

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2007

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*Representative Bonnie S. Gould replaced former Representative Abigail Holman on the Judiciary Committee.

STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

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 (or Accepted ONTP report).....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
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 that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

LD 308 An Act To Establish the Fully Informed Jury Act BY REQUEST

ONTP

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

LD 308 enacts the Fully Informed Jury Act. It applies to all actions in which the defendant has a right to a jury trial and in which the State or a political subdivision of the State is the plaintiff. The bill provides that the right to a trial by jury includes the right to inform the jury of the jury's power to judge the law as well as all the evidence. Failure to allow the defendant to so inform the jury is grounds for a mistrial or a new trial. A party may present evidence on the law, including its merit, intent, constitutionality or applicability, as well as the motive, moral perspective or circumstances of the defendant. LD 308 applies to juries impaneled on or after October 1, 2007.

LD 341 An Act To Amend the Probate Code To Affect Claims against an Estate

ONTP

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

LD 341 amends the Probate Code to allow a proceeding to address a claim of negligence against the decedent limited to the limit of the decedent's insurance policy to be commenced within six years of the decedent's death.

LD 354 An Act Regarding the Reporting Requirements of Conservators

PUBLIC 308

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER	OTP-AM	H-374

LD 354 requires the filing of annual reports and a final report, and acceptance of the final report by the court, for a guardian who has responsibility over the estate of a protected person or ward and for a conservator for a protected person.

Committee Amendment "A" (H-374)

This amendment replaces the bill. It requires a private conservator to file an annual account with the Probate Court for approval. The Probate Court may waive or modify the duty to file an annual account for good cause shown by the conservator who is the protected person's spouse or domestic partner. The duty does not end until the court approves the account. This change concerning annual accounting applies to conservators appointed after January 1, 2008. This amendment provides that when the Probate Court determines that the minority or disability of the protected person has ceased, the court shall terminate the conservatorship upon approval of a final account. The bill provided reporting requirements for guardians. This amendment deletes those requirements, but requires the Commissioner of Health and Human Services to convene a working group to review the reporting requirements for guardians and report to the Joint Standing Committee on Judiciary by January 11, 2008.

Enacted Law Summary

Public Law 2007, chapter 308 requires a private conservator to file an annual account with the Probate Court

Joint Standing Committee on Judiciary

for approval. The Probate Court may waive or modify the duty to file an annual account for good cause shown by the conservator who is the protected person's spouse or domestic partner. The duty does not end until the court approves the account. This change concerning annual accounting applies to conservators appointed after January 1, 2008. Chapter 308 provides that when the Probate Court determines that the minority or disability of the protected person has ceased, the court shall terminate the conservatorship upon approval of a final account. Chapter 308 requires the Commissioner of Health and Human Services to convene a working group to review the reporting requirements for guardians and report to the Joint Standing Committee on Judiciary by January 11, 2008.

LD 367 An Act To Protect Emergency Room Personnel from Civil Liability

CARRIED OVER

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

LD 367 protects from legal liability in a civil action an emergency room health care practitioner who examines a patient requesting a prescription for a scheduled drug and denies the prescription for the scheduled drug to the patient.

LD 367 is carried over pursuant to Joint Order, HP 1369.

**LD 373 An Act To Change the Membership of the Maine Indian Tribal-State
Commission To Add Seats for the Houlton Band of Maliseet Indians
and the State**

PUBLIC 149

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHERMAN	OTP-AM	S-77

LD 373 expands membership in the Maine Indian Tribal-State Commission to create two new seats for the Houlton Band of Maliseet Indians and to add two additional seats for the State in order to maintain parity between the tribes and the State. The bill also establishes a new quorum and decision threshold reflecting the increase in its membership. The bill will not take effect until approved by the Legislature, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation.

Committee Amendment "A" (S-77)

This amendment incorporates a fiscal note.

**LD 389 An Act To Allow the District Court To Enter Parental Rights and
Responsibilities Orders in Child Protection Proceedings**

PUBLIC 256

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON MILLS P	OTP-AM	H-340

LD 389 gives the District Court the authority to enter an order in a child protection case under the Child and Family Services and Child Protection Act that establishes parental rights and responsibilities in the same manner as permitted in the Maine Revised Statutes, Title 19-A. The bill also ensures that the Department of Health and Human Services will participate as a full party in any subsequent proceeding to modify or terminate that order.