

# 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

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.

## *Joint Standing Committee on Judiciary*

This amendment amends the membership of the Maine Indian Tribal-State Commission to include two members appointed by the Houlton Band of Maliseet Indians and two more appointed by the Governor. The amendment deletes language that pertained to the selection of the first chair of the Maine Indian Tribal-State Commission that is no longer necessary. It also includes provisions for the replacement of the chair of the commission.

This amendment provides the Houlton Band of Maliseet Indians with the powers and jurisdiction similar to that of the Passamaquoddy Tribe and the Penobscot Nation. It defines Maliseet Indian territory to consist of the two parcels that are currently the band's trust lands. This amendment also directs that the band engage in discussions and negotiations to resolve transitional and other issues and directs that the band report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the progress of such discussions.

This amendment revises the headnote of Title 30 to include Federally Recognized Indian Tribes and directs the Revisor of Statutes to implement the change.

### **Enacted Law Summary**

Public Law 2007, chapter 697 implements some of the recommendations of the Tribal-State Work Group, and enacts changes to the laws relating to the jurisdiction of the Houlton Band of Maliseet Indians.

Chapter 697 is divided into 3 parts. Part A amends the membership of the Maine Indian Tribal-State Commission to include two members appointed by the Houlton Band of Maliseet Indians and two more appointed by the Governor. It also revises the headnote of Title 30 to include Federally Recognized Indian Tribes and directs the Revisor of Statutes to implement the change. Part C provides the Houlton Band of Maliseet Indians with the powers and jurisdiction similar to that of the Passamaquoddy Tribe and the Penobscot Nation. It defines Maliseet Indian territory to consist of the two parcels that are currently the band's trust lands. Parts B and C direct that the band engage in discussions and negotiations to resolve transitional and other issues and directs that the band report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the progress of such discussions.

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.

**LD 2233    An Act To Repeal Certain Confidentiality Provisions in the Child  
Protective Laws**

**PUBLIC 485  
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

H-703    SIMPSON

This bill is submitted by the Judiciary Committee pursuant to Public Law 2007, chapter 335. The bill removes language due to take effect March 1, 2008 that the federal Department of Health and Human Services has determined violates federal confidentiality provisions. That language allows a parent or legal guardian to release information to any person if disclosure is intended to contribute to the person's understanding of the action being taken or the person's request for advocacy and support in a child protective action. This bill takes effect March 1, 2008 to match the effective date of Public Law 2007, chapter 335 as amended by Public Law 2007, chapter 473. This bill also repeals a sentence added by Public Law 2005, chapter 300 concerning the prohibition on further