

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
123<sup>RD</sup> 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 123<sup>rd</sup> Maine  
Legislature coming from the

**JOINT STANDING COMMITTEE ON JUDICIARY**

May 2008

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**STATE OF MAINE**  
123<sup>RD</sup> 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 123<sup>rd</sup> 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 &amp; 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&amp;S XXX</i> .....                              | <i>Chapter # of enacted Private &amp; 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.<sup>1</sup> 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 123<sup>rd</sup> Legislature.

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<sup>1</sup> The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

## *Joint Standing Committee on Judiciary*

**LD 1970    Resolve, To Extend to January 20, 2008 the Reporting Deadline for the Tribal-State Work Group**

**RESOLVE 145  
EMERGENCY**

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

This resolve extends the reporting deadline from December 5, 2007 to January 20, 2008 for the Tribal-State Work Group that was established in Resolve 2007, chapter 142.

### **Enacted Law Summary**

Resolve 2007, chapter 145 extends the reporting deadline from December 5, 2007 to January 20, 2008 for the Tribal-State Work Group that was established in Resolve 2007, chapter 142.

Resolve 2007, chapter 145 was enacted as an emergency measure effective January 24, 2008.

**LD 1988    An Act To Protect Persons Responding to an Emergency Situation Involving a Water Utility**

**ONTP**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| BRYANT B          | ONTP                    |                           |

This bill limits the liability of a water utility or private company and employees and staff who perform water utility work and service for another water utility during a declared emergency.

**LD 1994    An Act To Amend the Laws Relating to Marks, Corporations, Limited Partnerships, Limited Liability Companies and Registered Agents**

**PUBLIC 535  
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| HOBBINS           | OTP-AM                  | S-457                     |

This bill makes the several changes and clarifications to the laws relating to marks, corporations, limited partnerships and limited liability companies.

### **Committee Amendment "A" (S-457)**

This amendment deletes the section of the bill concerning judicial dissolution of public corporations. It adds a Part B to add specific language in the different laws governing entities to conform to the new registered agents law. The new language directs filers to the law governing clerks and registered agents. It adds an emergency preamble and an emergency clause to make Part B, which addresses the conformity with the registered agents law, take effect July 1, 2008, which is the effective date of the registered agents law enacted by Public Law 2007, chapter 323.

### **Enacted Law Summary**

Public Law 2007, chapter 535 makes the following changes and clarifications to the laws relating to marks, corporations, limited partnerships and limited liability companies.

1. It specifies the procedure for a registrant of a mark to follow in order to cancel the registration of that mark.
2. It provides that the name of a corporation that is excused from filing annual reports with the Secretary of State

## *Joint Standing Committee on Judiciary*

because it has ceased to carry on activities remains in the Secretary of State's record of corporate names and is protected for 5 years.

3. It specifies the provisions of law for a limited partnership or a limited liability company to follow in order to do business under an assumed name.
4. It amends the laws governing the fee charged in connection with the delivery to the Secretary of State of a certificate of merger or consolidation by a limited liability company.
5. It amends the laws governing fees charged in connection with foreign limited partnerships.
6. It adds specific language in the different laws governing entities to conform to the new registered agents law. The new language directs filers to the law governing clerks and registered agents.

Public Law 2007, chapter 535 was enacted as an emergency measure; Part B, which addresses the conformity with the registered agents law, takes effect July 1, 2008.

**LD 2013    An Act To Extend the Application of Certain Rebuttable Presumptions in  
the Child Protection Laws**

**PUBLIC 513**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| SIMPSON           | OTP-AM                  | H-720                     |

This bill allows the use of a rebuttable presumption that jeopardy exists when a child has contact with a person who was convicted of the criminal offense of sexual abuse of a child whether the person was convicted in Maine or in another state or federal court.

**Committee Amendment "A" (H-720)**

This amendment replaces the bill but carries out the original intent to allow criminal convictions from other jurisdictions to be used as the basis of a rebuttable presumption in various court situations involving contact with children.

**Enacted Law Summary**

Public Law 2007, chapter 513 allows criminal convictions from other jurisdictions to be used as the basis of a rebuttable presumption in various court situations involving contact with children. Chapter 513 allows the use of a rebuttable presumption that jeopardy exists when a child has contact with a person who was convicted of an offense that includes engaging in substantially similar conduct as gross sexual assault regardless of the ages of the person and the victim, if the minor victim submitted to the sexual act as a result of compulsion. Chapter 513 amends Title 19-A, section 1653 to use language consistent with Maine Criminal Code terminology when referring to offenses in other jurisdictions, including a definition of "another jurisdiction."

**LD 2036    An Act To Clarify Governmental Liability with Respect to Transfer  
Stations**

**ONTP**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MILLS J           | ONTP                    |                           |

This bill addresses an inconsistency in the Maine Tort Claims Act as applied in recent Law Court decisions. This bill makes clear that a governmental entity is liable for its negligent acts and omissions in the construction, operation or maintenance of any transfer station. A definition of "transfer station" that tracks the Department of Environmental