

# MAINE STATE LEGISLATURE

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**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

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**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 1119 An Act To Permit Mental Health Professionals To Disclose Risks to People Likely To Be Harmed by a Patient

PUBLIC 310

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-189

LD 1119 addresses conflicting confidentiality and reporting requirements imposed on mental health professionals who know or have reason to know that a client poses a danger of inflicting harm on a person. LD 1119 provides that a licensed mental health professional may disclose information about the mental or medical status of a client to those who may be affected by the client's conduct to the extent that such information is reasonably necessary to protect any person from risk of harm. It also provides that the mental health professional is required to provide information about the danger to persons who have the responsibility of the care and custody of the client.

### Committee Amendment "A" (S-189)

This amendment replaces the bill but carries out the original intent to allow a mental health professional to disclose protected health information about a patient when necessary to avert a serious and imminent threat to health or safety if the disclosure is made in good faith and to a person who is reasonably able to prevent or minimize the threat. It also allows a mental health professional to disclose a client's mental health information to a family member, to another relative, to a close personal friend or caretaker or to anyone identified by the client in circumstances consistent with disclosure under the federal Health Insurance Portability and Accountability Act. This amendment repeals the designation as a Class D crime for violations and instead provides that a violation of the section subjects a mental health professional to the disciplinary procedures under the regulatory requirements for that profession.

### Enacted Law Summary

Public Law 2007, chapter 310 allows a mental health professional to disclose protected health information about a patient when necessary to avert a serious and imminent threat to health or safety if the disclosure is made in good faith and to a person who is reasonably able to prevent or minimize the threat. It also allows a mental health professional to disclose a client's mental health information to a family member, to another relative, to a close personal friend or caretaker or to anyone identified by the client in circumstances consistent with disclosure under the federal Health Insurance Portability and Accountability Act. Chapter 310 repeals the designation as a Class D crime for violations and instead provides that a violation of the section subjects a mental health professional to the disciplinary procedures under the regulatory requirements for that profession.

## LD 1125 An Act To Amend the Maine Liquor Liability Act

ACCEPTED ONTP  
REPORT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM	ONTP MAJ OTP-AM MIN	

LD 1125 extends the 180-day notice provision to one year in the Maine Liquor Liability Act.

### Committee Amendment "A" (H-537)

This amendment is a minority report of the Joint Standing Committee on Judiciary. This amendment clarifies that the extension of the 180-day notice period for good cause shown includes, but is not limited to, the plaintiff's inability to access law enforcement investigative information concerning the time, place and circumstances relating

## *Joint Standing Committee on Judiciary*

to the conduct of the person who served liquor.

**LD 1126     An Act To Clarify the Status of Subsidy Payments to Guardians**

**ONTP**

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

LD 1126 establishes that income from a permanency guardianship subsidy may not be considered income for the purposes of calculating a child support entitlement or child support obligation or for the computation of taxable income for resident individuals.

See also LD 515.

**LD 1138     An Act To Prohibit Maine from Participating in the Federal REAL ID Act of 2005**

**PUBLIC 251**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANSLEY MITCHELL	OTP-AM MAJ ONTP MIN	H-304

LD 1138 prohibits the State from participating in a national identification card system.

**Committee Amendment "A" (H-304)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. This amendment changes the title and the text of the bill to specifically refer to the federal REAL ID Act of 2005, which was enacted as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109-13.

**Enacted Law Summary**

Public Law 2007, chapter 251 prohibits the State from participating in the federal REAL ID Act of 2005, which was enacted as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109-13.

**LD 1140     An Act To Improve Efficiency in the Courts**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	ONTP MAJ OTP MIN	

LD 1140 allows the proprietor or authorized employee of a sole proprietorship or a member, manager or authorized employee of a limited liability company who is not an attorney to represent the organization in an action involving the process of forcible entry and detainer.