

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2007

**MEMBERS:**

SEN. BARRY J. HOBBS, CHAIR  
SEN. JOHN M. NUTTING  
SEN. DAVID R. HASTINGS III

REP. DEBORAH L. SIMPSON, CHAIR  
REP. JANET T. MILLS  
REP. MARK E. BRYANT  
REP. MICHAEL EDWARD DUNN  
REP. ALAN M. CASAVANT  
REP. CYNTHIA A. DILL  
REP. BONNIE S. GOULD\*  
REP. JOAN M. NASS  
REP. ROBERT A. BERUBE  
REP. LAWRENCE E. JACOBSEN  
REP. DONNA M. LORING

**STAFF:**

MARGARET J. REINSCH, SENIOR ANALYST  
OFFICE OF POLICY AND LEGAL ANALYSIS  
13 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1670

\*Representative Bonnie S. Gould replaced former Representative Abigail Holman on the Judiciary Committee.

# STATE OF MAINE

123<sup>RD</sup> LEGISLATURE

FIRST REGULAR SESSION

## 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 First Regular Session of the 123<sup>rd</sup> Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

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:

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 (or Accepted ONTP report).....	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.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## Joint Standing Committee on Judiciary

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

**CARRIED OVER**

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

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 608 is carried over pursuant to Joint Order, HP 1369.

**LD 628 An Act To Permit Modification of Department-initiated Paternity Judgments Concerning Parental Rights**

**PUBLIC 164**

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

LD 628 is a recommendation of the Family Law Advisory Commission. LD 628 addresses situations in which the Department of Health and Human Services initiates a paternity action and the court establishes an initial allocation of parental rights and responsibilities. Under current law, a parent interested in changing that allocation must file a new complaint in District Court. LD 628 allows a parent or other party to file a motion to modify the allocation as part of the paternity case rather than requiring the filing of a new court action.

### Enacted Law Summary

Public Law 2007, chapter 164 is a recommendation of the Family Law Advisory Commission. It addresses situations in which the Department of Health and Human Services initiates a paternity action and the court establishes an initial allocation of parental rights and responsibilities. Under current law, a parent interested in changing that allocation must file a new complaint in District Court. Chapter 164 allows a parent or other party to file a motion to modify the allocation as part of the paternity case rather than requiring the filing of a new court action.

**LD 659 An Act To Establish a Mediation Process for Landlord-tenant Disputes**

**PUBLIC 246**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WAGNER	OTP-AM	H-343

LD 659 requires mediation prior to a trial in a landlord-tenant forcible entry and detainer court trial and provides a good cause exception process. LD 659 requires the Court Alternative Dispute Resolution Service to provide the mediators for the mediations. LD 659 directs the Supreme Judicial Court to adopt rules for fees and of procedure for landlord-tenant mediation.

### Committee Amendment "A" (H-343)

This amendment replaces the bill, which required mediation in all forcible entry and detainer actions. This amendment allows the court to order mediation prior to a trial in a landlord-tenant forcible entry and detainer court trial. The Court Alternative Dispute Resolution Service will provide the mediators for the mediations. The amendment allows the Supreme Judicial Court to adopt rules of procedure for landlord-tenant mediation.

## *Joint Standing Committee on Judiciary*

The Supreme Judicial Court may increase filing fees to pay for mediation. This amendment clarifies that the provisions of the bill apply to forcible entry and detainer when used in mobile home evictions. This amendment requires the Court Alternative Dispute Resolution Service to report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2009 about the efficiency and use of the mediation program.

This amendment establishes an effective date of January 1, 2008.

### **Enacted Law Summary**

Public Law 2007, chapter 246 allows the court to order mediation prior to a trial in a landlord-tenant forcible entry and detainer court trial. The Court Alternative Dispute Resolution Service will provide the mediators for the mediations. The Supreme Judicial Court may adopt rules of procedure for landlord-tenant mediation, and may increase filing fees to pay for mediation. The mediation provisions also apply to forcible entry and detainer when used in mobile home evictions. The Court Alternative Dispute Resolution Service will report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2009 about the efficiency and use of the mediation program.

Public Law 2007, chapter 246 is effective January 1, 2008.

### **LD 681      An Act Concerning the Examination of Persons in Protective Custody**

**PUBLIC 178**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP	

Current law requires that a law enforcement officer who seeks to have a person involuntarily committed to a mental health hospital on an emergency basis must have that person examined by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist for the purpose of determining whether that person poses a likelihood of serious harm. A related section of law says that this examination may be performed only by a licensed physician or a licensed clinical psychologist if the examination is performed outside a hospital emergency room. LD 681 allows the examination to be performed by any of the health care professionals authorized to conduct such examinations, whether the examination is performed in a hospital emergency room or elsewhere.

### **Enacted Law Summary**

Public Law 2007, chapter 178 provides that the examination of a person recommended for involuntary commitment may be conducted by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist for the purpose of determining whether that person poses a likelihood of serious harm, regardless of whether the examination takes place in a hospital emergency room or elsewhere.

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

**CARRIED OVER**

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

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