

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

and that goes in virtually nothing no time at all, to send his plans to the Fire Marshal to have them reviewed, I think is an additional burden to the business people and the communities of this State that is not necessary.

I do believe though that they should be permitted to send these plans to the Fire Marshall and that he be required to review them. Right now he is not and should they be sent to him I am sure that he would send them back, saying, I do not need to do this. I think that we do need to bring to the attention of the Maine business community and all regards the problems inherent in barrier free construction and the handicapped. By the same token I think that we should do our educational job first. Then I would think out of good common sense that a business person that was going to make a new building or addition would send their plans and have them checked out, to make sure that they are all right. I do not think that we should require them to do so. It is just another piece of mandatory government that I do not think is necessary and I urge you to accept the proposal of our Chairman of the State Government Committee.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I have before me, a resolve that was passed by the Legislature in 1965, whereby it stated: that the Legislature in Maine endorses the architectural barrier project and requests that all State Departments when planning construction of buildings specify in the design of such buildings that the needs of the handicapped be taken into account. Such matters as entrances, width doors, handrails and so forth.

The Resolution is intended to attract the attention to the fact that architectural designs of all new building construction should be made to accommodate the general needs of handicapped people without adding significantly to the cost.

This has been in effect, the resolve, was passed through the Legislature in 1965. We are at the point where we have had state buildings that do not fit into the requirements of the Human Rights Act.

A Resolve is an educational process for people, we are trying to up-lift them to know that there are other people out there that exist that do have difficulties in getting around. It just has not been effective.

This Bill truly has been worked on, it is not the same bill that came into the State Government Committee. The people that asked me to sponsor the bill, and then I and the State Government Committee have had many many work sessions, and we have diluted the bill to where 2003 might as well not be passed. There is nothing in it that is not able to be done at this point. What we are asking is that the plans must be submitted or should be submitted to the Fire Marshalls' Office. Just get his advice as to how they can handle these barrier problems. I would suggest that you do go along with 2002, because 2003 is just useless.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Mr. President and Members of the Senate. The good Senator from Oxford, Senator Sutton has invoked the words 'businessman' which has attached to it recently almost a holy connotation.

The fact of the matter is that there are buildings in this state which have been reconstructed and constructed since the year 1965, which are not accessible to the handicapped citizens of this state. These are public buildings, and once and for all I would hope that the members of this Chamber would be sensitive and responsive to the fact that handicapped people are indeed members of the public, and have equal access to all public buildings.

If you have ever experienced approaching a door, and been unable to enter because you were either unable to turn the knob or the ap-

pliance in which you were sitting could not fit through the opening, perhaps you would be more sensitive to the barriers which are not only currently existing, but which will continue to exist if we don't 'Fish or Cut Bait' this morning.

I would hope that you would support the good Senator from Cumberland, Senator Gill, in her sponsorship and her support of L. D. 2002.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Just one final word, I did not know that businessmen were getting to be holy, but I am glad that that was brought to my attention, specially since my pastor is here this morning. I hope that he will take that back to the friends in our community.

It makes me a little bit nervous when we have laws already on the statutes and public buildings are a prime example, they have been under mandate by law for years, that this should be done and the fact that it is not being done, based on the fact that it is already in the law. I see no reason to think that it is going to be done if we pass another law. Enforce the laws that we have got now, do a little educating and not just make a new law to enforce a law that is not being done.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President I would only suggest that the Attorney General is going to be here before us in a very short period of time, we might address the Attorney General as to why that law is not being enforced, when he gets here.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by Senator Ault of Kennebec, that the Senate accept Report "B", please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

7 Senators having voted in the affirmative and 13 Senators in the negative, the motion to accept Report "B" does not prevail.

On Motion by Senator Gill of Cumberland, Report "A" of the Committee Adopted, and the Bill Read Once, and Assigned for Second Reading later in today's session.

On Motion by Senator Katz of Kennebec, the Senate voted to remove from the Table:

Bill, "An Act Establishing the Child and Family Services and Child Protection Act." (H. P. 1787) (L. D. 1906)

On Motion by Senator Conley of Cumberland the Senate voted to reconsider adoption of Committee Amendment "A".

Senator CONLEY: I now offer Senate Amendment "A" to Committee Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-474) to Committee Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator CONLEY: Mr. President and Members of the Senate. First I would like to commend the Joint Standing Committee on Judiciary for its very tedious labor that has been done to this bill, over the weeks that we have been here.

Under L. D. 1906, as amended by Committee Amendment "A", the department would have to prove the need to terminate parental rights to a child in a court by a preponderance of the evidence.

Senate Amendment "A" would require that the State prove its case by clear and convincing evidence, a high standard of proof. While the lesser standard of proof might be sufficient when a child is possibly still in danger of abuse no such urgency exists once the child has been removed and the only issue is the termination

of parental rights.

It is not unreasonable to require the courts to get clear and convincing evidence before permanently ending this most basic of relationships. In fact recent State and Federal Court Cases have held that it is unreasonable and unconstitutional to terminate the parental rights simply on a showing of a preponderance of the evidence.

While some older cases indicate that this standard may be sufficient there is a significant likelihood of a court declaring that the preponderance of evidence standard unconstitutional. Therefore I would move the adoption of Senate Amendment "A".

Senate Amendment "A" to Committee Amendment "A" Adopted. Committee Amendment "A" as amended, by Senate Amendment "A" Adopted, in non-concurrence.

The Bill, as amended, Passed to be Enrolled, in non-concurrence.

Sent down for concurrence.

There being no objections all items previously acted upon were sent forthwith.

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland, was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Katz of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

The Chair laid before the Senate the seventh tabled and specially assigned matter:

Bill, "An Act to Amend the Health Facilities Information Disclosure Act." (S. P. 732) (L. D. 1912) (Emergency)

Tabled—March 17, 1980 by Senator Pierce of Kennebec.

Pending—Motion of Senator Hichens of York that Bill and Papers be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, this bill was debated on Friday afternoon. I don't like to really go through the whole debate, but this is an emergency measure and we didn't have the quorum in the Hall that day. I would ask you to vote against the pending motion, Indefinite Postponement. This bill was worked out of the Health and Institutional Committee. We tried to define the language and put it in a clearer form so it was easy to understand.

I mentioned the other day and I will mention again that one of the sections that talked about charges are reasonably just and reasonably related to reasonable financial requirements seemed to be a little bit difficult to understand even for people who had worked with the bill, and we wanted to clarify this language a little which we did.

We also have put a fee in there for those who come before the board to have their budgets reviewed, because under the present law, each hospital is required to submit a budget for review to either the board or the VBRO, which is the Voluntary Review Board. If the budget is submitted to the board, the State pays the cost of the review, but if the budget is submitted to the VBRO, the hospital pays for the review. We just don't have the money in the State to pay for all of these, so it gives the hospitals the chance to submit to whichever, the Board or the VBRO, wherever they want to submit it. It will cost them, wherever they want to submit it. What's been happening is some of the hospitals have been submitting to the VBRO, and