

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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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

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obtain a copy of the police report.

LD 2221 An Act To Implement the Recommendations of the Tribal-State Work Group

PUBLIC 697

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-1043

This bill contains statutory recommendations of the Tribal-State Work Group, established by Executive Order 19 FY 06/07 and continued and expanded by Resolve 2007, chapter 142.

This bill revises the headnote of the Maine Revised Statutes, Title 30 to reflect the inclusion of laws that apply to Indian tribes in Maine. This bill provides for jurisdictional parity among the four Indian tribes in Maine: the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Indian Nation, based on the powers, privileges and immunities outlined in AN ACT to Implement the Maine Indian Claims Settlement, enacted in 1980. This bill enacts the Omnibus Tribal Sovereignty Act, which provides a statement of legislative intent and findings and cross-references the powers, privileges and immunities to apply to the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians. This bill repeals sections of AN ACT to Implement the Maine Indian Claims Settlement and The Micmac Settlement Act that provide different powers, privileges and immunities for the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs or that are not consistent with federal law. This bill expands the membership of the Maine Indian Tribal-State Commission to include two representatives of the Aroostook Band of Micmacs and two representatives of the Houlton Band of Maliseet Indians, as well as four additional representatives of the State. It expands the duties of the commission to include a continual review of the effectiveness of AN ACT to Implement the Maine Indian Claims Settlement, The Micmac Settlement Act and the Omnibus Tribal Sovereignty Act. It authorizes the commission to submit legislation directly to the Legislature. It also requires that before the State or any political subdivision commences a court or administrative action involving interpretation of AN ACT to Implement the Maine Indian Claims Settlement, The Micmac Settlement Act or the Omnibus Tribal Sovereignty Act, the dispute must first be presented to the commission for mediation. The mediation provisions are based on current Maine Rules of Civil Procedure concerning mediation.

This bill requires every state agency to provide for a timely and meaningful consultation with each Indian tribe, nation or band before proposing, adopting or implementing legislation or administrative measures that may materially affect the Indian tribe, nation or band. This bill provides that the laws governing freedom of access do not apply to the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Indian Nation. This bill includes a contingent date section to provide that it does not take effect unless approved by the Houlton Band of Maliseet Indians, the Aroostook Band of Micmacs, the Penobscot Indian Nation and the Passamaquoddy Tribe within 90 days after the adjournment of the Second Regular Session of the 123rd Legislature. If the bill is approved as required it will take effect 120 days after adjournment of the Second Regular Session of the 123rd Legislature.

Committee Amendment "A" (H-1043)

This amendment replaces the bill. This amendment is divided into 3 parts. Part A requires approval by the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians before Part A can take effect. If the required approvals are received within 90 days after adjournment of the First Special Session of the 123rd Legislature, Part A takes effect 120 days after adjournment. Part B requires approval by the Houlton Band of Maliseet Indians before Part B can take effect. If the required approval is received within 90 days after adjournment of the First Special Session of the 123rd Legislature, Part B takes effect 120 days after adjournment. Part C requires the approval of the Houlton Band of Maliseet Indians before Part C can take effect. If the required approval is received within 90 days after adjournment of the First Special Session of the 123rd Legislature, Part C takes effect October 1, 2009.