

# 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

LD 1962

**An Act To Ensure Foster Parents Have Access to the Appeal and Fair Hearing Process**

ONTP

Sponsor(s)

Committee Report  
ONTP

Amendments Adopted

LD 1962 proposed to provide current and former foster parents with the right to appeal any Department of Health and Human Services action or decision that affects licensure. The appeal would be requested in writing within 30 days of the action or decision. This bill proposed to allow a person who is aggrieved by an action or decision of the department concerning that person's license as a foster parent within the last 5 years to appeal that decision by submitting a written request for appeal within 30 days of the effective date of this Act.

The decision-maker in the fair hearing process would not be the same person or body that took the action or made the decision from which the person is appealing.

The decision made after the hearing would be a final agency action that would be subject to appeal under the Maine Administrative Procedure Act. This bill proposed to include routine technical rulemaking.

**LD 1996**

**An Act To Prevent Unauthorized Practice of Immigration and Nationality Law**

**PUBLIC 629  
EMERGENCY**

Sponsor(s)  
CUMMINGS

Committee Report  
OTP-AM

Amendments Adopted  
H-977

LD 1996 proposed to expand the federal court exception to the statutory prohibition against the unauthorized practice of law by providing that the prohibition does not apply to practice before any federal administrative agency or tribunal as permitted by federal statutes or regulations. The bill proposed to prohibit the unauthorized practice of immigration or nationality law, defined as representation on any matter concerning immigration or nationality services where such representation is not authorized under 8 Code of Federal Regulation, Section 292.1 or 1292.1 or other federal law or regulation governing immigration or nationality matters. The bill also proposed to require a notary public who is not an attorney and who advertises notary services in any language other than English, to include in the advertisement a notice that includes fee information and a statement that the notary is not an attorney and cannot give legal advice or accept fees for legal advice. Finally, LD 1996 proposed to create a new statutory chapter and three new sections relating to immigration consultants in Part 3 (Regulation of Trade) of Title 10 (Commerce and Trade). The new chapter would establish the occupation of immigration consultant, in which capacity a person could offer nonlegal assistance or advice in an immigration or nationality matter, but only as provided by the chapter.

**Committee Amendment “A” (H-977)** proposed to replace the bill and insert new language to create the Immigration and Nationality Law Assistance Act that would authorize nonlegal immigration and nationality law assistance but limit it to certain services defined in the act that do not rise to the level of legal advice or representation. In addition, the amendment proposed to allow federally authorized immigration representatives who are not members of the Maine Bar to provide immigration and nationality law representation in immigration proceedings before federal agencies if authorized by federal law. Committee Amendment “A” proposed to prohibit certain activities in the course of providing immigration and nationality law assistance, including representations or advertisements that could cause a customer to believe that the provider of assistance either is

## *Joint Standing Committee on Judiciary*

authorized to practice law in Maine when the provider is not or possesses special skill or expertise in immigration and nationality law matters when the provider is not a member of the Maine Bar or a federally authorized immigration representative. The amendment also proposed to retain the bill language related to notaries that creates new requirements that a notary public who is not a member of the Maine Bar must follow when advertising notary services in a language other than English, the effect of which is to provide notice to potential customers that the notary is not an attorney and may not give legal advice about immigration or any other legal matter. Finally, the amendment proposed to add an emergency preamble and an emergency clause in order to create an emergency measure that would take effect when approved.

### ***Enacted law summary***

Public Law 2005, chapter 629 creates the Immigration and Nationality Law Assistance Act that authorizes nonlegal immigration and nationality law assistance but limits it to certain services defined in the act that do not rise to the level of legal advice or representation. In addition, the act allows federally authorized immigration representatives who are not members of the Maine Bar to provide immigration and nationality law representation in immigration proceedings before federal agencies if authorized by federal law. The act prohibits certain activities in the course of providing immigration and nationality law assistance, including representations or advertisements that could cause a customer to believe that the provider of assistance either is authorized to practice law in Maine when the provider is not or possesses special skill or expertise in immigration and nationality law matters when the provider is not a member of the Maine Bar or a federally authorized immigration representative. The law also creates new requirements that a notary public who is not a member of the Maine Bar must follow when advertising notary services in a language other than English, the effect of which is to provide notice to potential customers that the notary is not an attorney and may not give legal advice about immigration or any other legal matter.

Public Law 2005, chapter 629 was enacted as an emergency measure effective May 4, 2006.

**LD 2002**

**An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes**

**PUBLIC 540  
EMERGENCY**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 2002 proposed to empower the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has heretofore been given to District Court clerks, in view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes.

### ***Enacted law summary***

Public Law 2005, chapter 540 empowers the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has been given to District Court clerks, in view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes.

Public Law 2005, chapter 504 was enacted as an emergency measure effective April 5, 2006.