

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
SECOND REGULAR & FIRST SPECIAL SESSIONS



**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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LD 1 An Act To Increase Reimbursement for Jury Duty

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM	S-401

LD 1 raises the mileage paid a juror from 15 cents per mile to 36 cents per mile and raises the compensation from \$10 a day to \$50 for each day of required attendance at sessions of court.

Committee Amendment "A" (S-401)

This amendment changes the proposed increase in mileage and daily compensation for jurors to result in a doubling of what is currently paid. This amendment requires mileage to be paid at the rate of 30¢ per mile and the daily compensation to be paid at the rate of \$20 per day. This amendment also adds an appropriations and allocations section.

This amendment was not adopted.

LD 367 An Act To Protect Emergency Room Personnel from Civil Liability

ONTP

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

LD 367 protects from legal liability in a civil action an emergency room health care practitioner who examines a patient requesting a prescription for a scheduled drug and denies the prescription for the scheduled drug to the patient.

LD 461 An Act To Implement the Recommendations of the Human Trafficking Task Force

PUBLIC 684

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-686
		S-690 ROTUNDO

LD 461 contains the recommendations of the Human Trafficking Task Force pursuant to Resolve 2005, chapter 200. The bill proposes to:

1. Enact a law criminalizing involuntary servitude and human trafficking, making them Class B offenses, with enhancement to Class A in certain circumstances, and specifying certain defenses that do not apply to involuntary servitude or human trafficking offenses;
2. Authorize the court to order forfeiture of assets acquired as a result of human trafficking;
3. Give the human trafficking victim rights, restitution and the right to collect damages and compensation through criminal restitution law and the Victims Compensation Fund and require rulemaking by the Department of Labor for the purposes of victim restitution;

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4. Prohibit travel agencies operating within the State from advertising or arranging for travel for commercial sexual purposes;
5. Require commercial international matchmaking organizations operating within the State to inform recruits and clients of the right to information on the other person's criminal, marital, protection from abuse, harassment and other official records;
6. Direct the Attorney General to convene a broad working group to address human trafficking issues. The working group would report to the Legislature by January 15, 2008; and
7. Provide an effective date of January 1, 2008 except that the provisions enacting the Attorney General's working group on human trafficking and the definition of "work loss" and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.

Committee Amendment "A" (H-488)

This amendment replaces the bill. Like the bill, it is based on the work of the Human Trafficking Task Force and establishes the crimes of causing involuntary servitude, human trafficking and aggravated human trafficking. It also provides that certain circumstances cannot be used as defenses to prosecutions. This amendment creates a new chapter that provides for civil remedies for human trafficking. This amendment provides for the civil forfeiture of property used in involuntary servitude and human trafficking offenses. Like the bill, this amendment gives the human trafficking victim the right to collect damages and compensation through criminal restitution law and the Victims' Compensation Fund. It requires rulemaking by the Department of Labor for the purposes of victim restitution.

This amendment directs the Attorney General to convene a broad working group to address human trafficking issues. Monitoring international matchmaking organizations is added to the list of tasks, as is whether a special statute of limitations tolling provision is appropriate because of victims' cultural and linguistic isolation. The working group will report to the Legislature by January 15, 2009.

This amendment provides an effective date of January 1, 2008, except that the provisions establishing the Attorney General's working group on human trafficking and the definition of "work loss" and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.

This amendment was not adopted, but was incorporated into Committee Amendment "B."

Committee Amendment "B" (H-686)

This amendment replaces the bill. Like the bill, it is based on the work of the Human Trafficking Task Force and establishes the crimes of causing involuntary servitude, human trafficking and aggravated human trafficking. It also provides that certain circumstances cannot be used as defenses to prosecutions.

This amendment creates a new chapter that provides for civil remedies for human trafficking. It allows a trafficked person to bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those remedies and any other appropriate relief. A prevailing plaintiff is entitled to attorney's fees and costs. The statute of limitations for bringing the action is 10 years from the trafficking act, although the time limitation does not run while the trafficked person is under the age of 18, mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent when the cause of action accrues. This is similar to the tolling statute of the Maine Revised Statutes, Title 14, section 853. The amendment also provides that the defendant cannot assert the defense of expiration of the statute of limitations if the running of the time is due to conduct by the defendant's inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action, or

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because of threats made by the defendant.

This amendment provides for the civil forfeiture of property used in involuntary servitude and human trafficking offenses. It also corrects a formatting error in the current law.

Like the bill, this amendment gives the human trafficking victim the right to collect damages and compensation through criminal restitution law and the Victims' Compensation Fund. It requires rulemaking by the Department of Labor for the purposes of victim restitution.

This amendment directs the Attorney General to convene a broad working group to address human trafficking issues. Monitoring international matchmaking organizations is added to the list of tasks, as is whether a special statute of limitations tolling provision is appropriate because of victims' cultural and linguistic isolation. The working group will report to the Legislature by January 15, 2010.

This amendment provides an effective date of January 1, 2009, except that the provisions establishing the Attorney General's working group on human trafficking and the definition of "work loss" and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment of the Second Regular Session of the 123rd Legislature.

Senate Amendment "A" (S-690)

This amendment amends Committee Amendment "B." It strikes and replaces Part A of Committee Amendment "B". The amendment removes the crimes of causing involuntary servitude, human trafficking and aggravated human trafficking. "Human trafficking offense" is defined to mean kidnapping or criminal restraint as defined in the Maine Revised Statutes, Title 17-A, section 301 or 302 when the crime involves restraining a person by destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or using any scheme, plan or pattern intended to cause that person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint. The amendment adds elements of the definition of "human trafficking" to the definition of "restrain."

This amendment also adds a new part that requires the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, after consultation with the joint standing committees of the Legislature having jurisdiction over judiciary matters and appropriations and financial affairs, to submit legislation to the First Regular Session of the 124th Legislature establishing the Criminal Code Revision Commission for the purpose of reviewing, revising, unifying, recodifying and consolidating Maine's criminal laws, including, but not limited to, the Maine Criminal Code. A comprehensive revision of the Maine Criminal Code has not occurred since 1976.

Enacted Law Summary

Public Law 2007, chapter 684 defines "human trafficking offense" to mean kidnapping or criminal restraint as defined in the Maine Revised Statutes, Title 17-A, section 301 or 302 when the crime involves restraining a person by destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or using any scheme, plan or pattern intended to cause that person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint. Chapter 684 also creates a new chapter that provides for civil remedies for human trafficking. It allows a trafficked person to bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those remedies and any other appropriate relief. A prevailing plaintiff is entitled to attorney's fees and costs. The statute of limitations for bringing the action is 10 years from the trafficking act, although the time limitation does not run while the trafficked person is under the age of 18, mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent when the cause of action accrues. Chapter 684 also provides for the civil forfeiture of property used in human trafficking offenses. A human trafficking victim is given the right to collect

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damages and compensation through criminal restitution law and the Victims' Compensation Fund. It requires rulemaking by the Department of Labor for the purposes of victim restitution.

Chapter 684 directs the Attorney General to convene a broad working group to address human trafficking issues. Monitoring international matchmaking organizations is added to the list of tasks, as is whether a special statute of limitations tolling provision is appropriate because of victims' cultural and linguistic isolation. The working group will report to the Legislature by January 15, 2010.

Chapter 684 is effective January 1, 2009, except that the provisions establishing the Attorney General's working group on human trafficking and the definition of "work loss" and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment.

Chapter 684 requires the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, after consultation with the joint standing committees of the Legislature having jurisdiction over judiciary matters and appropriations and financial affairs, to submit legislation to the First Regular Session of the 124th Legislature establishing the Criminal Code Revision Commission for the purpose of reviewing, revising, unifying, recodifying and consolidating Maine's criminal laws, including, but not limited to, the Maine Criminal Code. A comprehensive revision of the Maine Criminal Code has not occurred since 1976.

LD 469 An Act To Disseminate "Lessons Learned" from Medical Injury Claims

ONTP

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

LD 469 requires the Board of Licensure in Medicine each year to analyze and create a report of all claims of medical injury filed in the State in the preceding year to determine cause and to suggest possible means of prevention of reoccurrence. The report will not include names of any of the parties in any claim and must be sent out to all surgeons and physicians practicing medicine in Maine and to the Legislature by March 1st of each year.

LD 507 An Act To Require the Accommodation of Religious Practices in Correctional Facilities

PUBLIC 546

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SOCTOMAH	OTP-AM	H-784

LD 507 provides Native Americans incarcerated in a state prison or county jail a right to a reasonable opportunity to conduct or take part in Native American religious practices and ceremonies. LD 507 provides that failure of the facility to provide reasonable accommodation for Native American religious practices and ceremonies is unlawful discrimination pursuant to the Maine Human Rights Act; remedies for such failure are provided under that Act. The bill directs the Commissioner of Corrections to seek to develop, in consultation with an advisory group of Native Americans, guidance policies to assist correctional and detention facilities and county jails in providing reasonable accommodations for Native American religious practices and ceremonies.

Committee Amendment "A" (H-784)

This amendment replaces the bill. It requires the Commissioner of Corrections to adopt rules, consistent with all federal requirements, including the Religious Land Use and Institutionalized Persons Act of 2000, 42 United States Code, Chapter 21C, to provide for the accommodation of prisoners' religious practices. The rules may limit or prohibit practices that present a threat to the safety, security or orderly management of the facility. The Department of Corrections' religious services draft policy, dated February 28, 2008, must serve as the basis of the rules. The