

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.

Joint Standing Committee on Judiciary

Enacted Law Summary

Public Law 2007, chapter 576 amends the law regarding training requirements for elected officials, as enacted by Public Law 2007, chapter 349. It maintains the minimum content requirements for the training programs but provides that an elected official who completes a training program that contains all the information contained under the Frequently Asked Questions heading on the State's Freedom of Access law website meets the minimum requirements. Current law directs the Right To Know Advisory Committee to approve the training programs; chapter 576 eliminates that role. Current law requires an elected official to send notice of the completion of the required training to the advisory committee. Chapter 576 requires the elected official to make a record of the completion of the training and either keep it or file it with the public entity to which that official was elected. The record of completion is a public record. The advisory committee is directed to recommend to the Legislature a process for collecting the completion data and making it available to the public. Chapter 576 addresses the application of the mandatory training requirement to elected officials. Current law applies beginning July 1, 2008. This chapter revises the application to Legislators to begin for Legislators elected after November 1, 2008. Chapter 576 also specifically spells out the elected officials who are subject to the training and provides a general description of those who, as part of the duties of their offices, exercise executive or legislative powers as elected officials of regional or other political subdivisions.

Public Law 2007, chapter 696 was enacted as an emergency measure effective April 7, 2008.

LD 2212 An Act Concerning Public Records Exceptions

PUBLIC 597

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-957

This bill implements the recommendations of the Right To Know Advisory Committee regarding statutory changes to existing public records exceptions. This bill amends the laws concerning: personal contact information of public employees; state employee personnel records; reports, records and working papers of the Office of Program Evaluation and Government Accountability; complaint and investigative files maintained by the State Court Administrator; investigations by the Attorney General of the unauthorized practice of law; the records and proceedings of technology centers; and the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council.

The bill directs the Joint Standing Committee on Judiciary to review the recommendations of the Right To Know Advisory Committee about specific statutory provisions and make recommendations about whether the public record exceptions contained in those provisions should be maintained, modified, repealed or clarified. These provisions were identified in the second annual report of the Right To Know Advisory Committee as raising issues for which more information should be provided by interested parties before final recommendations can be made.

Committee Amendment "A" (H-957)

This amendment deletes the section of the bill that directs the Joint Standing Committee on Judiciary to review specific public records exceptions and report by December 1, 2008 with recommendations. The committee completed the review and includes the recommendations in this amendment.

This amendment deletes the proposed amendment to the OPEGA statutes. This amendment revises the law governing documents created or stored on a State Government computer to clarify that such documents must be made available in accordance with the freedom of access laws. This amendment narrows the confidentiality of pesticide test results requested by the Board of Pesticides Control to that information that has been determined to be confidential by the Administrator of the United States Environmental Protection Agency in accordance with federal law. This amendment includes language to continue the confidentiality of records of the former Baxter

Joint Standing Committee on Judiciary

Compensation Authority consistent with the Baxter Compensation Authority statutes that were repealed upon the termination of the program. This amendment reverses the presumption that information derived by or communicated to the Bureau of Financial Institutions may not be disclosed to the public. This amendment provides that specific categories of information are confidential and may not be disclosed or made public. The existing exceptions to the prohibition on disclosure are retained. The penalty for disclosure in violation of the statute is updated, and the culpable mental state of "intentionally or knowingly" is added.

Enacted Law Summary

Public Law 2007, chapter 597 implements many of the recommendations of the Right To Know Advisory Committee regarding statutory changes to existing public records exceptions.

Under current law, personal contact information concerning public employees is not a public record. Public Law 2007, chapter 597 clarifies that the exception also applies to personal contact information of voluntary appointees serving in State Government positions without compensation by cross-referencing the definition of "employee" in the Maine Tort Claims Act. It also addresses a potential conflict with this exception and the law governing state employee personnel records to clarify that personal contact information of state employees and applicants for state employment is not a public record.

Chapter 597 narrows the current exception providing confidentiality to complaint and investigative files maintained by the State Court Administrator to only those complaints and investigations that are related to court and judicial security.

Chapter 597 repeals the exception making confidential any investigations by the Attorney General of the unauthorized practice of law. Title 16, section 614 addresses when investigative records or information held by the Attorney General for any type of investigation may be disclosed to the public. Chapter 597 repeals Title 4, section 809, dealing with investigations by the Attorney General, since it is not necessary.

Chapter 597 narrows the exception in current law that designates the records and proceedings of technology centers as not public for the purposes of the freedom of access laws. It provides that the records and proceedings are public except for certain records designated as confidential, including records that are confidential by other provisions of law, financial statements, credit reports, tax returns and records that contain proprietary information or trade secrets.

Chapter 597 requires that the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council take a publicly recorded vote supported by a majority of the members before closing meetings or records to the public as allowed under current law when public disclosure of the subject matter would adversely affect the competitive position of the milk industry of the State or segments of that industry.

Public Law 2007, chapter 597 revises the law governing documents created or stored on a State Government computer to clarify that such documents must be made available in accordance with the freedom of access laws. This clarifies that documents created or stored on a State Government computer are public records if they meet the definition of "public record" contained in the Maine Revised Statutes, Title 1, chapter 13.

Chapter 597 narrows the confidentiality of pesticide test results requested by the Board of Pesticides Control to that information that has been determined to be confidential by the Administrator of the United States Environmental Protection Agency in accordance with federal law.

Chapter 597 includes language to continue the confidentiality of records of the former Baxter Compensation Authority consistent with the Baxter Compensation Authority statutes that were repealed upon the termination of the program. That provision is retroactive to the date the Baxter Compensation Authority statutes were repealed to ensure the continuity of protection of the records.

Chapter 597 reverses the presumption that information derived by or communicated to the Bureau of Financial

Joint Standing Committee on Judiciary

Institutions may not be disclosed to the public. It provides that specific categories of information are confidential and may not be disclosed or made public. The existing exceptions to the prohibition on disclosure are retained. The penalty for disclosure in violation of the statute is updated, and the culpable mental state of "intentionally or knowingly" is added.

LD 2215 An Act To Increase the Amount of Value of a Residence Protected from Bankruptcy Proceedings

PUBLIC 579

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM	S-490

This bill increases the exemption from attachment and execution under the bankruptcy laws of a debtor's interest in the debtor's residence from \$35,000 to \$100,000 and from \$70,000 to \$200,000 if the minor dependents of the debtor reside in the residence or if the debtor is 60 years of age or older or physically or mentally disabled.

Committee Amendment "A" (S-490)

This amendment increases the exemption from attachment and execution in current law, including under the bankruptcy laws, of a debtor's interest in the debtor's residence from \$35,000 to \$47,500 and from \$70,000 to \$95,000 if the minor dependents of the debtor reside in the residence or if the debtor is 60 years of age or older or physically or mentally disabled. The increases in the amendment are more in line with actual home price increases in the State than those proposed in the bill.

Enacted Law Summary

Public Law 2007, chapter 579 increases the exemption from attachment and execution in current law, including under the bankruptcy laws, of a debtor's interest in the debtor's residence from \$35,000 to \$47,500 and from \$70,000 to \$95,000 if the minor dependents of the debtor reside in the residence or if the debtor is 60 years of age or older or physically or mentally disabled.

LD 2220 An Act To Aid Victims of Identity Theft in Securing a Police Report

PUBLIC 634

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-958

The bill is proposed by the Criminal Law Advisory Commission. This bill allows a person who is a victim of identity theft to make a report to the police and obtain a copy of the police report. The bill provides for a simple, expedient and comprehensive post-judgment method of relief when a person's identity has been stolen and falsely used by another person in a criminal proceeding, a civil violation proceeding or a traffic infraction proceeding. It is immaterial as to what the final outcome is in that proceeding. The relief offered is a court determination of factual innocence and the correction of the court records and related criminal justice agency records. This bill does not provide relief to a person who has stolen another person's identity and falsely used in it a criminal, civil violation or traffic infraction proceeding.

Committee Amendment "A" (H-958)

This amendment deletes section 2 of the bill, which proposed a procedure to obtain a finding of factual innocence when a person's identity is stolen and falsely used in a court prosecution. It adds a mandate preamble.

Enacted Law Summary

Public Law 2007, chapter 634 allows a person who is a victim of identity theft to make a report to the police and