

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume III**

**Second Special Session**

April 8, 2004 - April 30, 2004

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The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. I just wanted to make a brief comment on this. The other day I spoke in opposition to this, because I was concerned about the change in the rules of evidence and the possibility of legal problems as it relates to fruits from the poisonous tree and having evidence dismissed. Although this is a mandate, I will be voting in favor of it. I ask that you do the same. It is much more acceptable to have this. In most cases agencies presently have these rules already in place and policies already in place. I would ask that you vote for this. Thank you Mr. Speaker.

**House Amendment "B" (H-940) to Committee Amendment "A" (S-405) was ADOPTED.**

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-880) to Committee Amendment "A" (S-405) was ADOPTED.**

On further motion of the same Representative, **House Amendment "A" (H-880) to Committee Amendment "A" (S-405) was INDEFINITELY POSTPONED.**

**Committee Amendment "A" (S-405) as Amended by House Amendment "B" (H-940) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-405) as Amended by House Amendment "B" (H-940) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

An Act To Amend the Laws Relating to Property and Casualty Insurance and To Authorize the Superintendent of Insurance To Establish a Mandatory Market Assistance Program

(S.P. 692) (L.D. 1853)  
(H. "A" H-908 to C. "A" S-489)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE.**

Representative O'NEIL of Saco **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. Not to slow down the train, but this is a very, very important item that has kind of gone under the radar screen for most of us. I would suggest to you that for all of those in the House that have received phone calls over the last couple of years and e-mails from constituents concerned about property and casualty insurance, more specifically homeowner's insurance and the difficulty in attaining and maintaining the same. This is a beautiful piece of work where we incorporated three different bills, a pro-consumer bill that was brought to us, a pro-regulator bill that was brought to us and a pro-industry bill that was brought to us. We gave the industry better market conditions for insurers to rate and write risk. We gave the regulators a market assistance plan that gives previously hard to insure risks with necessary insurance. Third, we gave consumer protections in getting and keeping coverage.

To spare you the details on it, I would ask that as we finish up our work here this spring, this is a good one for your legislative aide to summarize for you to bring back to your district. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 476**

**YEA** - Adams, Andrews, Annis, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Ketterer, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Marley, Marraché, McCormick, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Millett, Mills J, Moody, Moore, Muse, Norton, Nutting, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Pineau, Pingree, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

**NAY** - NONE.

**ABSENT** - Ash, Bennett, Breault, Bunker, Earle, Eder, Goodwin, Kaelin, Kane, Koffman, Landry, Ledwin, Makas, McGowan, Mills S, Murphy, Norbert, O'Brien J, Perry J, Piotti, Rines, Shields, Smith W, Sullivan.

Yes, 127; No, 0; Absent, 24; Excused, 0.

127 having voted in the affirmative and 0 voted in the negative, with 24 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability

(H.P. 1409) (L.D. 1903)  
(H. "B" H-884 to C. "A" H-860)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative MILLS of Farmington, was **SET ASIDE.**

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I rise simply to acknowledge and express our appreciation to the good work of two excellent commissions who worked during the fall of last year and into the session this year, those being the commissions indicated in the title of (10-7), the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners and the Commission To Improve Community Safety and Sex Offender Accountability. I was privileged to serve on the first commission along with Representative Grose and Senator Strimling and other good people, including the Chief Justice of the Maine Supreme Court and members of the Superior District Court, members of the

defense bar, District Attorney Everett Fowler representing the eight DAs and chaired by former commissioner Donald Allen, former commissioner of Corrections. That commission worked so diligently. I have been privileged to serve on many, many boards and commissions in the last 30 years. I have to say that this one tackled a huge subject in a very short time. This body, the Legislature as a whole, has given us the courtesy of continuing our work. In the coming months we have much to do in tackling difficult issues of mental health of inmates and people on probation and people committing crimes in this state, mental health issues and substance abuse issues and how we deal with people with substance abuse issues in our prison systems and on probation and parole. We appreciate the courtesy of being able to continue that work. We tackled huge issues last fall. You have kindly acknowledged our work and supported our legislation. I just want to acknowledge the good work of Representative Grose and Senator Strimling in the other body and the other members of the commission on which I was privileged to serve this past fall and winter.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I just wanted to rise in support of this measure and to note the pink sheets distributed to your desks, which summarize some of the work of the Commission to Improve Community Safety and Sex Offender Accountability. We worked six months on this legislation. It is broad based and delves into many areas of this complicated area of law. I was proud because we worked with prosecutors, defense attorneys with advocates for victims of sexual assault and with Justice Atwood and many others. I never had a prouder experience serving as House Chair. We worked on contentious issues and never had a raised voice and achieved unanimity or near unanimity on every single issue. I include Representative Greeley, of course, in that and Senator Hatch.

I do want to note that I am very thankful because now these are joined with the positive vote I did receive on H-875 and that was intended in the spirit of compromise. I will continue as I have to work with defense attorneys, prosecutors, probation, service providers and others to continue that spirit of compromise with regard to all these criminal law issues.

Finally, I would note that because of all the discussions with this issue, it was not so much emphasized that the primary concern that I have with regard to the sex offender and sex crime issue is that of prevention. While we have criminal penalties that are created or increased under this legislation, to me, working on prevention and working on treatment for sex offenders is most important. We have a charge to continue with an analysis of that effort in the coming months through another body. I hope that we can work toward substantive efforts toward prevention in the future. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative BLANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I, too, have to stand to say a few thank yous for the passage of this bill. I can tell you without any doubt at all in mind that you will never have a stronger advocate in the House for children's rights to be protected than Representative Faircloth from Bangor. He has spent a great deal of his life advocating for the safety of children. I do believe he always will. This was the nature of his make up and it is a plus for this legislative body and most definitely a plus for the citizens of Bangor. I would like to say, thank you Representative Faircloth for all of your hard work and your diligence. We disagreed, but I hope we can put this disagreement behind us and move on.

To the rest of the members of both of these commissions and most assuredly to my Criminal Justice, Public Safety Committee, I cannot say thank you enough for the hard work and the dedication that you have put into working both of these bills. This is a good piece of legislation. It is a good move for the State of Maine. I thank you sincerely from the bottom of my heart for your support and passage of this bill. Thank you.

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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The following items were taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Preserve the Fund for a Healthy Maine

(H.P. 1188) (L.D. 1612)

TABLED - April 15, 2004 (Till Later Today) by Speaker COLWELL of Gardiner.

PENDING - **FURTHER ACTION**.

On motion of Representative RICHARDSON of Brunswick, **TABLED UNASSIGNED** pending **FURTHER ACTION**.

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HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-756)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-757)** - Committee on **TAXATION** on Bill "An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code" (EMERGENCY)

(H.P. 1229) (L.D. 1651)

TABLED - March 11, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Subsequently, Representative DUPLESSIE of Westbrook **WITHDREW** his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The same Representative moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Representative JOY of Crystal **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.