

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.

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or reaches 22 years of age, whichever occurs first. The child must be a full-time student and must have begun attending the institution of higher education within six months of graduating from high school. Child support may be paid directly to the institution of higher education. The definition of "institution of higher education" is that used in Title IV of the federal Higher Education Act.

LD 1011 An Act To Enhance Child Support Collections in Maine

**PUBLIC 206
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN	OTP-AM	S-112

LD 1011 specifies that a snowmobile registration, an ATV registration and a second or subsequent motor vehicle registration may not be issued to a person who has defaulted on a child support order or must be revoked by the issuing agency.

Committee Amendment "A" (S-112)

This amendment replaces the bill. It retains the original purpose of revoking or prohibiting the issuance or renewal of a snowmobile registration or ATV registration for a person who has been certified as failing to comply with a child support order. It requires the Commissioner of Inland Fisheries and Wildlife to provide information about watercraft, snowmobile and ATV registrants to allow the Department of Health and Human Services to identify those registrants who are not in compliance with child support orders.

Enacted Law Summary

Public Law 2007, chapter 206 allows for the revocation or prohibition on issuance or renewal of a snowmobile registration or ATV registration for a person who has been certified as failing to comply with a child support order. It requires the Commissioner of Inland Fisheries and Wildlife to provide information about watercraft, snowmobile and ATV registrants to allow the Department of Health and Human Services to identify those registrants who are not in compliance with child support orders.

Public Law 2007, chapter 206 was enacted as an emergency measure effective June 4, 2007.

LD 1027 An Act To Clarify the Definition of "Physical or Mental Disability" in the Maine Human Rights Act

**PUBLIC 385
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-248

LD 1027 amends the definition of "physical or mental disability" in the Maine Human Rights Act to mean a condition that substantially limits one or more major life activities, making the definition consistent with federal law and returning the definition to the one used by the Maine Human Rights Commission before the Maine Supreme Judicial Court's decision, *Whitney v. Wal-Mart Stores, Inc.*, 2006 ME 37.

Committee Amendment "A" (S-248)

This amendment replaces the bill and adopts a new definition of "physical or mental disability." A physical or mental impairment qualifies as a physical or mental disability under the Maine Human Rights Act if it:

This amendment adds to the construction provisions of the Maine Human Rights Act a rule of construction that directs that the definition of "physical or mental disability" in the Act is to be interpreted broadly to create greater coverage than under the federal Americans with Disabilities Act of 1990. This amendment provides that rules

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adopted by the Maine Human Rights Commission to implement the new definition of "physical or mental disability" are major substantive rules and therefore require review by the Legislature before being finally adopted.

This amendment adds an emergency preamble and emergency clause to make the changes take effect immediately.

Enacted Law Summary

Public Law 2007, chapter 385 adopts a new definition of "physical or mental disability." A physical or mental impairment qualifies as a physical or mental disability under the Maine Human Rights Act if it:

1. Substantially limits one or more of a person's major life activities;
2. Significantly impairs physical or mental health; or
3. Requires special education, vocational rehabilitation or related services.

The definition includes a list of specific physical or mental impairments that qualify as physical or mental disabilities. "Physical or mental disability" includes an individual with a record of physical or mental disability, as defined. It also includes an individual who is regarded as having or likely to develop any of the conditions within the definition of "physical or mental disability." The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices. Also included is a list of conditions that are not included as physical or mental disabilities.

Chapter 385 adds to the construction provisions of the Maine Human Rights Act a rule of construction that directs that the definition of "physical or mental disability" in the Act is to be interpreted broadly to create greater coverage than under the federal Americans with Disabilities Act of 1990. Chapter 385 provides that rules adopted by the Maine Human Rights Commission to implement the new definition of "physical or mental disability" are major substantive rules and therefore require review by the Legislature before being finally adopted.

Public Law 2007, chapter 385 was enacted as an emergency measure effective June 21, 2007.

LD 1029 An Act To Create the Maine Spyware Prevention Act

ONTP

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

LD 1029 creates the Maine Spyware Prevention Act, which is modeled after California and Illinois legislation. The bill protects consumers against the illegal use of computer software known as spyware.

LD 1048 An Act To Provide Greater Permanency for Children in Child Protection Proceedings

ONTP

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

LD 1048 gives the District Court jurisdiction over adoptions that follow the termination of parental rights in child protection cases. The Probate Court continues to have jurisdiction over these adoptions.