

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Judiciary*

*July 2006*

**Members:**

*Sen. Barry J. Hobbins, Chair*

*Sen. Lynn Bromley*

*Sen. David R. Hastings III*

*Rep. Deborah L. 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*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second Regular Session

#### Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 arranged alphabetically by committee name 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. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located 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/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

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.....	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 (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

## Joint Standing Committee on Judiciary

restriction does not apply to utilities. The restriction applies to land currently used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures.

Public Law 2005, chapter 579 applies retroactively to the date the United States Supreme Court issued the Kelo v. City of New London opinion, which is June 23, 2005.

**LD 1873**

**An Act Regarding Sexual Assault Forensic Examinations**

**PUBLIC 538**

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-846
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LD 1873 proposed to provide hospitals and health care practitioners immunity from criminal or civil liability for an act or omission in performing a forensic examination on an alleged victim of gross sexual assault under certain circumstances.

**Committee Amendment “A” (H-846)** proposed to replace the bill. The amendment proposed to authorize a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam, and proposed to establish procedures for storage and testing of the kit. The amendment proposed that if the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit.

### *Enacted law summary*

Public Law 2005, chapter 538 authorizes a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam. The forensic examination kit must be identified without specifying the alleged victim's name and stored as required under current law. The law enforcement agency involved must notify the appropriate district attorney that the examination has been conducted and a kit has been completed.

If the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit. The District Court may order continued storage of the kit, may order it to be sent to the Maine State Police Crime Laboratory for processing or may order such other disposition that the court determines is just. The court may conduct hearings confidentially and in camera and impound pleadings and other records related to them.

**LD 1874**

**An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships**

**PUBLIC 529**

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-831
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LD 1874 proposed to make changes to business and other entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, this bill proposed

## *Joint Standing Committee on Judiciary*

to make corrections to the time period an entity has to replace its registered agent upon resignation from 30 to 60 days.

**Committee Amendment “A” (H-831)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Public Law 2005, chapter 529 makes changes to business entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, chapter 529 makes corrections to the time period an entity has to replace its registered agent upon resignation from 30 to 60 days.

**LD 1885**                      **An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders**                      **PUBLIC 544**

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-876
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LD 1885, based on Arkansas law, proposed to govern the use of data from motor vehicle data recorders.

**Committee Amendment “A” (H-876)** proposed to replace the bill. It proposed to provide that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions.

### *Enacted law summary*

Public Law 2005, chapter 544 provides that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions. The exceptions are:

1. The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information;
2. A court of competent jurisdiction in this State orders the production of the data;
3. For purposes of improving motor vehicle safety, security or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner or driver is not disclosed in connection with that retrieved data;
4. The data are retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle;
5. The data are retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash;
6. The data are retrieved by a law enforcement officer acting pursuant to authority recognized under applicable statutory or constitutional law; and