

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*First Regular Session and  
First Special Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Judiciary*

*August 2005*

**Members:**

*Sen. Barry J. Hobbins, Chair*

*Sen. Lynn Bromley*

*Sen. David R. Hastings III*

*Rep. Deborah L. Pelletier-Simpson,  
Chair*

*Rep. Sean Faircloth*

*Rep. Stan Gerzofsky*

*Rep. Marilyn E. Canavan*

*Rep. Mark E. Bryant*

*Rep. Michael Edward Dunn*

*Rep. Roger L. Sherman*

*Rep. Roderick W. Carr*

*Rep. Joan Bryant-Deschenes*

*Rep. Joan M. Nass*

*Rep. Donna M. Loring*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER ..... Bill Carried Over to Second Regular Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

*Joint Standing Committee on Judiciary*

**LD 693**

**An Act To Increase Public Safety through the Enhancement of Law Enforcement for the Houlton Band of Maliseet Indians**

**PUBLIC 310**

<u>Sponsor(s)</u> CLUKEY SHERMAN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-229
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LD 693 is a concept draft pursuant to Joint Rule 208. It proposed to amend state laws to provide for cooperation among law enforcement resources of the State, Aroostook County, the Town of Houlton and the Houlton Band of Maliseet Indians.

**Committee Amendment "A" (S-229)** proposed to replace the bill and provide a framework for the Houlton Band of Maliseet Indians to provide law enforcement services within their Trust Land.

***Enacted law summary***

Public Law 2005, chapter 310 authorizes the Houlton Band of Maliseet Indians to appoint law enforcement officers who will have authority to enforce all the laws of the State within the Houlton Band Trust Land, as defined in the Maine Revised Statutes, Title 30, chapter 601 and in the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566 (1986). Law enforcement officers of the State, Aroostook County and the Town of Houlton have authority to enforce all laws of the State within the Houlton Band Trust Land. Chapter 310 provides that the Houlton Band of Maliseet Indians may enter into cooperation and mutual aid agreements with other state, county or local law enforcement agencies. It also provides that law enforcement officers of the Houlton Band of Maliseet Indians have the same powers, enjoy the same immunities and are subject to the same duties, limitations and training requirements as other law enforcement officers in this State that are in corresponding situations.

Chapter 310 requires the Houlton Band of Maliseet Indians to report by January 1, 2010 on the experience under this Act. The report must include observations and comments from State, Aroostook County and Houlton law enforcement agencies. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

Chapter 310 provides for the repeal of the entire provision on July 1, 2010.

**LD 704**

**An Act To Amend the Laws Governing De Minimis Infractions of the Maine Criminal Code**

**ONTP**

<u>Sponsor(s)</u> SHERMAN	<u>Committee Report</u> ONTP MAJ OTP-AM MIN	<u>Amendments Adopted</u>
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LD 704 proposed to change the process for determining whether conduct alleged to violate the Maine Criminal Code is a de minimis infraction. This bill proposed to allow a judge or jury to base a verdict upon whether the defendant's conduct is a de minimis infraction.

## *Joint Standing Committee on Judiciary*

**Committee Amendment "A" (H-278)**, the minority report of the Joint Standing Committee on Judiciary, proposed to limit the jury's power to consider whether the defendant's conduct represents a de minimis infraction to trials of Class D and Class E crimes. (Not adopted)

**LD 713**                      **An Act To Amend Maine's Divorce Laws**                      **ONTP**

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

LD 713 proposed to create new grounds for divorce: fraud or financial misconduct. This bill proposed to require a court, upon a showing by the complaining spouse of fraud or financial misconduct by a preponderance of the evidence, to make the complaining spouse whole through the disposition of the marital assets and, if necessary, from the assets and future income of the spouse who committed the fraud or financial misconduct.

**Committee Amendment "A" (H-579)**, the minority report of the Joint Standing Committee on Judiciary, proposed to provide that if a divorce is granted on the grounds of fraud or financial misconduct, the court must order the disposition of marital and nonmarital assets to make the complaining spouse whole. The fraud or financial misconduct must be proved by clear and convincing evidence. (Not adopted)

**LD 715**                      **An Act To Provide Support for Legal Services for Low-income Mainers**                      **PUBLIC 361**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY EDMONDS	OTP-AM	H-582

LD 715 proposed to provide that 7% of any fee collected after July 1, 2005 by the Judicial Department will be paid into the Maine Civil Legal Services Fund. It also proposed to increase from \$5 to \$10 the surcharge, imposed by the court on each civil fine, penalty or forfeiture imposed by the court, to be paid into the Maine Civil Legal Services Fund. The bill also proposed to provide an appropriation of \$400,000 each year for fiscal years 2005-06 and 2006-07 to support legal services to persons who are otherwise not able to pay for those services.

**Committee Amendment "A" (H-582)** proposed to expand the number of legal services providers that are eligible to receive funding from the Civil Legal Services Fund to include nonprofit organizations whose missions include the provision of free legal services, including the provision of civil legal services to needy people. It proposed to clarify that fees collected by the Judicial Branch for publications under the Maine Revised Statutes, Title 4, section 17-A and fees collected by the Court Alternative Dispute Resolution Service under section 18-A, subsection 8 would not be subject to the 7% distribution to the Civil Legal Services Fund. It proposed to delete from the bill the General Fund appropriation of \$400,000 in each of fiscal years 2005-06 and 2006-07.