

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during  
the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## 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 First Regular Session of the 124<sup>th</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:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## Joint Standing Committee on Judiciary

### LD 657 An Act To Allow the Award of Court Costs or Attorney's Fees in Protection from Harassment Actions

PUBLIC 263

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY	OTP-AM	H-336

This bill authorizes the court to award court costs or reasonable attorney's fees to the defendant in protection from harassment actions if the complaint is dismissed.

#### Committee Amendment "A" (H-336)

This amendment provides that, in a protection from harassment action, if a judgment is entered against the plaintiff and the court finds that the plaintiff's complaint is frivolous, the court has discretion to award reasonable attorney's fees and court costs to the defendant, to be paid by the plaintiff.

#### Enacted Law Summary

Public Law 2009, chapter 263 provides that, in a protection from harassment action, if a judgment is entered against the plaintiff and the court finds that the plaintiff's complaint is frivolous, the court has discretion to award reasonable attorney's fees and court costs to the defendant, to be paid by the plaintiff.

### LD 679 An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals

PUBLIC 423

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-135

This bill allows a court to award a party that brings a successful appeal in a case involving the laws governing freedom of access reasonable attorney's fees and expenses incurred in connection with the appeal.

#### Committee Amendment "A" (S-135)

This amendment replaces the bill. It gives the court discretion to award reasonable attorney's fees and litigation costs to a person who appeals the refusal to inspect or copy a public record or appeals action taken illegally in an executive session if the court determines that the person substantially prevailed in the appeal and that the refusal or the illegal action was committed in bad faith.

Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

Attorney's fees and litigation costs may be awarded in actions filed on or after January 1, 2010.

#### Enacted Law Summary

Public Law 2009, chapter 423 gives the court discretion to award reasonable attorney's fees and litigation costs to a person who appeals the refusal to inspect or copy a public record or appeals action taken illegally in an executive session if the court determines that the person substantially prevailed in the appeal and that the refusal or the illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe. Attorney's fees and litigation costs may be awarded in actions filed on or after January 1,

## Joint Standing Committee on Judiciary

2010.

### LD 689 An Act Regarding Guardians Ad Litem

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH D	ONTP	

This bill requires a court to appoint a guardian ad litem in a case of domestic abuse involving a minor unless the court determines a guardian ad litem is not necessary.

### LD 702 An Act To Allow the Donation of Certain Perishable Food Products to Nonprofit Organizations

PUBLIC 168

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROWNE DAVIS G	OTP	

This bill amends the law that establishes immunity for the donors and distributors of certain good faith food donations by clarifying that the immunity extends to donations of food that is beyond the date by which the manufacturer recommends that the food be sold.

#### Enacted Law Summary

Public Law 2009, chapter 168 amends the law that establishes immunity for the donors and distributors of certain good faith food donations by clarifying that the immunity extends to donations of food that is beyond the date by which the manufacturer recommends that the food be sold.

### LD 703 An Act Regarding Claims for Civil Perjury

PUBLIC 187

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT J MILLS P	OTP	

This bill codifies the holding in *Bean v. Cummings*, 2008 ME 18, concerning actions for civil perjury.

This bill repeals and replaces the current law on civil perjury, retaining the substance of the law while adding specific requirements for the civil perjury action.

#### Enacted Law Summary

Public Law 2009, chapter 187 codifies the holding in *Bean v. Cummings*, 2008 ME 18, concerning actions for civil perjury. It requires that the plaintiff include in the initial pleadings the specific testimony in the former trial that the plaintiff claims is perjury. The claim may not be submitted based solely on the record of the original trial. Evidence is not admissible if it was discoverable by due diligence before the former trial. The plaintiff must prove the alleged perjury by clear and convincing evidence. It is an affirmative defense that the defendant may raise and prove that