

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> 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

123<sup>RD</sup> 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 123<sup>rd</sup> 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 779 removes the authorization of clergy members to solemnize marriages.

**LD 809**      **An Act To Amend the Adverse Possession Law**      **ONTP**

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

LD 809 amends the adverse possession law and makes it consistent with the original intent of the Legislature and with the holding of *Dombkowski v. Ferland*, 2006 ME 24.

**LD 843**      **An Act To Provide Immunity from Tort Claims against the State of New Hampshire Department of Transportation when Performing Maintenance Operations within the State of Maine**      **ONTP**

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

LD 843 limits claims brought in Maine courts against the State of New Hampshire for damages resulting from the maintenance, construction, cleaning, clearing and repair of public highways, state-owned railroads and other public transportation facilities. LD 843 limits damage awards to the cap on liability that would apply to the State of New Hampshire if the claim had been brought in New Hampshire. The limitation on a recovery may not be less than the tort liability limit expressed in the Maine Revised Statutes, Title 14, section 8105. A similar bill did not pass in New Hampshire.

**LD 857**      **An Act To Create A Medical Malpractice Study Group**      **CARRIED OVER**

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

LD 857 is a concept draft pursuant to Joint Rule 208. It proposes to form a medical malpractice study group to determine ways to limit liability for physicians.

LD 857 is carried over pursuant to Joint Order, HP 1369.

**LD 866**      **An Act To Amend the Wrongful Death Laws**      **PUBLIC 280**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH	OTP-AM	H-344

LD 866 increases the cap on wrongful death noneconomic damages from \$400,000 to \$600,000 and requires adjustments in the future, tied to the Consumer Price Index. LD 866 also requires the court to inform the jury about the statutory caps on both noneconomic and punitive damages if either or both are sought in a wrongful death action.

# Joint Standing Committee on Judiciary

## Committee Amendment "A" (H-344)

This amendment sets the cap on noneconomic damages for wrongful death at \$500,000, a reduction of \$100,000 from the cap contained in the bill. This amendment deletes the proposed language relating to indexing the cap on wrongful death damages and informing the jury of the damage cap.

### Enacted Law Summary

Public Law 2007, chapter 280 increases the cap on wrongful death noneconomic damages from \$400,000 to \$500,000.

**LD 867      An Act To Implement the Recommendations of a Joint Task Force on      PUBLIC 228**  
**Fraudulent Uniform Commercial Code Filings as Adopted by the**  
**National Association of Secretaries of State and the International**  
**Association of Commercial Administrators**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	H-242

LD 867 implements the recommendations of the Joint Task Force on Fraudulent UCC Filings as adopted by the National Association of Secretaries of State and the International Association of Commercial Administrators to provide a remedy to a person who has been adversely affected by the filing of a lien against the person's personal property by an unauthorized filer.

## Committee Amendment "A" (H-242)

This amendment establishes a separate crime in the Maine Criminal Code of falsely filing a recordable instrument as a Class D crime. This new crime addresses the problem of persons filing false or spurious documents in public registries, such as those maintained by the registries of deeds or probate and the Office of the Secretary of State, with the intent to defraud, harass or intimidate. This amendment amends the bill to cross-reference the new crime, rather than establishing the crime in the Maine Revised Statutes, Title 5.

### Enacted Law Summary

Public Law 2007, chapter 228 implements the recommendations of the Joint Task Force on Fraudulent UCC Filings as adopted by the National Association of Secretaries of State and the International Association of Commercial Administrators to provide a remedy to a person who has been adversely affected by the filing of a lien against the person's personal property by an unauthorized filer. A separate crime is established in the Maine Criminal Code of falsely filing a recordable instrument as a Class D crime. This new crime addresses the problem of persons filing false or spurious documents in public registries, such as those maintained by the registries of deeds or probate and the Office of the Secretary of State, with the intent to defraud, harass or intimidate.

**LD 868      An Act To Amend the Civil Foreclosure Laws      PUBLIC 103**

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

LD 868 amends the laws governing civil action foreclosure to require that the judgment of foreclosure entered by the court and evidence of compliance with the notice and public sale requirements be attached to or included within the deed, or both, or otherwise be recorded in the registry of deeds.