

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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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

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rules are routine technical.

Enacted Law Summary

Public Law 2007, chapter 546 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 rules are routine technical.

LD 608 An Act To Extend the Statute of Limitations for Certain Medical Malpractice Cases ONTP

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

LD 608 changes the statute of limitations for medical malpractice from beginning when the act or omission happens to beginning when the harm is discovered by the plaintiff.

LD 684 An Act To Permit Medical Providers an Opportunity To Express Regret for a Medical Error ONTP

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

LD 684 makes a one-time General Fund appropriation of \$75,000 in fiscal year 2007-08 for the Commissioner of Health and Human Services to issue grants to develop communication programs and procure information technology products to assist health care providers in disclosing medical errors and to improve patient safety. LD 684 also makes privileged and immune from discovery an expression of regret or apology or an explanation of how a medical error occurred made by a health care provider if it is provided within 14 days of when the provider knew or should have known of the consequences of the error. LD 684 bill further establishes the Medical Error Disclosure and Compensation Program, which creates a system that allows health care providers, facilities and medical malpractice insurers to disclose medical errors and negotiate compensation with the subject patient without the threat of litigation, and directs the Commissioner of Health and Human Services to create a patient safety database.

LD 857 Resolve, To Create A Medical Malpractice Study Group ONTP

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

LD 857 is a concept draft pursuant to Joint Rule 208. It proposes to form a medical malpractice study group to determine ways to limit liability for physicians.