

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



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

JOINT STANDING COMMITTEE ON JUDICIARY

May 2008

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STATE OF MAINE
123RD LEGISLATURE
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**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 Second Regular or First Special Sessions of the 123rd Maine Legislature.

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:

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

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

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because it has ceased to carry on activities remains in the Secretary of State's record of corporate names and is protected for 5 years.

3. It specifies the provisions of law for a limited partnership or a limited liability company to follow in order to do business under an assumed name.
4. It amends the laws governing the fee charged in connection with the delivery to the Secretary of State of a certificate of merger or consolidation by a limited liability company.
5. It amends the laws governing fees charged in connection with foreign limited partnerships.
6. It adds specific language in the different laws governing entities to conform to the new registered agents law. The new language directs filers to the law governing clerks and registered agents.

Public Law 2007, chapter 535 was enacted as an emergency measure; Part B, which addresses the conformity with the registered agents law, takes effect July 1, 2008.

LD 2013 An Act To Extend the Application of Certain Rebuttable Presumptions in the Child Protection Laws

PUBLIC 513

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	H-720

This bill allows the use of a rebuttable presumption that jeopardy exists when a child has contact with a person who was convicted of the criminal offense of sexual abuse of a child whether the person was convicted in Maine or in another state or federal court.

Committee Amendment "A" (H-720)

This amendment replaces the bill but carries out the original intent to allow criminal convictions from other jurisdictions to be used as the basis of a rebuttable presumption in various court situations involving contact with children.

Enacted Law Summary

Public Law 2007, chapter 513 allows criminal convictions from other jurisdictions to be used as the basis of a rebuttable presumption in various court situations involving contact with children. Chapter 513 allows the use of a rebuttable presumption that jeopardy exists when a child has contact with a person who was convicted of an offense that includes engaging in substantially similar conduct as gross sexual assault regardless of the ages of the person and the victim, if the minor victim submitted to the sexual act as a result of compulsion. Chapter 513 amends Title 19-A, section 1653 to use language consistent with Maine Criminal Code terminology when referring to offenses in other jurisdictions, including a definition of "another jurisdiction."

LD 2036 An Act To Clarify Governmental Liability with Respect to Transfer Stations

ONTP

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

This bill addresses an inconsistency in the Maine Tort Claims Act as applied in recent Law Court decisions. This bill makes clear that a governmental entity is liable for its negligent acts and omissions in the construction, operation or maintenance of any transfer station. A definition of "transfer station" that tracks the Department of Environmental

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Protection's rules is added.

LD 2037 An Act To Provide Support for At-risk Youth

ONTP

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

This bill creates a program within the Juvenile Court to address punishment and proactive treatment of at-risk youth. Petitions for the program may be filed by a parent, a school official, the Department of Health and Human Services, a guardian ad litem or other legal advocate when a juvenile regularly runs away from home, exhibits extremely disruptive behavior or is habitually truant.

LD 2047 An Act To Shield Journalists' Confidential Sources

PUBLIC 654

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK	OTP-AM	H-1010

This bill provides protection against compelled disclosure of confidential sources of information, information that identifies confidential sources, confidential information and certain data collected by journalists. The bill provides exceptions for a court to compel disclosure in specific situations. It also provides for a waiver of the protection in specific circumstances. The source of information obtained in violation of this bill is inadmissible in any judicial, legislative, administrative or other proceeding.

Committee Amendment "A" (H-1010)

This amendment revises the bill to delete the protection for nonconfidential information. It clarifies that disclosure of information may be compelled in both civil and criminal cases only when the party seeking the identity of the confidential source or the information establishes certain facts by a preponderance of the evidence. It also clarifies that the journalist waives the protection from compelled disclosure by voluntarily disclosing or consenting to the disclosure of the confidential information about the confidential source. This amendment deletes the provision providing that the source of any information obtained in violation of the new law is inadmissible. The definition of "journalist" is deleted to allow the court to determine on a case-by-case basis whether a person claiming the protection from compelled disclosure is eligible for such protection. This amendment deletes the emergency preamble and emergency clause.

Enacted Law Summary

Public Law 2007, chapter 654 provides protection against compelled disclosure of confidential sources of information, information that identifies confidential sources and confidential information collected by journalists. Disclosure of information may be compelled in both civil and criminal cases only when the party seeking the identity of the confidential source or the information establishes certain facts by a preponderance of the evidence. The journalist waives the protection from compelled disclosure by voluntarily disclosing or consenting to the disclosure of the confidential information about the confidential source.

LD 2093 An Act To Help Prevent Identity Theft

PUBLIC 626

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY	OTP-AM	H-905