

Joint Standing Committee on Judiciary

LD 30

An Act to Correct Errors and Inconsistencies in the Laws of Maine

PUBLIC 471
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-749 H-750 LAVERDIERE

LD 30 proposed to make technical corrections to Maine Laws.

Committee Amendment "A" (H-749) proposed to make both technical corrections and substantive changes.

House Amendment "A" to Committee Amendment "A" (H-750) proposed additional technical and substantive changes.

Enacted law summary

Public Law 2001, chapter 471 makes technical and substantive corrections and changes to the laws of Maine. Parts A, B and F make technical corrections. Changes contained in Parts C, D, E and G make changes that may be considered or are substantive changes.

Public Law 2001, chapter 471 was enacted as an emergency measure effective June 29, 2001.

LD 56

An Act to Provide the Right to a Jury Trial in Civil Actions for
Civil Rights Violations

PUBLIC 50

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE W	OTP-AM	H-73

LD 56 proposed to provide the right to a trial by jury in civil actions for violations of constitutional rights under the Maine Civil Rights Act.

Committee Amendment "A" (H-73) proposed to replace the bill. It proposed to restructure the sections of the Maine Civil Rights Act relating to actions by the Attorney General and private citizens to make the sections easier to read. It also proposed to incorporate changes made by the bill to specify where private actions must be brought and to provide for a right to a jury trial in actions under the Act. Finally, it proposed to amend the language of the bill to provide that the right to a jury trial does not apply to a hearing on an application for a temporary restraining order or a preliminary injunction.

Enacted law summary

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Public Law 2001, chapter 50 provides that a person has a right to a jury trial in a civil action by the Attorney General or by an aggrieved person under the Maine Civil Rights Act. The right to a jury trial does not apply to a hearing on an application for a temporary restraining order or a preliminary injunction. The law also specifies where actions by aggrieved persons must be brought and restructures the sections of the Act relating to civil actions to make the law easier to read.

LD 85 **An Act Requiring Compensation for Loss of Property Value Due to State or Local Regulation** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	ONTP MAJ OTP-AM MIN	

LD 85 proposed to require the State and its political subdivisions to pay property owners when state or local regulations lower the owner's property value by more than 50%.

Committee Amendment "A" (H-462) is the minority report of the Joint Standing Committee on Judiciary. This amendment proposed to add a mandate preamble and a fiscal note to the bill. (Not adopted)

LD 119 **An Act to Ban Partial Birth Abortion in the 3rd Trimester Except to Save the Life of the Mother** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS G DAVIS P	ONTP MAJ OTP MIN	

LD 119 proposed to prohibit a physician from performing a partial birth abortion during a mother's 3rd trimester of pregnancy unless it is necessary to preserve the life of the mother. Partial birth abortion was defined and a civil penalty of up to \$5,000 was specified.

See also LD 135.

LD 128 **An Act to Amend the State Autopsy Law** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY	ONTP MAJ OTP-AM MIN	

LD 128 proposed to require a medical examiner to perform an autopsy when the family of a deceased person suspects that the person did not die of natural causes and requests the autopsy. The bill proposed to require the expenses of such an autopsy to be paid from the Victims' Compensation Fund.

Joint Standing Committee on Judiciary

Committee Amendment "A" (S-202) is the minority report of the Joint Standing Committee on Judiciary. This amendment proposed to add a fiscal note to the bill. (Not adopted)

LD 135

An Act to Ban Partial Birth Abortion

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WATERHOUSE	ONTP	

LD 135 proposed to prohibit partial-birth abortions except when necessary to save the life of the mother. Performance of a partial-birth abortion in violation of the provisions of this bill would be a Class D crime.

See also LD 119.

LD 162

An Act to Change the Criteria for Intervenor Status

PUBLIC 58

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE MCALEVEY	OTP-AM	H-74

Under current law, the court is required to grant standing and intervenor status if it finds, in addition to other criteria, that a grandparent has an existing relationship or has made sufficient effort to establish a relationship with a child. LD 162 proposed to provide that this requirement need not be met when the child is six months old or younger at the time of the initial petition.

Committee Amendment "A" (H-74) proposed to rewrite the current law governing the criteria for standing and intervenor status of grandparents in child protective cases to clarify that all three criteria are required except when the child is no more than six months old at the time of the initial child protection petition. If the child is that young, the grandparents would not have to satisfy the criteria of an existing relationship with the child or sufficient efforts to establish a relationship.

Enacted law summary

Under current law, the court is required to grant standing and intervenor status in a child protection action if it finds, in addition to other criteria, that a grandparent has an existing relationship or has made sufficient effort to establish a relationship with the child. Public Law 2001, chapter 58 provides that this requirement need not be met when the child is six months old or younger at the time of the initial petition.

Joint Standing Committee on Judiciary

LD 164

An Act to Provide Immunity for Guardians Ad Litem

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER MCALEVEY	ONTP	

LD 164 proposed to provide immunity to guardians ad litem appointed by a court in child protection proceedings.

See also LD 724.

LD 178

An Act to Implement the Continuation of Service Recommendations of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf

**P & S 12
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM REP	H-96
	OTP-AM REP	
	ONTP REP	

LD 178 is a recommendation of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf, created by Resolve 1999, chapter 127, Part B. The committee's final report was submitted in December 2000. LD 178 proposed to require the Department of Mental Health, Mental Retardation and Substance Abuse Services to continue to provide counseling and other mental health services to former students of the Governor Baxter School for the Deaf and the Maine School for the Deaf. These services would be provided at no cost to the service recipients.

Committee Amendment "A" (H-96) was the majority report of the Joint Standing Committee on Judiciary. It proposed to add a fiscal note to the bill.

Committee Amendment "B" (H-97) was a minority report of the Joint Standing Committee on Judiciary. It proposed to repeal on January 1, 2007 the language requiring the provision of services to former students at the Maine School for the Deaf and the Governor Baxter School for the Deaf. It also proposed to add a fiscal note to the bill. (Not adopted)

See also LD 271 and LD 293.

Enacted law summary

Private and Special Law 2001, chapter 12 is a recommendation of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf, created by Resolve 1999, chapter 127, Part B. The committee's final report was submitted in December 2000.

Joint Standing Committee on Judiciary

Private and Special Law 2001, chapter 12 requires the Department of Mental Health, Mental Retardation and Substance Abuse Services to continue to provide counseling and other mental health services to former students of the Governor Baxter School for the Deaf and the Maine School for the Deaf. These services must be provided at no cost to the service recipients.

Private and Special Law 2001, chapter 12 was enacted as an emergency measure effective May 2, 2001.

LD 195

An Act to Place a Time Limit on the Award of Spousal Support

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS	ONTP MAJ	
FERGUSON	OTP-AM MIN	

LD 195 proposed to limit the payment of spousal support to a term not to exceed 1/2 the length of a marriage for parties who have been married up to 40 years and limit the payment of spousal support to 20 years for parties who have been married for more than 40 years.

Committee Amendment "A" (H-88), the minority report of the Judiciary Committee, proposed to limit the effect of the original bill to allow general spousal support to continue beyond the time limits stated in the bill if the former spouse receiving the spousal support is or becomes incapacitated to the extent that the former spouse can not be self-supporting financially once the payments end. If this occurs during the last six months of the scheduled payments, the obligee spouse may petition the court to modify the order, which the court may do after notice and a hearing. (Not adopted)

LD 202

An Act to Improve Maine's Jail Diversion Programs

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN		
DAGGETT		

LD 202 proposed to authorize the Judicial Department to establish mental health treatment programs in the Superior Courts and District Courts, possibly in conjunction with the drug courts.

This bill has been carried over to the Second Regular Session.

Joint Standing Committee on Judiciary

LD 221

An Act to Improve Allowances for Jury Duty

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	OTP-AM MAJ ONTP MIN	S-22

LD 221 proposed to require courts to reimburse jurors for parking expenses and to give jurors an allowance of \$10 a day for meals.

Committee Amendment "A" (S-22) proposed to add an appropriation section to fund the meal allowance for jurors. An appropriation was not needed for parking expenses because funding for parking expenses was included in the Part I budget bill, LD 300, Public Law 2001, chapter 358.

LD 242

An Act to Amend the Freedom of Access Laws

ONTP

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

LD 242 proposed to allow a person other than the Attorney General or a district attorney to bring an action to enforce the freedom of access laws if the Attorney General fails to bring an action within 30 days after receiving a complaint of a violation.

LD 264

An Act Regarding the State's Land Use Mediation Program

PUBLIC 184

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT COWGER	OTP-AM	S-130

LD 264 proposed to remove sunset provisions that, effective October 1, 2001, repeal the State's Land Use Mediation Program, administered by the Judicial Department's Court Alternative Dispute Resolution Service. The bill also proposed to provide for a biennial report from the Land and Water Resources Council to the Legislature, Governor and Judicial Department on the program's effectiveness.

Committee Amendment "A" (S-130) proposed to repeal the whole paragraph pertaining to the repeal of the land use mediation program. It also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 184 removes sunset provisions that, effective October 1, 2001, repeal the State's Land Use Mediation Program, administered by the Judicial Department's Court Alternative Dispute Resolution Service.

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The bill also provides for a biennial report from the Land and Water Resources Council to the Legislature, Governor and Judicial Department on the program's effectiveness.

LD 270 **An Act to Create a Resource within State Government to Protect the Privacy of Personal Information** **INDEF PP**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 270 was a concept draft proposing to create a resource, e.g., an ombudsman, within state government to protect the privacy of personal data. The bill was a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. LD 270 was indefinitely postponed prior to being referred to a committee. See also LD 298, 299, 872 and 1681.

LD 271 **An Act to Establish the Baxter Compensation Program** **ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 271 is a recommendation of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf, created by Resolve 1999, chapter 127, Part B. The committee's final report was submitted in December 2000.

The bill proposed to create the Baxter Compensation Authority, which would establish the Baxter Compensation Program to pay compensation to the former students who were sexually or physically abused while attending the Governor Baxter School for the Deaf or its predecessor, the Maine School for the Deaf.

The bill, along with changes recommended by the Judiciary Committee, was incorporated into the Part II Budget, LD 855, Public Law 2001, chapter 439 as Part T. Funding for the program, proposed in LD 293, is also included in Part T.

LD 273 **An Act to Clarify that Polluters Who Violate the Environmental Laws on Private Land are Liable for Their Actions** **PUBLIC 365**

<u>Sponsor(s)</u> LAVERDIERE MARTIN		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> H-560
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LD 273 proposed to provide that a person who accesses property to pursue recreational or harvesting activities is liable for any violations or infractions of state environmental laws. State agencies would be required to exercise due diligence in finding and prosecuting these violators.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-560), the majority report of the committee, proposed to replace the bill. It proposed to provide that an owner, lessee, manager, easement holder or occupant of premises is not subject to criminal penalties or civil penalties or forfeitures for violation of laws or rules enforced by the Maine Land Use Regulation Commission or the Department of Environmental Protection if that person provides substantial, credible evidence that the violation was committed by a 3rd party who is not an employee, contractor or agent of the owner, lessee, manager, easement holder or occupant. The amendment proposed to require the department and the commission to investigate substantiated allegations that a 3rd party committed the violation. It also proposed to clarify that this does not exempt the owner, lessee, manager, easement holder or occupant from the obligation to remediate or abate the environmental hazard or damage caused by the violation. Finally, the amendment proposed to provide that the exemption does not apply to a person who is designated a "responsible party" under the laws relating to oil discharge, tire stockpiles and uncontrolled hazardous substance sites.

Enacted law summary

Public Law 2001, chapter 365 provides that an owner, lessee, manager, easement holder or occupant of premises is not subject to criminal penalties or civil penalties or forfeitures for violation of laws or rules enforced by the Maine Land Use Regulation Commission or the Department of Environmental Protection if that person provides substantial, credible evidence that the violation was committed by a 3rd party who is not an employee, contractor or agent of the owner, lessee, manager, easement holder or occupant. The department and the commission are required to investigate substantiated allegations that a 3rd party committed the violation. Chapter 365 does not exempt the owner, lessee, manager, easement holder or occupant from the obligation to remediate or abate the environmental hazard or damage caused by the violation. Finally, the exemption in chapter 365 does not apply to a person who is designated a "responsible party" under the laws relating to oil discharge, tire stockpiles and uncontrolled hazardous substance sites.

LD 293

An Act to Implement the Funding Recommendations of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf

**DIED ON
ADJOURNMENT**

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-413

LD 293 is a recommendation of the Committee to Develop a Compensation Program for Victims of Abuse at the Governor Baxter School for the Deaf, created by Resolve 1999, chapter 127, Part B. The committee's final report was submitted in December 2000.

This bill proposed to provide an additional \$5,000,000 to the Governor Baxter School for the Deaf Student Trust Fund to be used to pay compensation and to cover the costs of the operation of the Baxter Compensation Program.

Committee Amendment "A" (H-413) proposed to replace the bill. It proposed to require the State Controller to transfer \$5,000,000 from the Maine Rainy Day Fund into the Governor Baxter School for the Deaf Student Trust Fund. The trust fund would be used to pay compensation to former students of the Maine School for the Deaf and the Governor Baxter School for the Deaf for abuse they suffered while students at either school.

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The funding for the Baxter Compensation Program is included in Part T of the Part II Budget, LD 855, Public Law 2001, chapter 439.

LD 298 **An Act to Include Analysis and Review of Information Practices in the State Government Evaluation Act Process** **INDEF PP**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 298 proposed to require state agencies to include a review of agency information practices and implementation of information technology as part of their self-evaluation under the Governmental Evaluation Act. LD 298 was a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. LD 298 was indefinitely postponed prior to being referred to a committee, but the substance of LD 298 was included in LD 1681 and enacted as Public Law 2001, chapter 321. See also LD 270 and 299.

LD 299 **An Act to Implement the Recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy** **INDEF PP**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 299 proposed to require state and local agencies that maintain Internet web sites to develop policies regarding the collection, maintenance and use of personal information and to post those information practices policies on their web sites. It also proposed to create a commission to study Internet and information policy issues, including development of a comprehensive information practices law. LD 299 was a recommendation of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. LD 299 was indefinitely postponed prior to being referred to a committee, but the requirement that state and local agencies post information practices policies on their web sites was included in LD 1681 and enacted as Public Law 2001, chapter 321. See also LD 270, 298, 872 and 1681.

LD 301 **An Act to Implement the Recommendations of the Judicial Compensation Commission Regarding Retirement Benefits** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM MAJ		S-40
		ONTP MIN		

LD 301 proposed to implement certain recommendations of the Judicial Compensation Commission established by the Maine Revised Statutes, Title 4, chapter 35. LD 301 proposed that the maximum retirement benefit of all judges appointed on or after December 1, 1984 be 70% of average final compensation. Current law provides a

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formula for determining the maximum benefit percentage that results in judges with significant service prior to 1998 having a lower maximum benefit percentage than judges whose service began after 1997. This bill proposed to bring the maximum level for all judges appointed after December 1, 1984 to the 70% level. The substance of LD 301 was enacted as Part VV of the Part II budget bill, Public Law 2001, chapter 439.

LD 307

An Act to Clarify Arrest Powers under Certain Bench Warrants

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOUFFARD DOUGLASS	ONTP	

LD 307 proposed to require police officers to verify within 24 hours of the execution of a bench warrant issued for reason of an unpaid fine for an underlying Class D or Class E offense that the fine is still unpaid or the arrestee must be released.

See also LD 1073.

LD 309

An Act Regarding Statute of Limitations for Attorneys

PUBLIC 115

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE	OTP-AM	H-196

LD 309 proposed to provide a 20-year statute of limitations for actions alleging professional negligence of attorneys in the rendering of real estate title opinions. The 20-year statute of limitations would begin to run the date an opinion is rendered.

Committee Amendment "A" (H-196) proposed to replace the bill. It proposed to clarify current law setting forth the time when the statute of limitations begins to run for claims of professional malpractice, negligence or breach of contract against attorneys. Under current law and the amendment, the statute of limitations for actions against attorneys begins to run when the negligence, breach of contract or malpractice occurs, except that, in actions relating to wills and rendering of title opinions, the statute of limitations begins to run when the negligence or malpractice is discovered. This amendment proposed to change current law by setting an outside limit on when a cause of action for negligence in rendering a title opinion may be brought. Such an action must be brought within six years of discovery, but not more than 20 years from the rendering of the title opinion.

The amendment proposed to provide that a cause of action relating to a title opinion that was rendered more than 20 years before the effective date of the law change, which would otherwise be barred by the law change, could be brought within two years from the effective date of the law change or within the statute of limitations already applicable, whichever is earlier.

Enacted law summary

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Public Law 2001, chapter 115 clarifies and amends the law relating to the statute of limitations for actions alleging professional negligence of attorneys in the rendering of real estate title opinions. It clarifies current law that provides that the statute of limitations for actions against attorneys begins to run when the negligence, breach of contract or malpractice occurs, except that, in actions relating to wills and rendering of title opinions, the statute of limitations begins to run when the negligence or malpractice is discovered. Chapter 115 changes current law by setting an outside limit on when a cause of action for negligence in rendering a title opinion may be brought. Such an action must be brought within six years of discovery, but not more than 20 years from the rendering of the title opinion. A cause of action relating to a title opinion that was rendered more than 20 years before the effective date of chapter 115, which would otherwise be barred by chapter 115, may be brought within two years from the effective date of chapter 115 or within the statute of limitations already applicable, whichever is earlier.

LD 361 **An Act to Adopt the Model Business Corporation Act in Maine** **CARRIED OVER**

<u>Sponsor(s)</u> RICHARDSON EDMONDS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 361 is a concept draft that proposed to update the State's business corporation act following a comprehensive review of the act by the Corporate Law Revision Committee of the Business Law Section of the Maine State Bar Association. That Committee proposes to recommend revisions after reviewing the most recent model corporations act and other states' laws and working with representatives of the Office of the Secretary of State.

This bill has been carried over to the Second Regular Session.

LD 363 **An Act to Clarify the Law Regarding Name Changes** **PUBLIC 163**

<u>Sponsor(s)</u> MITCHELL C LONGLEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-280
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LD 363 proposed to give the probate court judge discretion concerning whom to notify when a person petitions the court for a name change. If the person showed that the person is or was a victim of domestic abuse by the person's spouse, the judge would not be required to notify the spouse of the name change.

Committee Amendment "A" (H-280) proposed to replace the bill. It proposed to repeal and replace the current law governing changes of name to change the format. It proposed to give the probate court judge the authority to limit the amount of notice that is required before the judge orders a change in a person's name when the purpose is to protect the person's safety.

Enacted law summary

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Public Law 2001, chapter 163 gives the Probate Court Judge the authority to limit the amount of notice that is required before the judge orders a change in a person's name when the purpose is to protect the person's safety. The person must first show by a preponderance of the evidence that the person is a victim of abuse and that the person is currently in fear of his or her safety. The Probate Court Judge will determine the appropriate amount of notice that must be given based on the facts of the case. If the judge limits the notice that must be given, the judge may seal the records of the name change. The fee for filing the name change petition is not changed.

LD 364

Resolve, Recognizing the Phi Eta Kappa Building Association as a Nonprofit Corporation

RESOLVE 32

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMAS CATHCART	OTP-AM	H-342

LD 364 proposed to give nonprofit corporation status to the Phi Eta Kappa Building Association and allow the board of directors of the corporation to amend the bylaws to conform to the Maine Nonprofit Corporation Act.

Committee Amendment "A" (H-342) proposed to require the Phi Eta Kappa Building Association to file its restated Articles of Incorporation with the Secretary of State by December 31, 2001. It also proposed to add a fiscal note to the resolve.

Enacted law summary

Resolve 2001, chapter 32 gives nonprofit corporation status to the Phi Eta Kappa Building Association and allows the board of directors of the corporation to amend the bylaws to conform to the Maine Nonprofit Corporation Act. It also requires the Phi Eta Kappa Building Association to file its restated Articles of Incorporation with the Secretary of State by December 31, 2001. This creates the appropriate paper trail for public disclosure of the conversion of the association from a for-profit corporation to a nonprofit corporation made by this resolve.

LD 396

An Act to Update the Abandoned Property Laws

DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS CHIZMAR		

The Maine Revised Statutes, Title 14, section 6013 establishes the procedure for disposal of property with a value of less than \$500 that is abandoned by a tenant. LD 396 proposed to extend application of this procedure to property with a value of less than \$750.

This bill was not referred to a committee.

Joint Standing Committee on Judiciary

LD 400

An Act to Implement the Recommendations of the Judicial Compensation Commission Regarding Per Diem Compensation

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	S-55
	ONTP MIN	

LD 400 proposed to implement certain 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 as follows: (1) Chief Justice of the Supreme Judicial Court: from \$111,000 to \$124,840; (2) Associate Justices of the Supreme Judicial Court: from \$96,000 to \$108,556; (3) Chief Justice of the Superior Court and Chief Judge of the District Court: from \$94,000 to \$106,385; (4) Associate Justices and Judges: from \$90,000 to \$102,043; and (5) Deputy Chief Judge of the District Court: from 90,000 to \$104,214. It also proposed to increase the per diem rate for Active Retired Judges and Justices from \$200 to \$300 for a full day and from \$125 to \$175 for a half-day.

Committee Amendment "A" (S-55) proposed to delete the provisions of the bill to increase the salaries of Supreme Judicial Court and Superior Court Justices and District Court Judges. It proposed to retain provisions that increase the per diem compensation for active retired Superior Court Justices and District Court Judges.

Provisions to increase the per diem compensation for active retired Superior Court Justices and District Court Judges were enacted as Part DDD of the Part II budget bill, Public Law 2001, chapter 439.

LD 423

An Act to Facilitate Implementation of Court Alcohol and Drug Treatment Programs

**PUBLIC 318
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE W DAGGETT	OTP-AM	H-500

LD 423 proposed to allow a court to order participation in a drug and alcohol treatment program as a condition of post-conviction bail. This bill also proposed to allow the court to impose sanctions if the defendant violates the condition.

Committee Amendment "A" (H-500) proposed to replace the bill. It proposed to allow the court to suspend an order of bail, resulting in a period of detention of up to 7 days, if the defendant violates the condition.

Enacted law summary

Public Law 2001, chapter 318 allows a court to order participation in a drug and alcohol treatment program as a condition of post-conviction bail. It also allows the court to suspend an order of bail, resulting in a period of detention of up to 7 days, if the defendant violates the condition. The defendant will have an opportunity to

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personally address the court prior to any suspension of the order of bail, but will not have the right to a formal hearing. The period of suspension of bail is a period of detention under the Maine Revised Statutes, Title 17-A, section 1253, subsection 2.

Public Law 2001, chapter 318 was enacted as an emergency measure effective May 30, 2001.

LD 459 **An Act to Expand the Authority of Maine Prosecutors to Coordinate the Prosecution of Drug Cases** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WINSOR	ONTP	

LD 459 proposed to repeal the requirement in current law that the Attorney General appoint one assistant attorney general to supervise drug prosecution.

LD 472 **Resolve, to Establish a Fatherhood Issues Study Commission** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TESSIER CLARK	OTP-AM	

LD 472 was a concept draft pursuant to Joint Rule 208. It proposed to establish a study commission to examine various issues associated with being a father in Maine.

Committee Amendment “A” (H-87), the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill with a resolve to create the Commission on Fatherhood Issues consisting of 11 members appointed by the President of the Senate and the Speaker of the House of Representatives. The resolve proposed that the commission study issues concerning the barriers to being an involved father in Maine.

This bill has been carried over to the Second Regular Session by the Joint Standing Committee on Appropriations and Financial Affairs.

LD 483 **An Act to Revise the Sewer Lien Laws** **PUBLIC 319**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WINSOR BENNETT	OTP-AM	H-460

LD 483 was jointly referred to the Utilities and Energy Committee and the Judiciary Committee. The Judiciary Committee reviewed the language proposed by the Utilities Committee and voted unanimously to support it.

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LD 483 proposed to revise the law concerning sanitary district liens in 2 ways.

1. It proposed to provide that a sanitary district lien must be placed on a mobile home and not on the land when the mobile home is located on the land of another person and the owner of the mobile home is directly obligated to the district to pay the sewer rate.
2. It proposed to require the district to notify the owner of the real estate subject to a lien prior to foreclosure in the same manner as current law requires a municipality to notify prior to foreclosure the owner of real estate on which a tax lien has been placed.

Committee Amendment "A" (H-460) proposed to do the following.

1. Remove that portion of the bill that requires that a sanitary district lien be placed on a mobile home;
2. Add to the provision of the bill requiring a district to notify a person of the impending foreclosure of any lien placed the person's property by establishing the form of the notice; and
3. Add a mandate preamble to the bill.

Enacted law summary

Public Law 2001, chapter 319 revises the law concerning sanitary district liens. It requires a district to notify the owner of real estate subject to a lien prior to foreclosure in the same manner as a municipality must provide such notice prior to foreclosure of a tax lien.

LD 512

An Act to Encourage HIV Testing of Pregnant Patients

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE MITCHELL B	ONTP	

LD 512 proposed to allow physicians to test pregnant women for HIV after obtaining oral consent to testing, rather than written consent as is required under current law, and after providing less extensive counseling about the test than is required under current law.

LD 559

An Act to Provide Uniformity and Consistency in the Appeals from the Trial Courts to the Law Court

PUBLIC 17

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE	OTP	

Joint Standing Committee on Judiciary

LD 559 proposed to provide greater uniformity and consistency in the appeal process for civil cases by allowing the Supreme Judicial Court to set, by rule, the time periods and conditions for direct appeals from the District and Superior Courts to the Law Court. Statutes regarding appeals by criminal defendants already provide that time periods and manner of appeal are set by rule.

Enacted law summary

Public Law 2001, chapter 17 allows the Supreme Judicial Court to set, by rule, the time periods and conditions for direct appeals of civil cases from the District and Superior Courts to the Law Court. Statutes regarding appeals by criminal defendants already provide that time periods and manner of appeal are set by rule.

LD 561 **An Act to Correct the Judicial Retirement Laws Regarding
Administrative Court Judges**

**PUBLIC 12
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE	OTP	

LD 561 proposed to correct inadvertent revisions to judicial retirement laws caused by the merging of the Administrative Court with the District Court. LD 561 would ensure that the judicial retirement laws continue to cover retired Administrative Court judges.

Enacted law summary

Public Law 2001, chapter 12 corrects inadvertent revisions to judicial retirement laws caused by the merging of the Administrative Court with the District Court. Public Law 2001, chapter 12 ensures that the judicial retirement laws continue to cover retired Administrative Court judges.

Public Law 2001, chapter 12 was enacted as an emergency measure effective April 6, 2001.

LD 614 **An Act to Exempt Persons at Least 70 Years of Age from Jury
Service at Their Discretion**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEDMAN	ONTP MAJ OTP-AM MIN	

LD 614 proposed to allow persons 70 years of age and older who do not wish to serve on a jury to be excused from jury service.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-37) proposed to require a court to excuse a person 70 years of age or older from jury service if that person does not wish to serve on a jury, rather than giving the court an option to excuse such a person. (Not adopted)

LD 629 **An Act to Allow a Mortgagor to Select a Land Title Company to Perform the Title Search** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHERMAN DAVIS P	ONTP MAJ OTP-AM MIN	

LD 629 proposed to require that a financial institution or credit union that accepts an application for a residential mortgage for one to four residential units and require a title search on the property subject to the mortgage must permit the prospective mortgagor to select a land title company to perform the title search.

Committee Amendment "A" (H-276) was the minority report of the Joint Standing Committee on Judiciary. It proposed to amend the Maine Consumer Credit Code to be consistent with the bill concerning the right of a mortgagor to select a land title company.

This amendment also proposed to correct a reference to closing services provided to a financial institution. It also proposed to add a fiscal note to the bill. (Not adopted)

LD 651 **An Act to Restore the Maine Court Facilities Authority** **DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKENNEY BENNETT		

LD 651 proposed to replace the Maine Governmental Facilities Authority with the Maine Court Facilities Authority and limit the projects for which the authority may issue securities to the acquisition, construction, improvement, reconstruction or equipping of court facilities. The bill proposed to place a limit of \$25,000,000 on the amount of securities that may be issued by the authority of \$25,000,000 to provide that the amount may be changed only by a 2/3 vote of each House of the Legislature.

This bill was not referred to a committee.

Joint Standing Committee on Judiciary

LD 683 **An Act to Allow Godparents as Intervenors in Child Custody Cases with the Department of Human Services** **ONTP**

<u>Sponsor(s)</u> SHERMAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 683 proposed to extend intervenor status to godparents in any child protection proceeding.

See also LD 1793 and HP 1385.

LD 684 **An Act to Require Courts to Take Federal Disability Payments into Account when Determining Child Support Awards** **ONTP**

<u>Sponsor(s)</u> PINKHAM		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 684 was a concept draft pursuant to Joint Rule 208. LD 684 proposed to establish guidelines that a court must use in determining awards of child support that would take into account federal disability payments received by the individual against whom the award is made. At a minimum, these guidelines would prohibit an award against an individual who is 100% disabled for more money than allowed under current federal standards regarding disability benefits.

LD 698 **An Act to Prohibit Discrimination** **ONTP**

<u>Sponsor(s)</u> PERKINS LEMONT		<u>Committee Report</u> ONTP MAJ OTP-AM MIN		<u>Amendments Adopted</u>
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LD 698 proposed to repeal references to protected classes in portions of the Maine Human Rights Act and replace them with a general prohibition against discrimination in the areas specified in current law subject to certain exceptions.

Committee Amendment "A" (H-333) was the minority report. It proposed to add a fiscal note. (Not adopted)

LD 709 **An Act Regarding Ancient Execution Liens** **PUBLIC 275**

<u>Sponsor(s)</u> LAVERDIERE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-411
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Joint Standing Committee on Judiciary

LD 709 proposed to provide for the creation of a lien that continues for a period of 20 years from date of recording. The lien proposed to protect the creditor by having available a renewal for a period of 20 years. The lien also had a transition renewal time period of two years from the date of enactment of this bill.

Committee Amendment "A" (H-411) proposed to provide that an execution lien continues for a period of 20 years from the date of the filing or recording of the writ of execution. Language would be added to clarify that the renewal writ of execution may also be designated an alias or pluries writ of execution. A change would be made to the Maine Revised Statutes, Title 14, section 4653 to clarify that such renewal writs may properly be issued within 10 years after the day of issuance of the preceding writ of execution.

Part B of the amendment proposed to update the laws that validate real estate titles despite the presence of certain technical defects in acknowledgement or content of documents.

Enacted law summary

Public Law 2001, chapter 275 provides that an execution lien continues for a period of 20 years from the date of the filing or recording of the writ of execution, as such writs may not only be recorded at the registry of deeds but may also be filed with the Secretary of State. The renewal writ of execution may also be designated an alias or pluries writ of execution. Such renewal writs may properly be issued within 10 years after the date of issuance of the preceding writ of execution.

Part B of chapter 275 updates the laws that validate real estate titles despite the presence of certain technical defects in acknowledgement or content of documents.

LD 721

Resolve, Establishing a Panel for Repeal of Unnecessary or Archaic Laws

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRESSEY	ONTP MAJ	
MCALEVEY	OTP-AM MIN	

LD 721 proposed to establish a panel for repeal of unnecessary or archaic laws.

Committee Amendment "A" (H-285) was the minority report of the Joint Standing Committee on Judiciary. This amendment proposed to add an appropriation section and a fiscal note to the resolve. (Not adopted)

Joint Standing Committee on Judiciary

LD 724

An Act to Implement the Recommendations of the Courts' Guardian ad Litem Committee

PUBLIC 253

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MADORE LAFOUNTAIN	OTP MAJ OTP-AM MIN	

Public Law 1995, chapter 405, "An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved," requested the Supreme Judicial Court to develop a program to train, certify and supervise guardians ad litem. The court appointed a committee to oversee these tasks and the committee proposed rules and standards for guardians ad litem to the court, which were adopted in 1999.

In the course of its work, the committee identified a number of provisions of law that it felt needed to be corrected by appropriate legislation to harmonize existing provisions of the Maine Revised Statutes, Title 19-A and Title 22 of the Maine statutes.

Committee Amendment "A" (H-339) was the minority report. It proposed to delete the language providing quasi-judicial immunity to guardian ad litem in child protective cases. (Not adopted)

Enacted law summary

Public Law 2001, chapter 253 contains the recommendations of the Supreme Judicial Court's committee to oversee the development of a program to train, certify and supervise guardians ad litem. Chapter 253: amends the laws governing the Court Appointed Special Advocate Program, or "CASA," to clarify that court appointed special advocates have quasi-judicial immunity as do other guardians ad litem, and that, if a CASA volunteer is sued the volunteer is entitled to a defense by the Department of the Attorney General; clarifies the law to provide that a guardian ad litem's report in domestic relation cases is fully admissible and subject to a party's rights to cross-examine the guardian ad litem or call rebuttal witnesses as in cases arising under child protective laws; and amends the law to clarify that guardians ad litem in child abuse cases have quasi-judicial immunity, as in cases arising under the domestic relations laws.

LD 744

An Act to Allow Private Maintenance of Public Easements

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKEE NUTTING J	ONTP	

LD 744 proposed to allow persons who are directly benefited by a public easement to utilize a statutory procedure in the Maine Revised Statutes, Title 23, section 3101 for collecting funds to maintain the public easement. This bill was referred to the Judiciary Committee from the Transportation Committee. See also LD 1016.

Joint Standing Committee on Judiciary

LD 745

**An Act to Require the Audio Recording of Interviews of Children
by the Department of Human Services**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERKINS KILKELLY	ONTP	

LD 745 proposed to require the Department of Human Services to make an audio recording of all interviews with children subject to child protective proceedings. If a recording is not made, the department would not be able to use the information in a child protective proceeding unless a judge decides that exigent circumstances exist to require the information to be used. The department would be required to provide the parent of the child a copy of the recording before the proceeding in which the information is used.

See also LD 1793 and HP 1385.

LD 751

An Act to Amend the Maine Tort Claims Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS	ONTP MAJ OTP-AM MIN	

LD 751 proposed to amend the Maine Tort Claims Act to allow a person to sue a governmental entity when its employees, with malicious intent, act or fail to act in a manner that causes injury to that person.

Committee Amendment "A" (H-338) was the minority report. It proposed to add an appropriation and fiscal note. (Not adopted)

LD 783

An Act to Update the Probate Code

PUBLIC 57

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAWYER MENDROS	OTP-AM	S-37

LD 783 proposed to increase the homestead allowance from \$5,000 to \$10,000. The bill also proposed to increase the exempt property from an estate allowed to a surviving spouse from \$3,500 to \$7,000. The bill also proposed to increase the spouse or family allowance from periodic installments of \$500 a month to \$1,000 a month.

Committee Amendment "A" (S-37) proposed to increase the maximum lump sum amount for the family allowance from the deceased's estate to \$12,000. This would be consistent with the increase of the periodic payments, up to \$1,000 per month for one year, contained in the bill.

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Enacted law summary

Public Law 2001, chapter 57 increases the homestead allowance from \$5,000 to \$10,000, increases the exempt property from an estate allowed to a surviving spouse from \$3,500 to \$7,000, increases the spouse or family allowance from periodic installments of \$500 a month to \$1,000 a month; and increases the maximum lump sum amount for the family allowance from the deceased's estate to \$12,000.

LD 789

An Act to Discourage Frivolous Appeals

PUBLIC 81

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP MAJ ONTP MIN	

LD 789 proposed to allow the Superior Court to award treble costs to the prevailing party in an appeal if the court finds that the appeal was frivolous.

Enacted law summary

Public Law 2001, chapter 81 allows the Superior Court to award treble costs to the prevailing party in an appeal if it finds that the appeal was frivolous.

LD 791

**An Act to Allow a District Attorney to Appeal Court Rulings
Without Attorney General Approval**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P WATERHOUSE	ONTP	

Current law allows an assistant district attorney to appeal an adverse decision only with the written approval of the Attorney General. LD 791 proposed to allow both the Attorney General and the district attorney for the district in which the appeal is taken to approve the appeal of cases prosecuted by an assistant district attorney.

LD 807

**An Act to Provide for Plenary Proceedings in Actions for Forcible
Entry and Detainer**

PUBLIC 133

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ABROMSON	OTP	

LD 807 proposed to allow a plaintiff in an action for forcible entry and detainer of personal property to choose whether to proceed by summary proceeding or by plenary proceeding. The summary proceeding is the current

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procedure in which the time between the service of papers initiating the case and the trial may be as few as seven days. In the plenary proceeding, the case would proceed as any other civil action, except in certain respects pertaining to appeals, joinder of other actions, venue, removal, issuance of a writ of possession and stays on appeal, and the parties would be allowed to attempt to avoid trial by seeking judgment by default or by motion where the essential facts of the case can be shown to be uncontested.

Enacted law summary

Public Law 2001, chapter 133 allows a plaintiff in an action for forcible entry and detainer of personal property to choose whether to proceed by summary proceeding or by plenary proceeding.

LD 822 **An Act to Protect the Rights of Maine Citizens and Industries from Influences Outside of Maine** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODWIN	ONTP MAJ OTP MIN	

LD 822 proposed to protect the State's right to reject any regulatory decision by the Federal Government relating to natural resources existing within state borders in favor of any regulatory decision relating to natural resources that is made by State Government.

LD 836 **An Act to Grant Foster Parents Intervenor Status in Child Protection Proceedings** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES LAFOUNTAIN	ONTP	

Currently, a court may grant intervenor status to a foster parent if the child has been in the foster parent's home for at least 120 days. LD 836 proposed to give intervenor status to a foster parent who has had the child who is the subject of a child protection proceeding in the foster parent's home for at least 60 days.

See also LD 1793 and HP 1385.

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LD 849

An Act Regarding Social Security Numbers Used for Identification Purposes

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRACY BENNETT	ONTP	

LD 849 proposed to prohibit all businesses, organizations, governmental entities and all other entities operating in the State from requesting a person's social security number, unless necessary to disperse social security funds or federal law requires the Federal Government to obtain a person's social security number from the business. Employers would be permitted to request an employee's social security number without these limitations. The Attorney General would have authority to enforce the prohibition.

LD 851

An Act to Prohibit the Recording of Private Telephone Conversations Without Consent

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BELANGER KNEELAND	ONTP	

LD 851 proposed to amend laws governing the interception and recording of wire and oral communications. With certain narrow exceptions, current law prohibits a person from intercepting or recording communications between others. This bill proposed to amend the law to prohibit any person who is a sender or receiver of a telephony communication from intentionally or knowingly recording or procuring another person to record the communication without the consent of all parties to the communication. It also proposed to create an exception for calls made to emergency services providers and to clarify current law with respect to an exception provided to law enforcement agencies conducting investigations.

LD 862

An Act to Prohibit Appointment of Referees in Protection from Abuse and Protection from Harassment Actions

PUBLIC 243

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE SAWYER	OTP-AM MAJ ONTP MIN	H-334

LD 862 proposed to require that protection from harassment proceedings and protection from abuse proceedings may be referred to a referee only if all the parties agree and the court provides the equivalent of court security for the proceedings conducted by the referee.

Committee Amendment "A" (H-334) proposed to replace the bill. It proposed to clarify that a court does not have the authority to refer the issues of abuse and harassment in protection from abuse and protection from harassment actions to a referee.

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The amendment proposed that if the protection from harassment action is joined with any other proceeding, the court may refer issues, other than harassment, that are part of the other proceeding to a referee.

The amendment proposed that if the protection from abuse action is joined with a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance, the court may refer issues, other than abuse, that are part of the other proceeding to mediation or a referee.

Enacted law summary

Public Law 2001, chapter 243 provides that a court does not have the authority to refer the issues of abuse and harassment in protection from abuse and protection from harassment actions to a referee. If the protection from harassment action is joined with any other proceeding, the court may refer issues, other than harassment, that are part of the other proceeding to a referee. If the protection from abuse action is joined with a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance, the court may refer issues, other than abuse, that are part of the other proceeding to mediation or a referee.

LD 872

Resolve, to Create the Commission to Study Privacy Laws

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE W MARTIN	OTP-AM MAJ ONTP MIN	H-606

LD 872 proposed to establish the Commission to Study Privacy Laws to review privacy laws nationwide and consult with the InforME Board regarding current policy and practices involving Internet use.

Committee Amendment "A" (H-606) proposed to change the membership and expand the duties of the proposed Commission to Study Privacy Laws. It proposed to create a commission with seven members: two Senators and five members of the House of Representatives. It proposed to expand the duties of the commission to include the study of issues recommended by the Blue Ribbon Commission to Establish a Comprehensive Internet Policy, such as development of a comprehensive information practices law for state and local governments.

LD 876

An Act to Require the Department of Human Services to Provide Automatic Discovery to Opposing Attorneys

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS DAVIS P	ONTP	

LD 876 proposed to require the Department of Human Services to disclose relevant information in its records to the parent of a child who is the subject of a child protective investigation or proceeding or to the parent's attorney.

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See also LD 1793 and HP 1385.

LD 922 **An Act Requiring the Court System to Notify Credit Rating Companies of Debt Clearances** **ONTP**

<u>Sponsor(s)</u> WATSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 922 was a concept draft that proposed to require state courts to notify credit rating companies that debts have been cleared when certain cases involving debt or bankruptcy are resolved.

LD 928 **An Act to Reform the Selection of Probate Judges** **ONTP**

<u>Sponsor(s)</u> SCHNEIDER		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 928 proposed to repeal the current law that permits judges of probate to be elected. Instead, this bill proposed to require that the Governor appoint at least one probate judge for each county, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature.

LD 952 **An Act to Correct Errors in the Laws Regarding Court Unification** **PUBLIC 69
EMERGENCY**

<u>Sponsor(s)</u> LAVERDIERE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-95
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Public Law 1999, chapter 731, Part ZZZ, section 3, concerning court unification, repealed and replaced the Maine Revised Statutes, Title 4, section 105, providing for the civil jurisdiction of the Superior Court. That legislation eliminated the jurisdiction of a single Justice of the Supreme Judicial Court to sit in the Superior Court. This bill proposed to add to Title 4, section 2-A the authority of the Chief Justice of the Supreme Judicial Court to appoint a single Justice of the Supreme Judicial Court to sit in the Superior Court.

Committee Amendment "A" (H-95) proposed to strike out 2 unnecessary sections of the bill. They would have been necessary only if the bill had been passed and effective prior to March 15, 2001, the effective date of the law concerning the transfer of the duties of the Administrative Court.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 1999, chapter 731, Part ZZZ, section 3, concerning court unification, repealed and replaced the Maine Revised Statutes, Title 4, section 105, providing for the civil jurisdiction of the Superior Court. That legislation eliminated the jurisdiction of a single Justice of the Supreme Judicial Court to sit in the Superior Court. Title 4, section 2-A currently provides for the Chief Justice of the Supreme Judicial Court to assign a justice or active retired justice to sit in the District Court and the Administrative Court until March 15, 2001, and the District Court effective March 15, 2001. Instead of amending Title 4, section 105 to correct the inadvertent error in the court unification legislation, Public Law 2001, chapter 69 places in Title 4, section 2-A the authority of the Chief Justice of the Supreme Judicial Court to appoint a single Justice of the Supreme Judicial Court to sit in the Superior Court.

Public Law 2001, chapter 69 was enacted as an emergency measure effective May 2, 2001.

LD 953

An Act Relating to Discovery Procedures under the Maine Unfair Trade Practices Act

PUBLIC 370

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE	OTP-AM MAJ	H-335
RAND	ONTP MIN	

LD 953 proposed to amend the Attorney General's civil investigative and discovery (CID) procedures under the Maine Unfair Trade Practices Act. It proposed to repeal language exempting trade secrets from the requirement to provide information requested by the Attorney General, but it proposed to allow the Superior Court to grant a protective order with respect to trade secrets or any other matter consistent with court rules. The bill proposed to allow the Attorney General to disclose information in court filings. LD 953 also proposed to repeal the provision of law requiring a person to provide information even if it would incriminate that person, but prohibiting the Attorney General from using the information in a criminal proceeding other than a proceeding for perjury, false testimony or failure to comply with a notice under the Act. Instead, it proposed to prohibit use of information obtained through the CID procedure in a criminal prosecution for substantially identical transactions.

Committee Amendment "A" (H-335) proposed to delete the provisions expanding the Attorney General's authority to use in a criminal proceeding information acquired during a civil investigation under the Unfair Trade Practices Act. Under current law, information obtained by the Attorney General under the criminal investigative demand process may not be used in any criminal proceeding, other than a prosecution for perjury, giving a false statement or failing to comply with the investigative demand. The bill would have allowed use of the information in any criminal prosecution other than one for a transaction substantially identical to the one at issue in the Unfair Trade Practices investigation. The amendment proposed to return the language to its original form, allowing use only for perjury, false statements and failure to comply with the demand. It also proposed to return the language prohibiting a person from refusing to give information on the grounds that it may incriminate the person or subject the person to a penalty or forfeiture.

Enacted law summary

Public Law 2001, chapter 370 amends the Attorney General's civil investigative and discovery procedures under the Maine Unfair Trade Practices Act. It repeals the provision allowing a person to refuse to disclose trade secrets to the Attorney General, but allows the Superior Court to grant a protective order with respect to that information or

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any other matter consistent with court rule. Chapter 370 also allows the Attorney General to disclose information obtained during the CID process in court filings without the consent of the person who produced the information.

LD 954 **An Act to Amend the Protection from Abuse and Protection from Harassment Laws** **PUBLIC 134**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE MCALEVEY	OTP	

LD 954 proposed to make the changes recommended by the Judicial Department's committee on protection from abuse and protection from harassment.

Enacted law summary

Public Law 2001, chapter 134 makes the following changes to the laws governing protection from abuse and protection from harassment.

It extends the definition of "harassment" to conduct constituting stalking and violation of privacy. It also expands the definition of "harassment" by adding the term "course of conduct" to accommodate the inclusion of stalking.

It makes violations of provisions in permanent protection from harassment orders that direct a defendant to refrain from having contact with a plaintiff punishable criminally by conferring express authority for these provisions.

It allows the clerk of court to seal identifying information in protection from abuse and protection from harassment cases.

It criminalizes the use, attempted use or threatened use of physical force in violation of a protection from abuse order by conferring express authority for such a provision.

LD 955 **An Act to Ensure Accountability in the Department of Human Services** **ONTP**

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

LD 955 proposed to require the responsible employees of the Department of Human Services to pay the parent's or custodian's attorney's fees and costs when a court finds that a child was physically removed from the home when the child was not in jeopardy. This would be an exception to the Maine Tort Claims Act.

See also LD 1793 and HP 1385.

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LD 966

An Act to Amend the Maine Tort Claims Act

PUBLIC 249

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE	OTP-AM MAJ ONTP MIN	H-279

LD 966 proposed to amend the Maine Tort Claims Act to provide that if the claimant is a minor when the cause of action accrues, the notice to a governmental entity may be presented within 180 days of the minor's attaining 18 years of age and the action may be brought within two years of the minor's attaining 18 years of age.

Committee Amendment "A" (H-279) proposed to add an application section to the bill to enable any person whose statute of limitations has not yet expired to take advantage of the law change.

Enacted law summary

Public Law 2001, chapter 249 amends the Maine Tort Claims Act to provide that if the claimant is a minor when the cause of action accrues, the notice to a governmental entity may be presented within 180 days of the minor's attaining 18 years of age and the action may be brought within two years of the minor's attaining 18 years of age. A minor whose statute of limitations has not run out by the effective date of Chapter 249 has 180 days after attaining 18 years of age to give notice of an action and two years after attaining 18 years of age to bring the action.

LD 974

An Act to Create the Civil Rights in Public Employment, Education and Contracting Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE DAVIS P	ONTP MAJ OTP-AM MIN	

LD 974 proposed to prohibit the State and its subdivisions and instrumentalities from discriminating against or granting preferential treatment to any person in the operation of public employment, education or contracting on the basis of race, sex, color, ethnicity or national origin.

Committee Amendment "A" (H-336), the minority report of the committee, proposed to add a fiscal note to the bill. (Not adopted)

Joint Standing Committee on Judiciary

LD 1009

An Act to Amend the Child and Family Services and Child Protection Act

ONTP

<u>Sponsor(s)</u> RAND		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1009 proposed to clarify the definition of "foster parent" and amend the notification required to be given to foster parents, preadoptive parents and relatives in reviews or hearings on protection orders and termination of parental rights.

See also LD 1793 and HP 1385.

LD 1016

An Act to Amend the Laws Governing Public Easements and the Discontinuance of Town Ways

ONTP

<u>Sponsor(s)</u> MCKEE NUTTING J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1016 proposed to reverse the current law regarding retention of a public easement when a municipality discontinues a road. Current law provides that a public easement is retained unless the order of abandonment otherwise specifies. LD 1016 proposed that a municipality retains a public easement in a discontinued road only if the discontinuance order states that a public easement is retained.

LD 1018

An Act to Amend the Civil Court Procedure as it Pertains to Execution Liens

PUBLIC 117

<u>Sponsor(s)</u> SMITH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-112
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LD 1018 proposed to make a creditor liable to a debtor for damages caused when the creditor knowingly files or fails to discharge an execution filed on the debtor's property that is exempt from attachment and execution. The bill also proposed to entitle the debtor to reasonable attorney's fees and costs incurred in enforcing the discharge of the execution.

Committee Amendment "A" (H-112) proposed to provide that a creditor is liable for actual damages caused by the failure to discharge an execution against exempt property of the debtor only if the debtor has given written notice and proof to the creditor that the property is exempt and the creditor fails to discharge the execution within 15 days after receiving the notice and proof. The amendment proposed to delete language making the creditor liable for knowingly filing an execution against exempt property. The amendment also proposed to clarify when a debtor is entitled to recovery of attorney's fees and costs.

Joint Standing Committee on Judiciary

Enacted law summary

Public Law 2001, chapter 117 provides that a creditor is liable to a debtor for actual damages caused by the debtor's failure to discharge an execution against exempt property of the debtor. Liability applies only if the debtor has given written notice and proof to the creditor that the property is exempt and the creditor failed to discharge the execution within 15 days after receiving the notice and proof. A debtor who prevails in an action to recover such damages is entitled to recovery of attorney's fees and costs.

**LD 1023 An Act to Enhance the Quality and Accessibility of HIV Services CARRIED OVER
and Prevention Services**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
QUINT RAND	OTP-AM	

LD 1023 proposed to require the Department of Human Services to offer public information about, and prevention and treatment services for, HIV and AIDS and to make the information and services available statewide. LD 1023 also proposed to appropriate \$368,500 in each of the fiscal years 2001-02 and 2002-03 to fund the increase in services and information.

This bill has been carried over to the Second Regular Session by the Joint Standing Committee on Appropriations and Financial Affairs.

**LD 1025 An Act to Allow a Person to Take the Bar Examination without ONTP
Attending Law School**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MICHAEL	ONTP MAJ OTP-AM MIN	

LD 1025 proposed to allow a person to take the bar examination without first attending law school.

Committee Amendment "A" (H-113) is the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill to retain the current law school attendance requirements for taking the bar examination and add one more option. The new option would be to allow a person to take the bar exam without attending or graduating from law school if the person has studied law in the office of an attorney in the State for at least 3 years. (Not adopted)

Joint Standing Committee on Judiciary

LD 1064

An Act Regarding Property Tax Liens

INDEF PP

<u>Sponsor(s)</u> MURPHY E		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1064 proposed to require a lien on real estate to be placed in the name of the new owner if the assessor or person placing the lien possesses written notice of the change in ownership.

This bill was not referred to a committee.

LD 1066

An Act to Protect Children and Incapacitated or Dependent Adults

PUBLIC 345

<u>Sponsor(s)</u> SULLIVAN LAFOUNTAIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-498
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LD 1066 proposed to impose a duty on every person to report suspected cases of abuse, neglect or exploitation of an incapacitated, dependent or elderly adult or of any child to either the Department of Human Services or a law enforcement agency. The bill proposed to repeal the laws authorizing optional reporting of abuse.

Committee Amendment "A" (H-498) proposed to replace the bill. It proposed to revise the mandatory reporting laws for both child abuse and neglect and incapacitated or dependent adult abuse, neglect and exploitation to require a person who has full, intermittent or occasional responsibility for the care or custody of the child or the adult to report suspected abuse, neglect or exploitation.

Enacted law summary

Public Law 2001, chapter 345 revises the mandatory reporting laws for both child abuse and neglect and incapacitated or dependent adult abuse, neglect and exploitation to require a person who has full, intermittent or occasional responsibility for the care or custody of the child or the adult to report suspected abuse, neglect or exploitation. This applies whether or not the person is being paid for the services. The new language includes babysitters and day care providers and all other persons who provide similar care.

See also LD 1793 and HP 1385.

LD 1068

An Act to Clarify the Laws Relating to Corporate and Other Entities

PUBLIC 66

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-75
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Joint Standing Committee on Judiciary

LD 1068 proposed to make several minor changes to the laws relating to filing of corporation and other business entity documents with the Secretary of State.

Committee Amendment "A" (H-75) proposed to clarify that the resignation of a registered agent takes effect when the certificate is filed with the Secretary of State.

Enacted law summary

Public Law 2001, chapter 66 clarifies the requirement for listing the management of a corporation when restating its articles of incorporation, changes the fee for a foreign corporation when it changes its registered or principal office, further clarifies the information required in an affidavit for the resignation of a registered agent for limited partnerships and limited liability partnerships, and clarifies that the resignation of a registered agent takes effect when the certificate is filed with the Secretary of State.

LD 1070

An Act to Require Background Checks for Adoptions

PUBLIC 52

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-54

LD 1070 is a recommendation of the Family Law Advisory Commission.

LD 1070 proposed to require prospective adoptive parents to undergo a background check, including child protective and criminal history checks, prior to finalization of the adoption.

Committee Amendment "A" (H-54) proposed to clarify that the new language requiring background checks for prospective adoptive parents who are not the biological parents of the child would not give the Probate Court the authority to order the background check for the biological parent who is also currently the legal parent of the child.

Enacted law summary

Public Law 2001, chapter 52 is a recommendation of the Family Law Advisory Commission. It requires prospective adoptive parents to undergo a background check prior to finalization of the adoption. The probate judge shall request the Department of Human Services to review the child protective files and shall request the State Bureau of Identification to conduct a criminal history background check. The cost of reviewing the child protective services files by the Department of Human Services will be included in the adoption filing fee. The criminal history background check is based on the prospective adoptive parent's fingerprints and includes both Maine conviction data and national criminal history information from the Federal Bureau of Investigation. The State Police will identify appropriate local law enforcement agencies to take the fingerprints. The cost of doing the background checks will be included in the adoption petition filing fee.

The Department of Human Services and the State Police will report back to the probate judge with the results of the child protection records check and the criminal history background check. The probate judge will use the information obtained to determine if the adoption is in the best interests of the child. The information is confidential.

Joint Standing Committee on Judiciary

and can not be used for any other purposes, except in compliance with the mandatory child abuse reporting requirements.

If one of the prospective adoptive parents is the child's biological parent, that person is not required to undergo the background check.

LD 1071 **An Act to Prohibit the Exclusion of Legal Counsel as a Condition of Settlement** **PUBLIC 108**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL C LONGLEY	OTP	

LD 1071 proposed to prohibit a condition in a litigation settlement that prohibits an attorney representing a party in that litigation from representing other persons that are similarly situated in a related action involving a party that the attorney opposed in the settled litigation.

Enacted law summary

Public Law 2001, chapter 108 voids a condition in a litigation settlement that prevents an attorney representing a party in the settled litigation from representing similarly situated clients in a related action against a party that the attorney opposed in the settled litigation.

LD 1073 **An Act to Provide Compensation to a Person Detained on the Basis of a Warrant Issued in Error** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS FERGUSON	ONTP MAJ OTP-AM MIN	

LD 1073 proposed to allow a person who is detained on the basis of a defective or baseless warrant or warrant issued in error to sue the state court administrator to recover liquidated damages of \$50 for every hour that the person is wrongfully detained. A successful plaintiff in an action would be entitled to reasonable attorney's fees and costs incurred in connection with that action.

Committee Amendment "A" (H-330) was the minority report of the Joint Standing Committee on Judiciary. This amendment proposed to add a fiscal note to the bill. (Not adopted)

See also LD 307.

Joint Standing Committee on Judiciary

LD 1074

An Act to Require that any Proceedings Initiated by the Department of Human Services to Terminate Parental Rights Be Open

ONTP

<u>Sponsor(s)</u> O'BRIEN J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1074 proposed to require that hearings on petitions to terminate parental rights in child protection proceedings must be open to the public unless a parent of the child objects.

See also LD 1793 and HP 1385.

LD 1079

An Act to Protect Families by Easing the Standard of Proof for Certain Child Protection Hearings

ONTP

<u>Sponsor(s)</u> MENDROS DAVIS P		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1079 proposed to amend the Child and Family Services and Child Protection Act to increase the standard of proof from a preponderance of the evidence to clear and convincing evidence that a court uses in determining whether to grant a preliminary child protection petition, a jeopardy order or the review of a jeopardy order.

See also LD 1793 and HP 1385.

LD 1080

An Act to Amend Article 9-A of the Uniform Commercial Code

**PUBLIC 286
EMERGENCY**

<u>Sponsor(s)</u> LAVERDIERE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-412
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LD 1080 proposed to amend the Maine Revised Statutes, Title 11, Article 9-A governing secured transactions to incorporate proposals of the Revised Article 9 Study Group convened by the Secretary of State.

Committee Amendment "A" (H-412) proposed to provide that an amendment to a Uniform Commercial Code financing statement that is recorded in a registry of deeds must contain the name of the debtor and the secured party. This amendment also proposed to correct incorrect statutory references.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2001, chapter 286 amends the Maine Revised Statutes, Title 11, Article 9-A to incorporate proposals of the Revised Article 9 Study Group convened by the Secretary of State. Chapter 286 provides that an amendment to a Uniform Commercial Code financing statement that is recorded in a registry of deeds must contain the name of the debtor and the secured party.

Public Law 2001, chapter 286 was enacted as an emergency effective May 25, 2001. Article 9-A of the Uniform Commercial Code takes effect July 1, 2001.

LD 1111 **An Act to Increase the Civil Liability of Parents for the Criminal Conduct of their Children** **ONTP**

<u>Sponsor(s)</u> POVICH		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1111 proposed to increase the cap on liability of a parent or guardian of a minor who intentionally causes damage to a person or property from \$800 to \$10,000.

LD 1136 **An Act to Treat All Children with Dignity** **PUBLIC 217**

<u>Sponsor(s)</u> FULLER LONGLEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-281
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LD 1136 proposed to remove from the Maine Revised Statutes the references to "illegitimate" or "bastard" child and substitute the phrase "child born to an unwed mother."

Committee Amendment "A" (H-281) proposed to replace the bill. It proposed to repeal a section dealing with warrants issued pursuant to bastardy actions and remove a reference to bastardy cases in the Probate Code.

Enacted law summary

Public Law 2001, chapter 217 repeals a section of Maine Statutes dealing with warrants issued pursuant to bastardy actions and removes a reference to bastardy cases in the Probate Code. The statutes governing bastardy actions, which were used to require the father of a child born out wedlock to support the child, were repealed and replaced by the Uniform Act on Paternity in 1967.

Joint Standing Committee on Judiciary

LD 1143 **An Act to Allow Members, Managers and Authorized Employees to Appear in Court for a Limited Liability Company** **PUBLIC 119**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT TUTTLE	OTP-AM	S-56

LD 1143 proposed to give managers, members and authorized employees of limited liability companies who are not lawyers the same power to represent their companies in certain court actions as is currently provided for officers and authorized employees of corporations, partnerships and other business entities who are not lawyers. It also proposed to expand the list of court actions in which those persons may represent their organizations to include forcible entry and detainer actions.

Committee Amendment "A" (S-56) proposed to delete the proposed addition of forcible entry and detainer actions to the list of court actions in which a person who is not an attorney may appear on behalf of the person's organization.

Enacted law summary

Public Law 2001, chapter 119 gives managers, members and authorized employees of limited liability companies who are not lawyers the same power to represent their companies in certain court actions as is currently provided for officers and authorized employees of corporations, partnerships and other business entities who are not lawyers.

LD 1171 **An Act to Authorize the Maine Indian Tribal-State Commission to Organize Assemblies of State and Tribal Leaders** **PUBLIC 173**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ ONTP MIN	H-284 H-311 LAVERDIERE

Resolve 1997, chapter 45 authorized the Maine Indian Tribal-State Commission to submit legislation as part of its reporting to the Legislature about the impact of Maine's civil laws on the Wabanaki. This bill proposed to authorize the commission to introduce legislation on an ongoing basis.

Resolve 1997, chapter 45 also required the commission to organize an Assembly of Governors and Chiefs. This bill proposed to require the commission to organize an assembly of governors and chiefs on an annual basis and require the commission to organize a tribal-state legislative assembly on a biennial basis.

Committee Amendment "A" (H-284) was the majority report of the Joint Standing Committee on Judiciary. It proposed to add a ratification provision as required when amending the Act to Implement the Maine Indian Claims Settlement. Both the Passamaquoddy Tribe and the Penobscot Nation must approve of the changes included in the bill in order for the changes to be effective.

Joint Standing Committee on Judiciary

House Amendment "A" (H-311) proposed to remove language from the bill that authorizes the Maine Indian Tribal-State Commission to introduce legislation.

Enacted law summary

Public Law 2001, chapter 173 requires the Maine Indian Tribal-State Commission to organize an assembly of governors and chiefs on an annual basis and requires the commission to organize a tribal-state legislative assembly on a biennial basis.

LD 1181 **An Act to Reduce Frivolous Protection from Harassment Actions** **ONTP**

<u>Sponsor(s)</u> MCDONOUGH	<u>Committee Report</u> ONTP MAJ OTP-AM MIN	<u>Amendments Adopted</u>
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LD 1181 proposed to allow a court that dismisses a petition for a protective order to require the plaintiff to pay court fees or reasonable attorney's fees.

Committee Amendment "A" (H-331) was the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill. It proposed to authorize the court in a protection from harassment action to order the plaintiff to pay reasonable attorney's fees if the court determines that the petition was frivolous or dilatory. (Not adopted)

LD 1195 **An Act to Strengthen Penalties for Minors Displaying False Identification** **ONTP**

<u>Sponsor(s)</u> PERRY O'GARA	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1195 proposed to add motor vehicle license suspension as a penalty option for minors who use false identification to obtain tobacco or alcohol. A court could impose a one-month to 3-month suspension for a first offense, a 3-month to 6-month suspension for a 2nd offense and a one-year suspension for any subsequent offense.

LD 1204 **An Act to Preserve the Life and Health of Women** **ONTP**

<u>Sponsor(s)</u> KNEELAND	<u>Committee Report</u> ONTP MAJ OTP MIN	<u>Amendments Adopted</u>
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Joint Standing Committee on Judiciary

LD 1204 proposed to prohibit abortions of pregnancies that have progressed at least 20 weeks since the pregnant woman's last menstrual period. It proposed to require the pregnant woman's physician to carefully determine the age of the fetus and request the opinion of a 2nd physician if necessary. If the pregnant woman had a life-threatening physical condition if the pregnancy progressed and the fetus was at least 20 weeks old, the physician could either induce labor or perform a caesarean to deliver the baby. A 2nd physician would be notified to attend the delivery and take medical care of the baby.

The bill proposed that a physician who knowingly performs an abortion when the fetus is at least 20 weeks old would commit a Class D crime.

LD 1222

An Act Conforming Maine Digital Signature Law to Federal Law

PUBLIC 121

<u>Sponsor(s)</u> NORBERT MCALEVEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-195
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LD 1222 proposed to repeal the provisions of law that exempt certain documents from the law validating electronic or digital signatures. It proposed to repeal the exemptions for durable powers of attorney or deeds, mortgages or other documents affecting title to real property in order to allow for the use of electronic or digital signatures on those documents.

Committee Amendment "A" (H-195) proposed to delete the section of the bill that would have validated electronic signatures on durable powers of attorney.

Enacted law summary

Public Law 2001, chapter 121 repeals the law that exempts deeds, mortgages and other documents affecting title to real property from the law validating electronic or digital signatures, in order to bring Maine law into conformity with federal law.

LD 1238

An Act to Allow the Filing of a Declaration of Homestead

ONTP

<u>Sponsor(s)</u> ANDREWS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1238 proposed to create the homestead estate, which would protect a home, including real property and buildings, from most attachments and seizures of up to \$100,000, or up to \$200,000 if the estate holder is an elderly or disabled person.

Joint Standing Committee on Judiciary

LD 1286 **An Act to Extend Landowner Limited Liability to Environmental Liability** **ONTP**

<u>Sponsor(s)</u> MARTIN CRABTREE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1286 proposed to limit liability for civil damages and to create an affirmative defense to criminal actions for owners and occupiers of land for environmental damage if the owner or occupant can show by a preponderance of the evidence that the damage was caused by 3rd persons without knowledge of the owners or occupiers. See also LD 273.

LD 1324 **An Act to Adopt the Uniform Computer Information Transactions Act** **INDEF PP**

<u>Sponsor(s)</u> SAVAGE W		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1324 was a concept draft pursuant to Joint Rule 208. It proposed to adopt the Uniform Computer Information Transactions Act.

This bill was not referred to a committee.

LD 1347 **An Act to Restrict the Issuance of Recreational Licenses for Nonpayment of Child Support** **ONTP**

<u>Sponsor(s)</u> TRACY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1347 proposed to require the Department of Inland Fisheries and Wildlife to collect and report to the Department of Human Services licensing information required by the child support statutes, which would include: applicant's name and address; federal employer number; type of license; the date the license takes effect and expires; and the active or inactive status of the license. The bill proposed to make a person who is found by a court or an administrative agency to be in noncompliance with a child support order ineligible to hold or obtain a license, permit or registration issued by the Department of Inland Fisheries and Wildlife.

Joint Standing Committee on Judiciary

LD 1355

An Act to Prohibit the Use of Memorandum Decisions

ONTP

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

LD 1355 proposed to prohibit a court from issuing a memorandum decision, which is a decision of the court that does not contain a formal opinion or reasons of the court for arriving at that decision.

LD 1364

An Act to Decrease the Length of Time a Person Has to Make Child Support Payments Before Being Considered Not In Compliance

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCNEIL O'GARA	ONTP	

LD 1364 proposed to decrease from 60 days to 30 days the amount of time that a person required to pay child support may take to pay before being considered not in compliance with the support order with regard to license suspension procedures. If a person has the child support payment directly withdrawn from the person's bank account or paycheck, then the payment would be considered to have been made on the day of the withdrawal.

LD 1366

An Act Concerning Responsibilities of Conservators for Persons With Disability and Minors

PUBLIC 280

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERRY D PENDLETON	OTP-AM	H-414

LD 1366 proposed to require a conservator to file an annual report with the court. It also proposed to impose a fine of \$100 for each day that a conservator fails to file a completed inventory with the court.

Committee Amendment "A" (H-414) proposed to replace the bill. It proposed to repeal and replace the section of the current Probate Code dealing with inventory and records of a conservator of a protected person's estate.

Enacted law summary

Public Law 2001, chapter 280 updates current law and restructures the format covering the inventory and other records of the conservator of a protected person's estate. It provides a sanction for failing without good cause to file the inventory. The probate court may order the conservator to pay to the estate a minimum of \$100 and a maximum of the amount the court determines is the damage suffered by the estate because of the failure to file the inventory. These payments are in addition to any other remedy for fiduciary misconduct of the conservator. Similar changes are made to the section of the Probate Code dealing with accountings by conservators.

Joint Standing Committee on Judiciary

LD 1376

An Act Concerning the State Court Library System

PUBLIC 250

<u>Sponsor(s)</u> LONGLEY		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 1376 proposed to implement the recommendations of the Study Group to the State Library Committee. The bill proposed to repeal the current 4-tier system under which libraries received differing levels of resources and to replace it with a list of 17 locations at which libraries must be located. It proposed to establish regional library centers to require representation from less populous counties and to require the County Law Library Committees, in conjunction with the State Court Library Committee, to establish local operating policies.

Enacted law summary

Public Law 2001, chapter 250 implements the recommendations of the Study Group to the State Court Library Committee. It repeals the current 4-tier system under which libraries received differing levels of resources and replaces it with a list of 17 locations at which law libraries must be located. It establishes Portland and Bangor as regional law library centers with additional resources, and provides equal resources for the other libraries. Chapter 250 requires that one of the four attorney members on the State Court Library Committee be chosen from a county having a census population of from 45,000 to 120,000 and that one be chosen from a county having a census population of less than 45,000 persons. It also adds Kennebec County to the list of available law library locations and requires all County Law Library Committees, in conjunction with the State Court Library Committee, to establish local operating policies.

LD 1391

An Act to Ensure Safety and Health Standards in Outpatient
Medical or Surgical Facilities

ONTP

<u>Sponsor(s)</u> KASPRZAK		<u>Committee Report</u> ONTP MAJ OTP-AM MIN		<u>Amendments Adopted</u>
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LD 1391 proposed to define facilities, other than hospitals, in which abortions are performed as ambulatory surgical facilities, thus subjecting the facilities to the licensing and inspection requirements and standards applicable to such facilities.

Committee Amendment "A" (H-233) was the minority report of the Joint Standing Committee on Judiciary. It proposed to add a fiscal note to the bill. (Not adopted)

Joint Standing Committee on Judiciary

LD 1396

An Act to Encourage and Support a Mother's Decision to Breast-feed in this State

PUBLIC 206

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP A	
CATHCART	ONTP B	
	OTP-AM C	

LD 1396 proposed to amend the Maine Human Rights Act to declare that a mother has the right to breast-feed her baby in any location, whether public or private, as long as she is otherwise authorized to be in that location.

Committee Amendment "A" (H-278) was the minority report of the Joint Standing Committee on Judiciary. It proposed to provide a mother to breast feed in a place only if both she and the child are otherwise authorized to be in that place. (Not adopted)

Enacted law summary

Public Law 2001, chapter 206 amends the Maine Human Rights Act to declare that a mother has the right to breast-feed her baby in any location, whether public or private, as long as she is otherwise authorized to be in that location.

LD 1405

An Act to Encourage Joint Child Rearing Between Divorced Parents

PUBLIC 329

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DORR	OTP-AM	H-499

LD 1405 proposed to establish the policy that parents should be awarded shared parental rights and responsibilities unless the court finds that the joint responsibility would not be in the child's best interest. The bill proposed to require the court to provide that the parents equally share the responsibility for providing their child's residential care, unless the court makes a finding that the equal sharing is not in the child's best interest.

Committee Amendment "A" (H-499) proposed to retain section 1 of the bill, which contains statements regarding the State's public policy concerning minor childrens' frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing to effect this policy.

This amendment proposed to replace the rest of the bill and include changes in the law concerning primary residential care of a child.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2001, chapter 329 states the State's public policy to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing to effect this policy. Chapter 329 provides that if one or both of the parents request shared primary residential care for a child, the court must consider shared primary residential care. If shared primary residential care is requested and the court does not make that award, the court must include in the order the reasons why shared primary residential care is not in the child's best interest.

LD 1406

An Act Creating Offenses Against Unborn Children

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ANDREWS	ONTP MAJ OTP-AM MIN	

LD 1406 proposed to create new crimes against unborn children. Punishment for intentionally or knowingly causing the death of an unborn child would be the same as for murder. Voluntary manslaughter of an unborn child would be a Class A crime. Recklessly causing the death of an unborn child would be a Class B crime, except that it would be reduced to a Class C crime if the death was caused by the reckless operation of a motor vehicle. Assault and aggravated assault on an unborn child would be Class D and Class C crimes, respectively.

These crimes would not apply to an abortion to which the pregnant woman has consented, nor would they apply to acts committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment. These crimes would not apply to the pregnant woman.

Committee Amendment "A" (H-235) was the minority report of the Joint Standing Committee on Judiciary. The amendment proposed to add a fiscal note to the bill.

LD 1450

An Act to Protect Parents from Undue Influence in Child Protective Actions

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS FERGUSON	ONTP	

LD 1450 proposed to require the Department of Human Services to provide written warnings to parents or custodians of children in child protective proceedings.

See also LD 1793 and HP 1385.

Joint Standing Committee on Judiciary

LD 1453

An Act to Amend the Laws that Govern Property that is Exempt from Attachment and Execution

PUBLIC 306

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH	OTP MAJ	
MARTIN	ONTP MIN	

LD 1453 proposed to double the amount of property value of a residence or a motor vehicle that is exempt from attachment and execution and exempt for purposes of a bankruptcy proceeding. It proposed to provide that a payment or account under an individual retirement account or similar plan or contract is generally exempt to the sum of \$15,000 or to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, whichever is greater.

Enacted law summary

Public Law 2001, chapter 306 amends the laws that govern what property is exempt from attachment and execution and exempt for purposes of a bankruptcy proceeding. It increases the exemption for a residence from \$12,500 to \$25,000 and from \$25,000 to \$50,000 if minor dependents live with the debtor. It increases the exemption for a motor vehicle from \$2,500 to \$5,000. It provides that a payment or account under an individual retirement account or similar plan or contract is generally exempt to the sum of \$15,000 or to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, whichever is greater. Current law provides that such a payment or account is exempt to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

LD 1455

An Act to Implement the Recommendations of the Committee to Study Further Decriminalization of the Criminal Laws of Maine

PUBLIC 421

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-604

LD 1455 is the legislative recommendations of the Committee to Study the Further Decriminalization of the Criminal Laws of Maine, created by 1999 Joint Order H.P. 1914.

Committee Amendment "A" (H-604) proposed to revise the statute of limitations language and the provisions governing the prosecution of civil violations. It proposed to revise the general license suspension provisions, as well. It also proposed changes with regard to the decriminalization of marine resources and fisheries and wildlife violations.

Enacted law summary

Public Law 2001, chapter 421 is the legislative recommendations of the Committee to Study the Further Decriminalization of the Criminal Laws of Maine, created by 1999 Joint Order H.P. 1914.

Joint Standing Committee on Judiciary

LD 1473

An Act to Make Uniform the Language Governing Parental Rights and Responsibilities in the Maine Revised Statutes

PUBLIC 273

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEMOINE	OTP-AM	H-415

LD 1473 proposed to revise language concerning child custody in the protection from abuse laws to use terms consistent with the language governing parental rights and responsibilities in other situations.

Committee Amendment "A" (H-415) proposed to amend the provisions governing the award of parental rights and responsibilities or rights of contact with minor children after such an award has already been made as part of a protection from abuse order.

Enacted law summary

Public Law 2001, chapter 273 revises language concerning child custody in the protection from abuse laws to use terms consistent with the language governing parental rights and responsibilities in other situations. Specifically, this bill replaces the word "custody" to reflect the proper use of the terms "parental rights and responsibilities" and "rights of contact" as used elsewhere in the Maine Revised Statutes, Title 19-A. Chapter 273 also amends the provisions governing the award of parental rights and responsibilities or rights of contact with minor children after such an award has already been made as part of a protection from abuse order. It requires the court in a parental rights and responsibilities action to determine the proper award de novo and to not rely on the award made in the protective order as precedent.

LD 1482

An Act to Authorize a School Board to Deliberate in Private

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HEIDRICH	ONTP MAJ OTP MIN	

LD 1482 proposed to amend the freedom of access laws to allow a school board to take testimony about the suspension or expulsion of a student in executive session, as well as holding executive session for the board's deliberations as allowed under current law. It also proposed to allow the school board to exclude the student and the student's legal counsel and parents or guardians from executive session at which the school board is deliberating; such exclusion is not allowed under current law.

Joint Standing Committee on Judiciary

LD 1494

An Act to Require Parental Notification of Abortion

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACDOUGALL DAVIS P	ONTP MAJ OTP-AM MIN	

LD 1494 proposed to require parental notification before an abortion is performed or induced on a pregnant minor.

The bill proposed to require that notification be provided to one parent or, when the minor is in fear of physical, sexual or emotional abuse from a parent, to a specified relative, who may be a grandparent, a stepparent or a sister or brother who is 21 years of age or older.

The bill also proposed to allow for alternative procedures whereby the minor may seek court approval for the proposed abortion and proposed to establish the procedures for judicial review and appeals.

Committee Amendment "A" (H-234) was the minority report of the Joint Standing Committee on Judiciary. The amendment proposed to add a fiscal note to the bill. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-264) proposed to provide a 3rd option besides parental notification or judicial review. Under this amendment, if the pregnant minor alleged abuse or neglect such that notifying the minor's parent was not in the minor's best interest, an abortion could be performed if the minor were accompanied by an adult counselor to the physician's office. The amendment proposed to provide a definition of "counselor" that ensures that the counselor may have no affiliation with an organization that makes abortion referrals or provides abortion services. This amendment proposed to correct a reference in the bill. (Not adopted)

LD 1522

An Act to Clarify the Status of Support Obligations if an Obligor Begins to Receive Public Assistance

PUBLIC 255

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ ONTP MIN	H-332

LD 1522 was a recommendation of the Family Law Advisory Commission.

Current law provides that a parent obligated under a court or administrative order to pay child support is not required to pay the support while receiving public assistance. This bill proposed to retain that effect by explicitly establishing a rebuttable presumption that an obligor receiving certain public assistance has no capacity to pay child support. The bill also proposed to provide, however, the opportunity for the person who is to receive the support under the order, the obligee, to have the court or hearing officer review whether the obligor actually has no capacity to pay child support. This bill proposed to use the existing definition of "public assistance," except that it does not apply if the public assistance provided is medical care only.

The Department of Human Services would be required to provide notices to the obligee and the obligor about the obligor's status, the presumption of no capacity to pay child support, the child support obligation resulting from the

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application of the presumption, the obligee's opportunity to modify the effect of the presumption and the location where forms for modification proceedings can be obtained. Blank forms for initiating modification actions would be required to be included with the notices.

Committee Amendment "A" (H-332) was the majority report of the Joint Standing Committee on Judiciary. It is recommended by the Family Law Advisory Commission, which proposed the bill. The amendment proposed to remove the proposed presumption concerning the obligor's capacity to pay child support and replace it with a suspension of the child support obligation for an obligor who receives supplemental security income or public assistance for the benefit of a child of that obligor.

Enacted law summary

Public Law 2001, chapter 255 is a recommendation of the Family Law Advisory Commission. Current law provides that a parent obligated under a court or administrative order to pay child support is not required to pay the support while receiving public assistance. Chapter 255 suspends the child support obligation for an obligor who receives supplemental security income or public assistance for the benefit of a child of that obligor. The law also provides, however, the opportunity for the person who is to receive the support under the order, the obligee, to have the court or hearing officer review whether the obligor actually has no capacity to pay child support. The Department of Human Services is required to provide notices to the obligee and the obligor about the obligor's status, the lack of capacity to pay child support, the child support obligation resulting from the application of the suspension, the obligee's opportunity to modify the effect of the suspension and the location where forms for modification proceedings can be obtained. Blank forms for initiating modification actions must be included with the notices.

LD 1525

An Act Concerning Real Estate Titles

ONTP

Sponsor(s)
NORBERT
BROMLEY

Committee Report
ONTP

Amendments Adopted

LD 1525 proposed to provide for the creation of a lien that continues for a period of 10 years from date of recording. The lien would protect the creditor by having available a renewal for a period of 10 years. The lien also would have had a transition renewal time period of two years from the date of enactment of this bill.

See also LD 709.

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LD 1530

An Act to Improve the Health Care and Forensic Response for Victims of Sexual Assault

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT	OTP-AM MAJ	H-550
MICHAUD MH	OTP-AM MIN	

LD 1530 proposed to establish, within the Department of the Attorney General, the Sexual Assault Forensic Examiner Advisory Board. The purpose of the board is to promote the statewide creation, growth and sustainability of sexual assault forensic examiner programs by providing advice and assistance regarding training, technical assistance, standards and resources to the sexual assault forensic examiner programs.

The bill also proposed an appropriation section to fund one position and related costs to administer the sexual assault forensic examiner program. The program currently exists but would be moved under the jurisdiction of the Department of the Attorney General.

Committee Amendment "A" (H-550) is the majority report of the Joint Standing Committee on Judiciary.

This amendment proposed to add four members to the Sexual Assault Forensic Examiner Advisory Board: one from a statewide association of hospitals; one forensic pediatric health care provider; and two as public members.

This amendment also proposed to revise language referring to specific organizations that have not been created by statute to refer to these organizations in general terms.

Committee Amendment "B" (H-551) is the minority report of the Joint Standing Committee on Judiciary. It differs from the majority report in that it would fund the bill from funds that would otherwise be used to fund the civil rights team within the Department of Attorney General. (Not adopted)

The contents of this bill and Committee Amendment "A" were incorporated into Part 7 of the Part II Budget, Public Law 2001, chapter 439.

LD 1550

An Act to Bring the Takings Law into Compliance with the Constitution of Maine and the United States Constitution

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	ONTP MAJ	
	OTP-AM MIN	

LD 1550 proposed to require the State and its political subdivisions to comply with the constitutional takings principles espoused in several state and federal court cases in all situations involving real property, including the taking or purchase of rights-of-way and easements.

Committee Amendment "A" (H-277) was the minority report of the Joint Standing Committee on Judiciary. The amendment proposed to add a fiscal note to the bill. (Not adopted)

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LD 1573 **An Act to Enact the Uniform Principal and Income Act of 1997** **CARRIED OVER**

<u>Sponsor(s)</u> NORBERT RAND		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1573 proposed to amend the Probate Code to include the Uniform Principal and Income Act of 1997, adopted by the National Conference of Commissioners on Uniform State Laws in 1997. The Act provides rules for handling trust principal, income, receipts and disbursements.

This bill has been carried over to the Second Regular Session.

LD 1581 **An Act to Allow the Department of Human Services Abuse and Neglect Investigators Access to Certain Baxter School for the Deaf Records** **PUBLIC 265**

<u>Sponsor(s)</u> LONGLEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-177
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LD 1581 proposed to give the out-of-home abuse and neglect investigating team established in the Maine Revised Statutes, Title 22, section 4088 the authority to obtain access to personnel records for persons licensed by the Department of Education, including those in the Baxter School for the Deaf.

Committee Amendment "A" (S-177) proposed to replace section 4 of the bill and specifically limit the information that the out-of-home abuse and neglect investigating team may review relating to a person at the Governor Baxter School for the Deaf who is subject to licensure by the Department of Education.

Enacted law summary

Public Law 2001, chapter 265 gives the out-of-home abuse and neglect investigating team established in the Maine Revised Statutes, Title 22, section 4088 the authority to obtain access to personnel records for persons licensed by the Department of Education, including those in the Governor Baxter School for the Deaf.

The Governor Baxter School for the Deaf and the Department of Education must disclose to the team records related to the following:

Background checks related to the person who is the subject of the investigation. The team can review the information that the school or the department has collected or note when a background check was not completed;

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The person's credentials. The team can review the education, training and experience of the person to help understand the context of the alleged conduct, as well as review whether the person had the appropriate background for the position;

Any conduct on the part of the person related to the allegation. The team will be able to determine if the alleged conduct was an isolated occurrence or simply one episode in a series of similar or escalating instances; and

Any action the school or the Department of Education took in response to the conduct of any person at the school that is similar to the conduct alleged. This allows the team to review what sanctions, if any, have been imposed upon similar conduct.

LD 1599

An Act to Clarify the Maine Human Rights Act Concerning Responsibility for Employment Discrimination

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP A	
TURNER	OTP-AM B	
	OTP-AM C	

LD 1599 proposed to clarify whether individuals acting in the interest of an employer are personally liable for employment discrimination under the Maine Human Rights Act. In April 2000, the Maine Law Court issued an opinion in the case of Gordan v. Cummings (Docket #Cum-99-254, April 19, 2000) that found a supervisor individually liable for employment discrimination. However, the Court reconsidered that opinion and issued an opinion in July 2000 declining to decide the question of whether supervisors are individually liable under the Act. LD 1599 proposed to state that individuals are not personally liable. The Judiciary Committee issued three reports on the bill: two "ought to pass as amended" reports, and one "ought not to pass" report.

Committee Amendment "A" (H-561) proposed to replace the bill with language that more clearly ensures that individual employees, such as supervisors, are not personally liable for employment discrimination. It also removed language from the bill that may have changed the law in Maine regarding when employers are responsible for actions of their employees and other agents. (Not adopted)

Committee Amendment "B" (H-562) proposed to replace the bill with language providing for individual liability only when the individual supervisor or other agent created a hostile work environment, and only if such an environment was created with malice or reckless disregard of the rights of an individual protected by the Maine Human Rights Act. Remedies against the individual could include civil penal damages, cease and desist orders and a requirement to pay costs and attorney's fees to the complainant and would be in addition to any remedies against the employer. (Not adopted)

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LD 1602

An Act to Prevent Violence Against Pregnant Mothers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MENDROS	ONTP MAJ	
DAVIS P	OTP-AM MIN	

LD 1602 proposed to create a new crime against unborn children and pregnant mothers. Voluntary manslaughter of an unborn child would be a Class A crime and consist of intentionally or knowingly causing the death of an unborn child when the perpetrator knows the woman is pregnant and the woman wishes to continue the pregnancy.

These crimes would not apply to an abortion to which the pregnant woman has consented, nor would they apply to acts committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment. These crimes would not apply to the pregnant woman.

Committee Amendment "A" (H-236) was the minority report of the Joint Standing Committee on Judiciary. It proposed to replace the bill.

It proposed to amend the existing aggravated assault law to include a prohibition against intentionally, knowingly or recklessly causing bodily injury to a person who is pregnant when the actor knew the person was pregnant and the actor intended to terminate the pregnancy. The bodily injury would not have to result in the termination of the pregnancy. The crime would not apply to an abortion to which the pregnant person has consented. Such an aggravated assault would be a Class B crime.

It also proposed to amend the existing elevated aggravated assault law to include a prohibition against intentionally or knowingly causing serious bodily injury to a person that the actor knows is pregnant, and the actor has the intent to terminate the pregnancy. "Serious bodily injury" would specifically include the termination of the pregnancy. The new provisions would not apply to an abortion to which the pregnant woman consented. (Not adopted)

LD 1609

An Act to Provide a Family Bill of Rights

ONTP

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

LD 1609 proposed to amend the Child and Family Services and Child Protection Act concerning requirements governing guardians ad litem, intervener status of long-term foster parents, the confidentiality of proceedings,

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services provided by the Department of Human Services, and the inclusion of relatives in conferences to determine the placement of a child.

See also LD 1793 and HP 1385.

LD 1611 **Resolve, to Establish a Task Force to Study Parenting Alienation Syndrome and Related Issues** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FULLER PENDLETON	ONTP	

LD 1611 proposed to establish a task force to study parent alienation syndrome and related issues of custodial parents, the actions and responsibilities of the Department of Human Services and domestic violence.

LD 1624 **An Act Concerning the Payment of Child Support** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAWES O'GARA		

LD 1624 proposed to provide an additional child support collection tool for the Department of Human Services. It proposed to require that employers who hire persons on a contract basis for \$2,500 or more report the names, addresses and social security numbers to the Department of Human Services. It also proposed that increases in collections of debt owed the department and not owed to anyone else over \$7,406,560 must be used to increase TANF and Parents as Scholars Program cash assistance levels until Maine's maximum level for a family of three reaches the New England average.

This bill has been carried over to the Second Regular Session.

LD 1645 **An Act to Address Confidentiality of Records in the Medical Examiner Act** **PUBLIC 221**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE RAND	OTP-AM	H-282

LD 1645 proposed to amend the Medical Examiner Act to address issues of confidentiality.

In addition to incorporating those records currently made confidential, the bill proposed to significantly broaden current law by including as confidential communications with the office of a district attorney relating to a medical

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examiner case, report documents, as defined, photographs and transparencies, histological slides, videotapes and other like items and mechanical or electronic data compilations relating to a medical examiner case. It proposed to expressly address access to or dissemination of records made confidential, and define "person" for those purposes. Each provision authorizing access or dissemination reflects current practice. The bill also proposed to authorize testing for HIV when determined necessary by the Chief Medical Examiner and disclosure of test results notwithstanding current law governing the testing for HIV and the disclosure of the results of those tests.

Committee Amendment "A" (H-282) proposed to remove report documents as defined in the Maine Revised Statutes, Title 22, section 3035, subsection 2 from the listing and treatment of information that the bill declares is confidential. A new subsection proposed to provide for the unique handling of such documents by treating report documents as "investigative information" relative to which access and dissemination is governed by Title 16, section 614. Release is further made contingent upon a person's request specifying a specific decedent or decedents and the payment of any fee required under Title 22, section 3035.

This amendment proposed to move the paragraph defining the term "person" to the end of Title 22, section 3022.

This amendment proposed to remove from the list of confidential information "mechanical or electronic data compilations" because whether mechanical or electronic data compilations are to be treated as confidential is not determined by their physical forms but instead by the information they contain.

Enacted law summary

Public Law 2001, chapter 221 amends the Medical Examiner Act as follows.

Confidentiality of records in the possession or custody of a medical examiner of the Office of Chief Medical Examiner is comprehensively addressed. In addition to incorporating those records currently made confidential, the law significantly broadens current law by including as confidential communications with the office of a district attorney relating to a medical examiner case, photographs and transparencies, histological slides, videotapes and other like items and data compilations relating to a medical examiner case.

Access to or dissemination of records made confidential is expressly addressed and "person" is defined for those purposes. Each provision authorizing access or dissemination reflects current practice.

Testing for HIV when determined necessary by the Chief Medical Examiner and disclosure of test results are expressly authorized notwithstanding current law governing the testing for HIV and the disclosure of the results of those tests.

Report documents are treated as "investigative information" relative to which access and dissemination is governed by Title 16, section 614. Release is further made contingent upon a person's request specifying a specific decedent or decedents and the payment of any fee required under Title 22, section 3035.

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LD 1650

An Act to Require Substance Abuse Assessment and Treatment for Parents of Children Referred to Child Protective Services

ONTP

<u>Sponsor(s)</u> DAGGETT BRANNIGAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1650 proposed to require substance abuse assessments and treatments to be available and ordered when necessary for parents who are referred to child protective services. It also proposed to provide \$3,000,000 over the biennium to provide those assessments and services.

LD 1658

An Act Regarding Passamaquoddy Land in Township 19, M.D.

PUBLIC 251

<u>Sponsor(s)</u> SOCTOMAH SHOREY	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1658 proposed to amend the Act to Implement the Maine Indian Claims Settlement Act concerning the Trust Lands of the Passamaquoddy Tribe. The Secretary of the Interior of the United States would have until January 31, 2020 to acquire and place in trust on behalf of the Passamaquoddy Tribe all purchased land in Township 19, Middle District.

Enacted law summary

Public Law 2001, chapter 251 amends the Act to Implement the Maine Indian Claims Settlement Act concerning the territory of the Passamaquoddy Tribe. The Secretary of the Interior of the United States has until January 31, 2020 to acquire and place in trust on behalf of the Passamaquoddy Tribe all purchased land in Township 19, Middle District. If that deadline is met, the purchased land becomes part of the Indian Territory of the Passamaquoddy Tribe.

LD 1670

An Act Regarding Child Abandonment

CARRIED OVER

<u>Sponsor(s)</u> KILKELLY O'BRIEN L	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1670 proposed to amend the law to deal with infants abandoned by their parents. It proposed to create an affirmative defense to the crime of abandonment of a child if the child was 31 days or younger and the person charged delivered the child to a hospital emergency room or to a police officer, firefighter, medical services

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provider or hospital staff member. This bill proposed to ensure anonymity for the person delivering the child and terminating the parental rights and responsibilities of the parent delivering the child.

This bill has been carried over to the Second Regular Session.

LD 1681

An Act Relating to Personal Privacy and Governmental Information Practices

PUBLIC 321

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-461
	ONTP MIN	

LD 1681 proposed to implement several of the recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. It proposed to require state and local governments to include notice of their information practices on their publicly accessible sites on the Internet. The notice would inform the public about what information is being collected via the Internet site, how it will be used, how to access and correct information and what security measures are taken by the governments to prevent improper use of that information.

The bill also proposed to require state agencies to include in their review under the State Government Evaluation Act an analysis of their information practices and their use of information technology. Finally, the bill proposed to create a commission to examine public concern about collection of personal information by governmental entities and to create a comprehensive information practices law governing collection and management of personal information by governmental entities.

Committee Amendment "A" (H-461) proposed to strike the Part of the bill creating a commission to review governmental information policy. The issues to be studied by the commission were assigned to the study commission proposed in LD 872.

Enacted law summary

Public Law 2001, chapter 321 relates to personal privacy and governmental information practices, and is based on recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy. Chapter 321 requires state and local governments to include notice of their information practices on their publicly accessible sites on the Internet. The notice would inform the public about what information is being collected via the publicly accessible site on the Internet, how it will be used, how to access and correct information and what security measures are taken by the governments to prevent improper use of that information. Chapter 321 also requires state agencies to include in their review under the State Government Evaluation Act an analysis of their information practices and their use of information technology.

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LD 1689

An Act to Amend the State's Abortion Reporting Law

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNEELAND	ONTP MAJ	
MENDROS	OTP-AM MIN	

LD 1689 proposed to revise the abortion reporting law to require the reporting of very specific information about each abortion performed while maintaining the confidentiality of the patients and physicians. It proposed to require the Department of Human Services to compile the information and make a report available on an annual basis. Failure to report as required would be a Class D crime. Falsifying or altering a reporting form could result in a forfeiture of up to \$1,000.

Committee Amendment "A" (S-103) was the minority report of the Joint Standing Committee on Judiciary. This amendment proposed to add an appropriation section and a fiscal note to the bill. (Not adopted)

LD 1696

An Act to Allow the Chief Medical Examiner to Assume the Responsibility for the Disposition of Human Remains

PUBLIC 292

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE	OTP-AM	H-340
LONGLEY		

LD 1696 proposed to add a new provision to the Medical Examiner Act to allow the Chief Medical Examiner to assume responsibility for proper disposition of dead bodies of identified nonresidents or unidentified dead bodies that are the subject of medical examiner cases when no other person or governmental unit is willing to take responsibility for disposition.

Committee Amendment "A" (H-340) proposed to replace the bill and proposed to do the following:

Clarify that the Chief Medical Examiner's responsibility for disposition of an identified deceased nonresident or unidentified body is conditioned upon the Chief Medical Examiner, after reasonable inquiry, being unsuccessful in either locating next of kin in the context of a deceased nonresident, another person or a governmental unit legally responsible for disposition or locating another person or governmental unit willing to undertake responsibility notwithstanding the absence of a legal duty; and

Specify that any necessary expenses incurred by the Chief Medical Examiner for proper disposition are the responsibility of the Department of Human Services, except in the event that a deceased nonresident is an illegal alien or the deceased is not identified but the Chief Medical Examiner, after reasonable inquiry, determines the deceased is an illegal alien. In those special circumstances, the necessary expenses incurred by the Chief Medical Examiner for proper disposal are the responsibility of the Department of the Attorney General.

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Enacted law summary

Public Law 2001, chapter 292 adds a new provision to the Medical Examiner Act to allow the Chief Medical Examiner to assume responsibility for proper disposition of dead bodies of identified nonresidents or unidentified dead bodies that are the subject of medical examiner cases when no other person or governmental unit is willing to take responsibility for disposition. The necessary expenses incurred by the Chief Medical Examiner are to be paid by the Department of Human Services or the Department of the Attorney General.

LD 1699

An Act to Make Certain Changes in the Child Welfare Laws

ONTP

Sponsor(s)
DUDLEY

Committee Report
ONTP

Amendments Adopted

LD 1699 proposed to amend the law concerning disclosure in the investigation of the abuse or neglect of a child to authorize that disclosure if a child has nearly died. The bill proposed to add foster parents to the list of persons who must report suspected child abuse and neglect. The bill also proposed to provide for ongoing judicial review when a child is placed with a foster parent.

See also LD 1066, LD 1793 and HP 1385.

LD 1705

An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act

PUBLIC 222

Sponsor(s)
KANE
LONGLEY

Committee Report
OTP-AM

Amendments Adopted
H-283

LD 1705 proposed to amend the Medical Examiner Act by making grammatical changes and correcting gender-specific language; replacing, in the context of medical examiner cases, the term "violence" with the more readily understandable phrase "physical injury;" clarifying the reporting requirements of suspected medical examiner cases by including the definition of "person;" clarifying the procedures for investigations by law enforcement officers; clarifying that the current rule-making authorization delegated to the Chief Medical Examiner is in the category of routine technical rules; and modifying the limitation on civil liability of certain persons permanently or temporarily appointed or retained under the Medical Examiner Act to make clear that all such persons, while undertaking their duties, are each an "employee" for the purposes of the Maine Tort Claims Act.

Committee Amendment "A" (H-283) proposed to remove section 9 of the bill to avoid a conflict with another bill amending the same provision of statute slightly differently.

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Enacted law summary

Public Law 2001, chapter 222 amends the Medical Examiner Act as follows.

It replaces, in the context of medical examiner cases, the term "violence" with the more readily understandable phrase "physical injury."

It clarifies the reporting requirements of suspected medical examiner cases by including the definition of "person."

It clarifies the procedures for investigations by law enforcement officers.

It clarifies that the current rule-making authorization delegated to the Chief Medical Examiner has been assigned the category of routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

It modifies the limitation on civil liability of certain persons permanently or temporarily appointed or retained under the Medical Examiner Act to make clear that all such persons, while undertaking their duties, are each an "employee" for the purposes of the Maine Tort Claims Act.

LD 1716

An Act to Improve Child Support Services

PUBLIC 264

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS MILLS	OTP-AM	H-343

LD 1716 proposed to make several changes to the laws concerning child support.

Committee Amendment "A" (H-343) proposed to address four issues in the bill: extraordinary medical expenses, pro rata share of health insurance premiums, tax exemptions and a new hearsay exception.

Enacted law summary

Public Law 2001, chapter 264 makes several changes to the laws concerning child support. It revises the definition of "extraordinary medical expenses," and includes the actual costs of health insurance premiums paid by a party in the child support obligation and allows the hearing officers to obligate the responsible parent for that parent's proportionate share of the health insurance premium that is paid by the other parent. It includes the self-support reserve for certain obligors. It changes the criteria related to tax consequences as the child support tables assume the primary residential care provider receives all the tax benefits. It removes the incremental cost of health insurance as this is included in the child support obligation. It authorizes the court to consider which party may benefit the most from the allocation of tax exemptions for the children. It amends the law concerning interstate cooperation to conform to a federal mandate that child support orders be established in accordance with child support guidelines and not be based on the amount of public assistance expended. It states specifically that spousal support is also assigned to the Department of Human Services when the person receives public assistance, as

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required by federal law, 42 United States Code, Section 608. It adds a new hearsay exception that allows responses from employers, businesses and financial institutions to be introduced in court without the need for the employer's, business's or financial institution's presence for verification, as the records are held in the ordinary course of business.

LD 1721 **An Act to Allow Expressly Authorized Persons to Conduct Investigations for the Chief Medical Examiner** **PUBLIC 291**

<u>Sponsor(s)</u> MARTIN BERRY R		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 1721 proposed to allow the Chief Medical Examiner to expressly authorize a person to conduct the investigation and examination on any case reported to the Office of Chief Medical Examiner.

Enacted law summary

Public Law 2001, chapter 291 allows the Chief Medical Examiner to expressly authorize a person to conduct the investigation and examination on any case reported to the Office of Chief Medical Examiner.

LD 1734 **An Act to Promote Safe Schools** **CARRIED OVER**

<u>Sponsor(s)</u> DUDLEY		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1734 proposed to allow a student who is harassed or assaulted on school grounds or during a school supervised activity for reasons of the race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation of the student to sue the school administrative unit for failing to prevent the abuse.

This bill has been carried over to the Second Regular Session.

LD 1751 **An Act to Amend the Maine Commission on Domestic Abuse** **PUBLIC 240**

<u>Sponsor(s)</u> NORBERT RAND		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-341
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LD 1751 proposed to make changes to the composition of the Maine Commission on Domestic Abuse and require the commission to report biennially to the Legislature.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-341) proposed to replace the bill in order to change the name and duties of the Maine Commission on Domestic Abuse to cover both domestic and sexual abuse. The proposed new name of the commission is the Maine Commission on Domestic and Sexual Abuse.

The amendment proposed to correct the reference to members appointed by the Governor to represent the coalition of sexual assault centers.

The amendment proposed to add one member, appointed by the Governor, who has experience working with batterers' intervention programs.

The amendment proposed to clarify the language to require the commission to report to the joint standing committee of the legislature having jurisdiction over judiciary matters every two years, beginning January 30, 2002.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 2001, chapter 240 adds members to the membership of the Maine Commission on Domestic Abuse, and requires the commission to report biennially to the Legislature. The Commission becomes the Maine Commission on Domestic and Sexual Abuse.

LD 1770 An Act Regarding Conversions of Nonprofit Entities to For-profit Entities CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL RAND		

LD 1770 proposed to amend statutes relating to the oversight of public charities by the Attorney General and to enact or amend laws relating to conversions of nonprofit entities to for-profit entities, management of institutional funds, duties and authority of directors and officers of nonprofit corporations, standards of conduct for directors and other matters relating to nonprofit corporations.

This bill has been carried over to the Second Regular Session.

LD 1793 Resolve, to Establish the Commission to Review the Child Protective System DIED ON ADJOURNMENT

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

Joint Standing Committee on Judiciary

LD 1793 was reported out by the Joint Standing Committee on Judiciary pursuant to Joint Order, HP 1303. The Resolve proposed to establish a study commission to examine certain elements of the child protective system. LD 1793 was replaced by Joint Order, HP 1385.

SP 423 **Joint Study Order to Establish the Joint Study Committee to Study the Need for Additional Civil Legal Resources** **DIED ON ADJOURNMENT**

<u>Sponsor(s)</u> TREAT		<u>Committee Report</u> OTP ONTP		<u>Amendments Adopted</u>
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This Joint Order proposed to create a six-member committee of legislators to study the need, if any, for additional civil legal resources.

HP 1385 **Joint Study Order to Establish the Commission to Review the Child Protective System** **READ AND PASSED**

<u>Sponsor(s)</u> SAXL		<u>Committee Report</u>		<u>Amendments Adopted</u>
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Enacted law summary

This Joint Order creates a study commission to examine many factors about the child protective system. It takes the place of LD 1793, which was reported out of the Joint Standing Committee on Judiciary to replace several bills that were proposed to amend the child protective system. The study commission consists of 10 members, appointed by the President of the Senate and the Speaker of the House of Representatives, plus the Commissioner of the Department of Human Services is requested to appoint a child protective caseworker or supervisor to serve as a member. The Chief Justice of the Supreme Judicial Court is requested to appoint a District Court Judge to participate with the commission.

The commission's duties include reviewing the issues raised by the many bills introduced into the First Regular Session of the 120th Legislature and to review and investigate specific problems and questions in the child protective system. These duties focus mainly on the legal rights and duties of parents, guardians ad litem, the Department of Human Services and other participants in the child protective legal system. The commission is charged with making recommendations for changes in laws, rules and procedures and to report back to the Joint Standing Committee on Judiciary no later than December 5, 2001. The Joint Standing Committee on Judiciary may report out legislation related to the report.

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