

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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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

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

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each new reporter in the statutes that would otherwise govern client confidentiality in order to permit this mandatory reporting.

Chapter 577 corrects the probation statutes to delete the reference to whether a Class D crime was committed against a victim of sexual assault or stalking. It 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. Chapter 577 also clarifies the statutes under which a defendant has violated a protective order to specifically list those statutes.

LD 2248 An Act To Delete Outdated References to Rule 42 of the Maine Rules of Criminal Procedure from the Maine Bail Code and the Provision Allowing for Appeals by Aggrieved Contemnors

PUBLIC 552

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill amends the Maine Revised Statutes, Title 15, sections 1004, 1103, and 2115-B by deleting outdated references to Rule 42 of the Maine Rules of Criminal Procedure. In 2003, Rule 42 was abrogated except to serve as a signpost directing the reader to apply the procedures contained in Rule 66 of the Maine Rules of Civil Procedure. See Me. Rptr., 819-831 A.2d XXX.

Enacted Law Summary

Public Law 2007, chapter 552 amends the Maine Revised Statutes, Title 15, sections 1004, 1103, and 2115-B by deleting outdated references to Rule 42 of the Maine Rules of Criminal Procedure.

LD 2252 An Act To Correct Errors and Inconsistencies in the Laws of Maine

**PUBLIC 695
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-1036

H-1037 SIMPSON

H-1038 SIMPSON

H-1044 SIMPSON

S-680 HOBBS

This bill, consisting of Parts A and B, corrects technical errors and inconsistencies in the laws of Maine.

Committee Amendment "A" (H-1036)

This amendment deletes several sections from Part A of the bill because the corrections are made in other bills or to avoid further conflicts.

This amendment adds Parts C, D, E, F, G, H and I.

Part C consists of technical amendments.

Part D addresses timing issues concerning the repeal of the Consumer Advisory Board and the Maine Advisory Committee on Mental Retardation and the effective date of the new Maine Developmental Services Oversight and Advisory Board.