

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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STATE OF MAINE

124TH 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 124th 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 124th 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

Public Law 2009, chapter 257 makes several changes to the membership of the Maine Commission on Domestic and Sexual Abuse. It reduces the number of members-at-large from eight to six, adds up to four members who are representatives of underserved populations and adds one member who must be a tribal member who provides services, as part of a tribal program, to tribal members who are victims of domestic or sexual violence. All of these members are appointed by the Governor.

LD 756 An Act To Discourage the Misuse of the Process for Obtaining Protection from Abuse

ONTP

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

This bill addresses several issues in the protection from abuse laws.

1. It provides that a protection order may be extended, but only for a time certain, not to exceed 2 years. Current law does not put a time limit on extensions.
2. It provides that an order entered as a consent agreement cannot be extended without the consent of both parties.
3. It requires the court to order the plaintiff to pay the reasonable attorney's fees of the defendant if the court finds that the allegations made by the plaintiff were false or substantially inadequate to rise to the level of meriting relief or that the allegations were made with the intent to harass the defendant.
4. It provides that the court may not order a continuance of an ex parte protection order when the plaintiff did not prove abuse in order to allow the plaintiff to initiate a parental rights and responsibilities action.
5. It clarifies that discovery under the Maine Rules of Civil Procedure, Rule 26 applies to actions under the protection from abuse laws.
6. It provides that protection from abuse actions have priority on the court's docket over all other civil actions other than child protective custody hearings.

See also LD 1143.

LD 777 An Act To Provide for an Expiration Date for Certain Harassment Notices

PUBLIC 246

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRANG BURGESS MILLS P	OTP-AM	H-315

This bill requires that criminal trespass orders and protection from harassment orders issued by law enforcement officers expire two years after they are issued and requires a hearing in District Court within 21 days of the issuance of the order, except for a criminal trespass order concerning a residence.

Committee Amendment "A" (H-315)

Joint Standing Committee on Judiciary

This amendment replaces the bill. It does not amend the criminal trespass statutes.

This amendment amends the language describing the crime of harassment by revising one element of the crime. Current law provides that one way a person commits the crime of harassment is to engage in conduct with the intent to harass, torment or threaten another person after having been forbidden to do so by law enforcement. This amendment amends the element of notice by referring to it as a notification not to engage in the conduct. The notification may be in writing or may be made orally. The notification expires one year after it is issued.

The structure of the language of the Class E crime of harassment is revised to ensure that the expiration applies to only the notice provided by a law enforcement official. The amendment does not affect protection from harassment orders or the crime of harassment when committed by a person in the custody of or under the supervision of the Department of Corrections.

Enacted Law Summary

Public Law 2009, chapter 246 amends the description of the crime of harassment by revising one element of the crime. Current law provides that one way a person commits the crime of harassment is to engage in conduct with the intent to harass, torment or threaten another person after having been forbidden to do so by law enforcement. Chapter 246 amends the element of notice by referring to it as a notification not to engage in the conduct. The notification may be in writing or may be made orally. The notification expires one year after it is issued.

The structure of the language of the Class E crime of harassment is revised to ensure that the expiration applies to only the notice provided by a law enforcement official. Chapter 246 does not affect protection from harassment orders or the crime of harassment when committed by a person in the custody of or under the supervision of the Department of Corrections.

LD 784 An Act To Improve the Process for Recovering Personal Property

**LEAVE TO
WITHDRAW**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL	LTW	

This bill creates a new equitable cause of action to resolve disputes over rights in title to or possession of personal property and eliminates the "personal property forcible entry and detainer" action. Like the existing action of forcible entry and detainer, this cause of action retains summary process, prompt relief and streamlined procedural requirements. This bill specifies that the new remedy is equitable in nature and therefore does not entail a right to trial by jury. This bill gives to the District Court broad discretion in fashioning appropriate equitable relief. Finally, the bill makes provisions with respect to venue, discovery and appeals that differ from the practice in forcible entry and detainer actions.

See LD 1184.