

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Criminal Justice and Public Safety*

*July 2006*

**Members:**

*Sen. Bill Diamond, Chair  
Sen. John M. Nutting  
Sen. Dean F. Clukey*

*Rep. Patricia A. Blanchette, Chair  
Rep. Stan Gerzofsky  
Rep. Carol A. Grose*

*Rep. Rosaire "Ross" Paradis, Jr.  
Rep. Stephen P. Hanley  
Rep. Richard M. Sykes  
Rep. John W. Churchill  
Rep. Christian D. Greeley  
Rep. Kimberly J. Davis  
Rep. Gary E. Plummer*

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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 Criminal Justice and Public Safety

### Enacted law summary

Public Law 2005, chapter 676 requires that 3/14 of the surcharge collected and deposited in the Government Operations Surcharge Fund be paid to the Maine Criminal Justice Academy and 1/14 of the surcharge collected and deposited in the Government Operations Surcharge Fund be paid to the State Police to supplement current funds for computer crimes investigations. Public Law 2005, chapter 676 repeals the statute that established the Maine Computer Crimes Task Force and appropriates funds for the creation of a new computer crimes unit to be housed within the Maine State Police Crime Laboratory, which is part of the State Police program. The computer crimes unit will consist of 6 full-time positions, 4 of which already exist and 2 that are new. The computer crimes unit will continue the work of the Maine Computer Crimes Task Force by working collaboratively with the Department of the Attorney General and local law enforcement agencies for the purposes of investigation and assisting all law enforcement agencies in crimes involving computers.

Public Law 2005, chapter 676 was enacted as an emergency measure effective June 1, 2006.

**LD 2031**

**An Act To Authorize Certain County Jail Employees To Perform  
Certain Ministerial and Notary Functions for Inmates**

**PUBLIC 541  
EMERGENCY**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-863

LD 2031 was an emergency bill introduced by the Criminal Law Advisory Commission. The bill proposed to authorize a county jail employee to perform, without fee, the ministerial functions associated with releasing a county jail prisoner on personal recognizance or an unsecured appearance bond if a court has already ordered such a release, with or without additional conditions but without the financial conditions that would create a secured bond. LD 2031 would allow this only if the sheriff had authorized the county jail employee to perform these functions.

**Committee Amendment “A” (H-863)** proposed to replace the bill and that, beginning April 15, 2006, county jail employees, other than corrections officers or deputy sheriffs, who have a commission as a notary public to provide notary public services may provide those services for inmates if authorized by the sheriff. Inmates frequently require access to notary public services and unless county jail employees are allowed to perform them, there is no practical way for inmates to obtain such access. On February 28, 1989, “judicial officer or notary public” was substituted for “magistrate” in this provision, apparently in the mistaken belief that a notary public performed judicial functions. However, as of 1988 this was no longer true, and a notary public was restricted to performing only ministerial functions. Therefore, there is no legal impediment to or conflict of interest for a jail employee to also act a notary public for inmates.

This amendment also proposed to add an emergency preamble and a retroactivity clause. Due to ignorance of the law on the part of inmates and employees alike, since 1989 numerous county jail inmates have requested and been afforded notary public services from county jail employees including notarizing documents like affidavits, wills, living wills, and powers of attorney and performing marriage ceremonies. Making this change retroactive would validate the authority to act as a notary a jail employee who provided notary services for an inmate at any time since 1989.

### Enacted law summary

## *Joint Standing Committee on Criminal Justice and Public Safety*

Beginning April 15, 2006, Public Law 2005, chapter 541 authorizes county jail employees, except corrections officers or deputy sheriffs, who have a commission as a notary public to provide notary public services for inmates if the employees are authorized to do so by the sheriff. Inmates frequently require access to notary public services and unless county jail employees are allowed to perform them, there is no practical way for inmates to obtain such access. On February 28, 1989, “judicial officer or notary public” was substituted for “magistrate” in the statute, apparently in the mistaken belief that a notary public performed judicial functions. However, as of 1988 this was no longer true, and a notary public was restricted to performing only ministerial functions. Therefore, there is no legal impediment to or conflict of interest for a jail employee to also act a notary public for inmates.

Public Law 2005, chapter 541 is retroactive, thereby validating the authority to act as a notary to a jail employee who provided notary services for an inmate at any time since 1989. Due to ignorance of the law on the part of inmates and employees alike, since 1989, numerous county jail inmates have requested and been afforded notary public services from county jail employees, including notarizing documents like affidavits, wills, living wills, and powers of attorney and performing marriage ceremonies.

Public Law 2005, chapter 541 was enacted as an emergency measure effective April 5, 2006.