting the use of panels in cases not involving a health care practitioner.

Committee Amendment "A" (H-1077) (Minority Report) proposed to replace the bill. It proposed to prohibit a health care practitioner who is insured by the same professional liability insurance company as the person accused of professional negligence from serving on the prelitigation screening panel. The amendment proposed that, unless the plaintiff has requested that a time period be extended, the hearing may be bypassed completely if it has not been held within 4 months. It proposed to shorten certain time periods and allow experts to submit written statements rather than testify in person. It proposed to allow the panel chair to require the parties to make their presentations of the case in writing. It proposed to change the standard of proof used by the panel to whether the evidence presented to the panel and the permissible inferences from the evidence raise issues of fact as to negligence and causation. It proposed to allow the use of testimony made under oath in the panel proceedings to be used in subsequent proceedings for the purpose of impeachment. (Not adopted)

LD 1057 — An Act to Amend the Laws Regarding Wrongful Death and Recoveries for Wrongful Death — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
MILLS	ONTP	

LD 1057 proposed to rewrite the provision of law governing actions for wrongful death to make the law more understandable.

LD 1062 — An Act to Implement the Recommendations of the Judicial Compensation Commission — INDEF PP

Sponsor(s)	Committee Report		Amendments Adopted
	OTP-AM	MAJ	
	ONTP	MIN	

LD 1062 proposed to implement the recommendations of the Judicial Compensation Commission established by the Maine Revised Statutes, Title 4, chapter 35. The bill proposed to increase the direct compensation for the State's judges and justices, equalize the salaries of District Court Judges and Superior Court Justices, increase the per diem rate for Active Retired Judges and improve the retirement benefit under the Maine Judicial Retirement System. The bill proposed to remove the provision repealing the Judicial Compensation Commission in 1999.

After the Judiciary Committee reported out the bill in 1997, the House and Senate recommitted the bill to the Joint Standing Committee on Appropriations and Financial Affairs, which carried over the bill. During the Second Regular Session, LD 1062 was recommitted to the Judiciary Committee, which reported out the bill as Ought to Pass as Amended by Committee Amendment “B” (Majority Report). The bill was eventually indefinitely postponed because the recommendations contained in Committee Amendment “B” were incorporated as Part M of Public Law 1997, chapter 643 (Supplemental Budget).

Committee Amendment "A" (S-286) (Majority Report) proposed to increase judicial salaries, but at a lower rate than proposed in the bill. It also proposed to revise the retirement benefits to include a blended cap. (First Regular and First Special Sessions) (Not adopted)

Committee Amendment "B" (S-542) (Majority Report) proposed to increase judicial salaries, but at a lower rate than proposed in the bill. It also proposed to revise the retirement benefits to include a blended cap. It differs from Committee Amendment “A” by proposing that the cost of living adjustment not take effect until 1999. (Second Regular and Second Special Sessions) (Not adopted)

LD 1181 — An Act to Change the Comparative Negligence Laws — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
MITCHELL J	ONTP	

LD 1181 proposed to repeal the provision of law that provides that when any person suffers death or damage as a result partly of that person's own fault and partly of the fault of any other person and that person is found by the jury to be equally at fault, that person may not recover damages.

LD 1193 — An Act to Permit a Suit Against an Employer Who Knowingly Places a Worker at Risk of Serious Bodily Injury or Death — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
BOLDUC	ONTP	
RAND		

LD 1193 proposed to allow the heirs or the estate of an employee to bring an action for wrongful death against an employer who intentionally required that employee to work when the employer knew that there was a risk of serious bodily injury or death. This bill was referred to the Judiciary Committee from the Labor Committee. See also LD 30.

LD 1208 **An Act to Allow the Courts to Suspend the Drivers' Licenses of Individuals Convicted of Civil Offenses Who Fail to Pay Their Fines within the Time Limits Ordered by the Court** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
GOOLEY BENOIT	ONTP	

LD 1208 proposed to require the court and the court clerk to suspend the driver's license of any person who does not pay the fine imposed for a civil violation within the time directed by the court. The bill proposed license suspension if the person does not appear in court as directed by the court after having been adjudicated as having committed the civil violation. See also LD 1481(First Regular Session) and LD 1482.

LD 1328 **An Act to Enact the Uniform Transfer on Death Security Registration Act** **PUBLIC 627**

Sponsor(s)	Committee Report	Amendments Adopted
NASS LIBBY	OTP-AM	H-860

LD 1328 proposed to establish the Uniform Transfer on Death Security Registration Act.

Committee Amendment "A" (H-860) proposed several changes to the Uniform Transfer on Death Security Registration Act, including technical changes consistent with the Maine Probate Code. It proposed language to ensure that registration of securities in beneficiary form does not defeat the elective share and statutory allowances. It proposed language governing the cancellation of registrations by references in a testator's will.

Enacted law summary

Public Law 1997, chapter 627 establishes the Uniform Transfer on Death Security Registration Act with some modifications consistent with the Maine Probate Code. The Act allows the owners of securities to ensure that the securities will be transferred to the designated beneficiaries upon the owners' deaths, without going through the probate process. Chapter 627 differs from the Uniform Act by allowing the cancellation by will of a beneficiary designation.

LD 1372 — Resolve, Directing the Judicial Department to Develop Recommendations to Implement Court Unification — RESOLVE 107

Sponsor(s)	Committee Report	Amendments Adopted
JABAR	OTP-AM	H-861 H-962 THOMPSON

LD 1372 proposed to unify the trial courts in this State into one trial court, called the Superior Court, effective January 1, 2000.

Committee Amendment "A" (H-861) proposed to replace the bill and direct the Chief Justice of the Supreme Judicial Court to convene a task force to develop recommendations to implement the unification of the Superior and District Courts. The amendment proposed that the task force report periodically to the Chief Justice and the Chief Justice submit an interim report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by March 15, 1999 and a final report by December 15, 1999, including any necessary legislation.

Committee Amendment "A" to House Amendment "A" (H-962) proposed to remove Legislators from the list of suggested members of the task force.

Enacted law summary

Resolve 1997, chapter 107 directs the Chief Justice of the Supreme Judicial Court to convene a task force to develop recommendations to implement the unification of the Superior and District Courts. The task force shall report periodically to the Chief Justice and the Chief Justice shall submit an interim report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by March 15, 1999 and a final report by December 15, 1999, including any necessary legislation.

LD 1384 — An Act to Reform Procedure in Multiparty Lawsuits — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
MILLS	ONTP	

LD 1384 proposed to restructure the comparative negligence laws and define how they should apply in cases with multiple defendants. LD 1384 also proposed to restructure the laws dealing with release of joint tortfeasors when settlement is not reached and clarify how the judge applies offsets against subsequent verdicts when there have been prejudgment settlements. The bill also proposed to authorize the courts to approve Pierringer release procedures in complex litigation.

LD 1482 **Resolve, to Establish a Plan to Enhance the Enforcement of Civil and Criminal Violations** **RESOLVE 103**

Sponsor(s)	Committee Report	Amendments Adopted
MILLS	OTP-AM	S-549

LD 1482 proposed to expand the jurisdiction of the violations bureau of the District Court to include all civil violations, beginning July 1, 1998.

Committee Amendment "A" (S-549) proposed to replace the bill and create a planning task force to develop a plan to enhance the enforcement of criminal and civil violations and the collection of fines and other charges imposed by a court.

Enacted law summary

Resolve 1997, chapter 103 creates a planning task force to develop a plan to enhance the enforcement of criminal and civil violations and the collection of fines and other charges imposed by a court. The plan will include a central credentialing registry and may include the expansion of the jurisdiction of the District Court Violations Bureau to include all civil violations. The planning task force will consist of the Chief Justice, the Governor, the Secretary of State, the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources, the Commissioner of Human Services and the Commissioner Public Safety, or their designees. The planning task force will report back to the Legislature by December 15, 1998.

LD 1583 **An Act to Establish the Uniform Anatomical Gift Act** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
TAYLOR	ONTP	

LD 1583 proposed to replace the existing Uniform Anatomical Gift Act with the Uniform Anatomical Gift Act adopted by the National Conference of Commissioners on Uniform State Laws in 1987.

LD 1636 **An Act to Make Mediation Mandatory in Medical Malpractice Proceedings** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
MILLS	ONTP	

LD 1636 proposed to repeal the mandatory prelitigation screening panel process for medical malpractice cases and replace that process with a mandatory mediation process.

LD 1670 An Act to Limit Indemnification in Construction Contracts ONTP

Sponsor(s)	Committee Report		Amendments Adopted
PLOWMAN	ONTP	MAJ	
	OTP-AM	MIN	

LD 1670 proposed to prohibit broad form and intermediate hold harmless provisions in construction contracts.

Committee Amendment "A" (H-973) (Minority Report) proposed to replace the bill. It proposed to prohibit the use of indemnification clauses in construction contracts that require the contractor or subcontractor to indemnify another party for the results of that party's own negligence. The contractor would be liable for the negligence of the contractor's employees or agents, and the subcontractor would be liable for the negligence of the employees and agents of the subcontractor. The new language would not affect a valid insurance contract, workers' compensation agreement or other insurance agreement, therefore eliminating the possibility that the provision would allow a suit against a party for injuries otherwise covered by workers' compensation. (Not adopted)

LD 1728 An Act to Promote Professional Competence and Improve Patient Care PUBLIC 697

Sponsor(s)	Committee Report	Amendments Adopted
GOLDTHWAIT	OTP-AM	S-543

LD 1728 proposed to expand physician peer review beyond hospital settings to include other types of settings where health care services are provided.

Committee Amendment "A" (S-543) proposed to replace the bill and amend the Maine Health Security Act to recognize that new health care entities have arisen since the adoption of the Act. The amendment proposed to make the Act and its obligations and protections applicable to these new types of health care entities. It proposed to provide confidentiality for written professional competence review records.

Enacted law summary

Public Law 1997, chapter 697 amends the Maine Health Security Act to recognize that new health care entities have arisen since the adoption of the Act. It makes the Act and its obligations and protections applicable to these new types of health care entities. Chapter 697 also provides confidentiality for written professional competence review records.

LD 1729 **An Act to Require Health-care Providers to Honor Do Not Resuscitate Orders** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
GOLDTHWAIT TUTTLE	ONTP	

LD 1729 proposed to repeal the existing law governing advanced health-care directives and enact instead a new Part concerning "do not resuscitate" orders or "DNR" orders. The purpose of the bill was to require emergency medical services personnel to honor DNR orders.

LD 1784 **An Act to Expedite the Operation of Prelitigation Screening Panels under the Maine Health Security Act** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
THOMPSON	ONTP	

LD 1784 proposed to expedite and reduce costs related to the operation of prelitigation screening panels under the Maine Health Security Act. The bill proposed to require that, unless the plaintiff has requested that a time period be extended, the hearing be bypassed completely if it has not been held within 4 months. The bill proposed to shorten certain time periods and require that experts submit written statements rather than testify in person. It would have allowed the panel chair to require the parties to make their presentations of the case in writing. The bill proposed to clarify the role of the prelitigation screening panels by changing the standard of proof used by the panel. Under this bill, the panel would have determined whether the evidence presented to it and the permissible inferences from the evidence raise issues of fact as to negligence and causation. See also LD 582 and LD 1050.

LD 1786 **An Act to Adopt the Uniform Child Custody Jurisdiction and Enforcement Act** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
LANE	ONTP	

LD 1786 proposed to repeal the Maine Revised Statutes, Title 19-A, chapter 57, the Uniform Child Custody Jurisdiction Act and replace it with an updated version, the Uniform Child Custody Jurisdiction and Enforcement Act. The bill was based on a draft, rather than final, version of the National Conference of Uniform Law Commissioners uniform legislation.

LD 1793 **An Act Regarding the Activities of Nonprofit Corporations** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
THOMPSON	ONTP	

LD 1793 proposed a procedure that all nonprofit corporations would have to follow when converting or restructuring into a for-profit or mutual benefit corporation or entity or when transferring assets to a for-profit or mutual benefit corporation or entity. The procedure would have been in addition to any other review, analysis or approval required by law.

LD 1807 — An Act to Provide for Commitment of Sexually Violent Predators — INDEF PP

Sponsor(s)	Committee Report	Amendments Adopted
PLOWMAN	OTP-AM	

LD 1807 proposed a procedure for the commitment of a person defined as a sexually violent predator if a court finds that the person has a mental abnormality or personality disorder that makes it likely that the person will engage in predatory acts of sexual violence if not confined in a secure facility. The bill is based on laws in Kansas and Washington.

Committee Amendment "A" (H-974) proposed to replace the bill. It proposed to create a 13-member study commission of legislators to develop a plan for the control, care and treatment of sexually violent predators. The amendment proposed a reporting date of October 15, 1998. The bill as amended was indefinitely postponed because the Senate and the House of Representatives passed HP 1653, Joint Order Creating the Joint Select Committee to Create a Program for the Control, Care and Treatment of Sexually Violent Predators. (Not adopted)

LD 1913 — An Act to Clarify the Confidentiality of Public Employee Information — PUBLIC 770

Sponsor(s)	Committee Report		Amendments Adopted	
THOMPSON	OTP-AM	MAJ	H-998	
	ONTP	MIN	S-718	MICHAUD

LD 1913 proposed to revise the law concerning confidentiality relating to public employee discipline cases resulting from a 1997 state court decision, Doe v. Department of Mental Health, Mental Retardation and Substance Abuse Services, 1997 ME 195, 699 A.2d 422 (1997). The bill proposed that information concerning disciplinary action against a state, county or municipal employee remain confidential unless a final written decision relating to that action involves a finding of guilt.

Committee Amendment "A" (H-998) (Majority Report) proposed to replace the bill. It proposed to provide that the final written decision governing a disciplinary action is no longer confidential once it is completed if the decision imposes or upholds discipline. It proposed that if a disciplinary action is appealed to an arbitrator, the arbitrator's decision is the final written decision, and that if the arbitrator completely overturns or removes disciplinary action from an employee's personnel file, the employee's name is confidential and must be deleted from the final written decision before it is released.

Senate Amendment "A" to Committee Amendment "A" (S-718) proposed to include a General Fund appropriation to the Department of Administrative and Financial Services of $100 in fiscal year 1998-99 to provide additional funds for the local costs associated with deleting references to an employee's name from certain files.

Enacted law summary

Public Law 1997, chapter 770 overturns Doe v. Department of Mental Health, Mental Retardation and Substance Abuse Services, 1997 ME 195, 699 A.2d 422 (1997). It provides that the final written decision governing a public employee's disciplinary action is no longer confidential once it is completed if the decision imposes or upholds discipline. If a disciplinary action is appealed to an arbitrator, the arbitrator's decision is the final written decision. If the arbitrator completely overturns or removes disciplinary action from an employee's personnel file, the employee's name is confidential and must be deleted from the final written decision before it is released.

LD 1916 — An Act to Provide for the Termination of Spousal Support upon the Death of the Payor — PUBLIC 629

Sponsor(s)	Committee Report	Amendments Adopted
	OTP-AM	H-862

LD 1916 is a recommendation of the Maine Family Law Advisory Commission. It proposed that spousal support terminate upon the death of the spouse ordered to pay that support, unless the order expressly states that the support obligation continues even after the payor spouse dies.

Committee Amendment "A" (H-862) proposed to make the changes in the bill effective for court orders issued on or after September 1, 1998.

Enacted law summary

Public Law 1997, chapter 629 provides that, unless a court order expressly provides otherwise, spousal support terminates upon the death of the payor spouse. This applies to court orders issued on or after September 1, 1998.

LD 1919 — An Act to Inform Crime Victims about the Disposition of Charges — PUBLIC 615

Sponsor(s)	Committee Report	Amendments Adopted
NASS	OTP-AM	H-840

LD 1919 proposed to require a prosecutor to make a good faith effort to notify the victim of a crime before dismissing charges or "filing" the indictment, information or complaint without prosecuting the charges.

Committee Amendment "A" (H-840) proposed to add a mandate preamble to eliminate the requirement that the State reimburse local governmental units for the costs of informing crime victims when the charges against the perpetrator will not be pursued.

Enacted law summary

Public Law 1997, chapter 615 requires the prosecutor to make a good faith effort to notify the victim of a crime before dismissing charges or "filing" the indictment, information or complaint without prosecution pursuant to Rule 48 of the Maine Rules of Criminal Procedure.

LD 1930 — An Act to Protect the Privacy of Alternative Dispute Resolution Participants — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
LONGLEY	ONTP	

LD 1930 proposed to protect communications and acts that occur during alternative dispute resolutions from disclosure in any subsequent adjudication between the parties.

LD 1938 — Resolve, Directing the Preparation of a Bill to Make Technical Changes to the State's Criminal Statutes — RESOLVE 105 EMERGENCY

Sponsor(s)	Committee Report	Amendments Adopted
THOMPSON	OTP-AM	H-943

LD 1938 proposed to authorize the Maine Criminal Justice Information System Policy Board to convene a task force to prepare a revision to the State's statutes to create a one-to-one relationship between each crime or civil violation contained in the Maine Revised Statutes and a unique statutory citation. The bill proposed that the board submit a nonsubstantive revision of the Maine Revised Statutes to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 1, 1999.

Committee Amendment "A" (H-943) proposed to change the bill into a Resolve, clarify the role of Legislative Council staff and provide for the involvement of the joint standing committee having jurisdiction over criminal justice matters.

Enacted law summary

Resolve 1997, chapter 105 authorizes the Maine Criminal Justice Information System Policy Board to convene a task force to prepare a revision to the State's statutes to create a one-to-one relationship between each crime or civil violation contained in the Maine Revised Statutes and a unique statutory citation. The board shall submit a nonsubstantive revision of the Maine Revised Statutes to the joint standing committee of the Legislature having jurisdiction over judiciary matters and criminal justice matters by January 1, 1999.

LD 1953 — An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to the Names of Geographic Features in Passamaquoddy Territory — PUBLIC 650

Sponsor(s)	Committee Report	Amendments Adopted
	OTP-AM	H-944

LD 1953 is a recommendation of the Maine Indian Tribal-State Commission pursuant to Resolve 1997, chapter 45. It proposed to recognize the right of the Passamaquoddy Tribe to change the names of geographic features within its territory, require the tribe to notify entities responsible for changing names of places and require the State to employ its good efforts to assist the tribe in notifying the necessary entities to accomplish the name changes in official maps and documents. The bill proposed to direct the Maine Indian Tribal-State Commission to review

tribal concerns about offensive names of geographic features outside Indian territory and to report back to the Legislature with recommendations for name changes.

Committee Amendment "A" (H-944) proposed to replace the bill. It proposed the state policy concerning the naming of geographic features within Passamaquoddy Indian territory.

Enacted law summary

Public Law 1997, chapter 650 establishes the state policy concerning the naming of geographic features within Indian territory. When the Joint Tribal Council of the Passamaquoddy Tribe changes the name of a geographic feature within its Indian territory, the State shall assist in notifying the appropriate entities, including the United States Board on Geographic Names, to ensure that the new name is included in official maps and documents.

LD 1961 — An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulation — DIED IN CONCURRENCE

Sponsor(s)	Committee Report		Amendments Adopted
	OTP-AM	MAJ	
	ONTP	MIN	

LD 1961 was submitted by the Maine Indian Tribal-State Commission pursuant to Resolve 1997, chapter 45. The bill proposed to establish, consistent with the Act to Implement the Maine Indian Claims Settlement, the process by which the Passamaquoddy Tribe and the Penobscot Nation may control land use and development and protect natural resources within their respective Indian territory acquired from within the unorganized and deorganized areas of the State.

Committee Amendment "A" (H-997) (Majority Report) proposed to replace the bill. The amendment proposed to establish, consistent with the Act to Implement the Maine Indian Claims Settlement, the process by which the Passamaquoddy Tribe and the Penobscot Nation may control land use and development and protect natural resources within their respective Indian territory acquired from within the unorganized and deorganized areas of the State. It proposed to apply to blocks of contiguous lands that contain at least 500 acres. The tribal reservations and any Indian territory not included in contiguous blocks of land of at least 500 acres would remain subject to State laws and regulations. The amendment proposed that the Passamaquoddy Tribe and the Penobscot Nation each may submit a comprehensive land use plan and implementing ordinances to the Maine Indian Tribal-State Commission. Upon receipt of a plan, the Maine Indian Tribal-State Commission would have been required to solicit public review and comment, including the comments of the Maine Land Use Regulation Commission, to hold a public hearing if the proposal is of public interest and to determine whether the plan satisfies planning and land use management criteria set forth in this amendment. Land covered by an approved plan and ordinances would not be within the jurisdiction of the Maine Land Use Regulation Commission. The amendment proposed that the application of other state environmental and land use laws to Indian territory would not be affected. The amendment also proposed that, in considering zoning changes or development permits elsewhere in the unorganized and deorganized areas of the State, the Maine Land Use Regulation Commission must provide notice to the tribe or nation when the action is located in the same or an adjacent township as the Indian territory. The amendment proposed that the new provisions be repealed January 1, 2004. The amendment proposed that it would not apply to the Passamaquoddy Tribe unless the Passamaquoddy Tribe agrees to its provisions, and that it would not apply to the Penobscot Nation unless the Penobscot Nation agrees to its provisions. (Not adopted)

Two Committees of Conference failed to agree.

LD 1978 — An Act to Extend Legal Counsel in Child Protection Cases — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
GAGNE FERGUSON	ONTP	

LD 1978 proposed to extend the appointment of counsel to represent an indigent parent or custodian in child protection proceedings to areas of divorce and actions for parental rights and responsibilities.

LD 1988 — An Act to Amend the Laws Governing Liability Associated with Juvenile Offenders Who Participate in Community Service Programs — PUBLIC 619

Sponsor(s)	Committee Report	Amendments Adopted
PIEH PINGREE	OTP-AM	H-863

LD 1988 proposed to provide coverage under the Maine Tort Claims Act for juveniles performing community service or restitution.

Committee Amendment "A" (H-863) proposed to replace the bill. It proposed to eliminate reference to the Maine Tort Claims Act and limit the liability of charitable organizations for claims arising from death or injury to a person or damage to property caused by a juvenile participating in a community service program. The amendment proposed to define "charitable organization" and clarify that juveniles participating in community service programs would not be covered by the Workers' Compensation Act.

Enacted law summary

Public Law 1997, chapter 619 limits the liability of charitable organizations for claims arising from death or injury to a person or damage to property caused by a juvenile participating in a community service program. Juveniles participating in community service programs are not covered under the Workers' Compensation Act.

LD 2036 — An Act to Amend the Act to Implement the Maine Indian Claims Settlement — PUBLIC 595

Sponsor(s)	Committee Report	Amendments Adopted
LORING	OTP	

LD 2036 proposed to amend the Act to Implement the Maine Indian Claims Settlement by defining the jurisdiction of the Penobscot Nation over certain crimes committed on their reservation. An omission of legislative language in Public Law 1995, chapter 388 created the need to restore the original intent of Public Law 1991, chapter 766.

Enacted law summary

Public Law 1997, chapter 595 amends the Act to Implement the Maine Indian Claims Settlement by extending the jurisdiction of the tribal court of the Penobscot Nation over victimless crimes committed on the reservation. The law is effective upon ratification by the Penobscot Nation.

LD 2058 — An Act to Ensure That Lump-sum Workers' Compensation Settlements Are Credited to Child Support Obligations — PUBLIC 654 EMERGENCY

Sponsor(s)	Committee Report	Amendments Adopted
BRAGDON	OTP-AM	H-864

LD 2058 proposed to ensure that child support obligations are met by applying a lump-sum settlement from a workers' compensation claim to any outstanding child support obligation.

Committee Amendment "A" (H-864) proposed to replace the bill. It proposed to require the sharing of information between the Department of Human Services and the Workers' Compensation Board to ensure DHS notification when a lump sum workers' compensation settlement is pending and the recipient is a child support obligor with accrued child support debts.

Enacted law summary

Public Law 1997, chapter 654 requires the sharing of information between the Department of Human Services and the Workers' Compensation Board to ensure that DHS is notified when a lump sum workers' compensation settlement is pending and the recipient is a child support obligor with accrued child support debts. Chapter 654 is effective April 1, 1998.

LD 2067 — An Act to Prevent Employment Discrimination Due to Medical History — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
LAWRENCE	ONTP	

LD 2067 proposed to prohibit employment discrimination on the basis of the applicant's or employee's medical history or the medical history of an applicant's or employee's dependent unless the applicant or employee is unable to meet job-related standards or is unable to perform the job without endangering the health or safety of that individual or others.

LD 2079 — An Act to Clarify the Role of Design Professionals under the Maine Human Rights Act — PUBLIC 630

Sponsor(s)	Committee Report	Amendments Adopted
JABAR	OTP-AM	H-855

LD 2079 proposed to resolve a conflict between a definition in the Maine Human Rights Act and professional licensing laws of the Maine Revised Statutes, Title 32. The bill proposed to add certified interior designers and landscape architects who are registered and regulated pursuant to Title 32 to the definition of "design professional" in the public accommodations provisions of the Maine Human Rights Act in order to increase the number of professionals available to review and approve plans for building renovations for compliance with the Maine Human Rights Act and the federal Americans with Disabilities Act.

Committee Amendment "A" (H-855) proposed to replace the bill. It proposed to delete the definition of “design professional” and replace the term in the text of the statute with a listing of the specific professions of architect, professional engineer, certified interior designer and landscape architect as appropriate. The amendment proposed that each of these professionals must be licensed, certified or registered under the Maine Revised Statutes, Title 32 and practicing within the scope of that individual's profession in order to certify that a plan is in compliance with accessibility requirements. The amendment proposed to clarify that services of an architect or professional engineer would still be required for all mandatory plan review.

Enacted law summary

Public Law 1997, chapter 630 amends the Maine Human Rights Act to make voluntary plan review for accessibility requirements easier by allowing the reviews to be done by additional categories of design professionals. It removes the definition of “design professional” and replaces the term in the text of the statute with a listing of the specific professions of architect, professional engineer, certified interior designer and landscape architect as appropriate. Each of these professionals must be licensed, certified or registered under the Maine Revised Statutes, Title 32 and practicing within the scope of that individual's profession in order to certify that a plan is in compliance with accessibility requirements. The services of an architect or professional engineer are still required for all mandatory plan review.

LD 2081 — An Act to Amend the Charter of the State Young Men's Christian Association of Maine — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
MCKEE LONGLEY	ONTP	

LD 2081 proposed to amend the law under which the State Young Men's Christian Association of Maine was formed to allow the organization to change its name, to add to the law the organization's mission statement and to repeal the provision limiting its assets to $500,000 in value. The YMCA of Maine may undertake those changes without legislative action.

LD 2090 — An Act to Protect Victims of Domestic Abuse from Eviction — ONTP

Sponsor(s)	Committee Report	Amendments Adopted
SAXL M KILKELLY	ONTP	

LD 2090 proposed to prohibit the eviction of a tenant due solely to the fact that the person is or may become a victim of domestic abuse. The bill also proposed to give victims of domestic abuse access to the Victims' Compensation Fund, on a loan basis, to be used by those victims to avoid eviction due to economic circumstances.

LD 2097 An Act to Simplify Corporate Filings PUBLIC 633

Sponsor(s)	Committee Report	Amendments Adopted
THOMPSON	OTP-AM	H-854

LD 2097 proposed changes concerning the use of a mark by a corporation, limited partnership, limited liability company or limited liability partnership, the required fee for changing the name or address of a contact partner, the minimum number of members to create a limited liability company and statements of authority for limited liability companies.

Committee Amendment "A" (H-854) proposed to remove a section from the bill concerning the assignment of marks.

Enacted law summary

Public Law 1997, chapter 633 revises the laws concerning business entities in several ways. It allows the use of certain marks by a corporation, limited partnership, limited liability company or limited liability partnership; it establishes different fees for changing the name or address of a contact partner of a limited liability partnership; it clarifies the minimum number of members required to create a limited liability company; and it repeals the requirement of statements of authority for limited liability companies.

LD 2132 An Act to Repeal the Sunsets on Certain Child Support Enforcement Remedies PUBLIC 669 EMERGENCY

Sponsor(s)	Committee Report	Amendments Adopted
NASS	OTP-AM	H-865
		H-916 THOMPSON

LD 2132 proposed to repeal the sunset provisions on several child support collection provisions.

Committee Amendment "A" (H-865) proposed to incorporate all changes necessary to comply with the Uniform Interstate Family Support Act, as mandated in 42 United States Code, Section 666(f). The amendment also proposed to add an emergency to the bill because of federally imposed deadlines.

House Amendment "A" to Committee Amendment "A" (H-916) proposed to change the time period within which payors must send withheld income to the Department of Human Services to be consistent with the rest of the bill and the Committee Amendment.

Enacted law summary

Public Law 1997, chapter 669 repeals sunsets on several child support enforcement provisions. It also incorporates all changes necessary to comply with the Uniform Interstate Family Support Act, as mandated in 42 United States Code, Section 666(f).

LD 2168 **An Act to Encourage Adoptions and Reduce the Number of Children in Foster Care in the State** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
BRAGDON	ONTP	

LD 2168 proposed to allow the birth family and adoptive parents to enter into agreements for continuing contact between the birth family and the child or adoptive parents. The bill would have allowed, prior to adoption, the birth family and the Department of Human Services or the licensed child-placing agency to enter into continuing contact agreements that could be changed after adoption by the adoptive family. The bill would have required a report from the Department of Human Services on progress in increasing adoptions of children within the care and custody of the department.

LD 2173 **An Act to Correct Errors and Inconsistencies in the Laws of Maine** **PUBLIC 683 EMERGENCY**

Sponsor(s)	Committee Report	Amendments Adopted
	OTP-AM	S-622

LD 2173, the "Errors Bill," proposed to make technical corrections in Maine laws.

Committee Amendment "A" (S-622) proposed to make additional technical corrections and several substantive corrections and changes.

Enacted law summary

Public Law 1997, chapter 683 makes technical and substantive corrections in Maine laws. The original bill (Part A) and Part B of the Committee Amendment make technical corrections. Part C makes substantive corrections of errors. Part D reconciles laws enacted last year concerning the Maine Jobs Council and the duties it has assumed with the repeal of various labor and job training councils. Part E contains substantive changes, including: authorizing the Chief Justice of the Supreme Judicial Court to assign Supreme Court Justices to sit in District Court and Administrative Court; adding to the list of exceptions to the unauthorized practice of law to carry out the intent of PL 1997, chapter 466 to allow humane agents and state veterinarians to enforce the animal welfare laws in court even if they are not attorneys; and correcting maximum age for those who are required to receive permission from the Probate Court before a marriage can proceed.

LD 2183 **An Act to Amend the Laws Regarding Intellectual Property Rights** **ONTP**

Sponsor(s)	Committee Report	Amendments Adopted
DONNELLY	ONTP	

LD 2183 proposed, in concept draft form, to ensure that an employee, as opposed to an employer, is entitled to property rights in an invention. The sponsor indicated that the purpose behind the bill was to authorize the use of intellectual property as collateral for research and development loans.

LD 2234 — Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services — RESOLVE 111

Sponsor(s)	Committee Report	Amendments Adopted
	OTP-AM MAJ	H-940
	OTP-AM MIN	H-1059 ETNIER

LD 2234 proposed to provide for legislative review of rules governing the implementation of hypodermic apparatus exchange programs, a major substantive rule of the Department of Human Services.

Committee Amendment "A" (H-940) (Majority Report) proposed to provide for amendments to the rules regarding the certification of needle exchange programs. The rule amendments proposed to clarify who signs the program application form and that program certification cannot be transferred.

Committee Amendment "B" (H-941) (Minority Report) proposed to specifically not authorize final adoption of the rules regarding the certification of needle exchange programs. (Not adopted)

House Amendment "A" (H-996) proposed to remove the emergency preamble and emergency clause from the resolve. (Not adopted)

House Amendment "B" (H-105) proposed to remove the emergency preamble and emergency clause from the resolve.

Enacted law summary

Resolve 1997, chapter 111 authorizes the final adoption of rules by the Department of Human Services governing the certification of hypodermic apparatus exchange programs.

LD 2246 — An Act to Require Expeditious Action in Child Protection Cases — PUBLIC 715

Sponsor(s)	Committee Report	Amendments Adopted
LAFOUNTAIN	OTP-AM	S-560

LD 2246 proposed to require expeditious action in child protection cases. It proposed summary preliminary hearings, shortened time periods, an expanded list of aggravating factors in child protection cases leading to termination, procedural safeguards for foster and preadoptive parents and relatives providing care and revised reunification responsibilities of the Department of Human Services.

Committee Amendment "A" (S-560) proposed additional recommendations from the Committee to Study the Role of the Courts in Protecting Children, including:

1. Excluding scheduling problems as a reason to delay the issuance of a jeopardy order within 120 days of the filing of a child protection petition;

2. Adding as an aggravating circumstance the fact that the parent has refused for 6 months to comply with treatment required in a reunification plan;

3. Making changes consistent with the legal roles of the legal guardian and custodian;

4. Deleting unnecessary sections concerning the contents of the petition;

5. Clarifying the standard for when the Department of Human Services may be excused from presenting plans or decisions to the court;

6. Revising the procedure the department must follow when it decides to terminate reunification efforts; and

7. Clarifying when the department is not required to file a termination petition;

The amendment also proposed to require the Department of Human Services to notify both the District Court in which the child protection action is pending and the guardian ad litem when the department consents to the adoption of a child within the department's custody.

Enacted law summary

Public Law 1997, chapter 715 requires expeditious action in child protection cases. It provides for summary preliminary hearings, shortened time periods, an expanded list of aggravating factors in child protection cases leading to termination of parental rights, and procedural safeguards for foster and preadoptive parents and relatives providing care, and it alters the reunification responsibilities of the Department of Human Services. Chapter 715 also requires DHS to notify the child's guardian ad litem when the department consents to the adoption of a child within the department's custody.