

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.

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

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dissemination of records and information. Repeal of the sentence does not authorize any person to share a record or information that was received from the Department of Health and Human Services for any reason other than those already permitted by law.

House Amendment "A" (H-703)

This amendment incorporates a fiscal note.

Enacted Law Summary

Public Law 2007, chapter 485 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. Chapter 485 also repeals a sentence added by Public Law 2005, chapter 300 concerning the prohibition on further dissemination of records and information. Repeal of the sentence does not authorize any person to share a record or information that was received from the Department of Health and Human Services for any reason other than those already permitted by law.

Public Law 2007, chapter 485 was enacted as an emergency measure effective February 28, 2008.

LD 2243 An Act To Increase the Number of Mandated Reporters of Abuse, Neglect or Exploitation and To Clarify the Probation Laws Relating to Violation of Protection Orders

PUBLIC 577

Sponsor(s)

SIMPSON

Committee Report

OTP-AM

Amendments Adopted

H-870

This bill adds sexual assault counselors and family or domestic violence victim advocates to the list of mandated reporters of suspected abuse, neglect or exploitation to both the child protective unit and the adult protective unit within the Department of Health and Human Services. This bill creates an exception for each new reporter in the statutes that would otherwise govern client confidentiality in order to permit this mandatory reporting.

Committee Amendment "A" (H-870)

This amendment corrects the probation statutes to delete the reference to whether a Class D crime was committed against a victim of sexual assault or stalking. Public Law 2007, chapter 340 expanded the list of persons eligible to apply for and obtain protection from abuse orders beyond family and household members to include dating partners and victims of sexual assault or stalking. A parallel change was made to the probation statutes to authorize probation when a Class D crime is committed against a family or household member, a dating partner or a victim of sexual assault or stalking. This expansion is too broad because it is not always clear who had been a victim of sexual assault or stalking when dealing with a subsequent crime. Whether the victim and perpetrator are family or household members or dating partners is an easy factual question to answer; whether the victim was ever a victim of sexual assault or stalking is not necessarily as easy to show. The amendment makes clear that probation is available for all violations of protection orders that are Class D crimes; therefore, probation will be available when the basis for issuing the protection order had been that the petitioner was a victim of sexual assault or stalking. This amendment also clarifies the statutes under which a defendant has violated a protective order to specifically list those statutes.

Enacted Law Summary

Public Law 2007, chapter 577 adds sexual assault counselors and family or domestic violence victim advocates to the list of mandated reporters of suspected abuse, neglect or exploitation to both the child protective unit and the adult protective unit within the Department of Health and Human Services. Chapter 577 creates an exception for