

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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Joint Standing Committee on Judiciary

**LD 22 Resolve, To Establish a Study Commission To Develop Legislation
Designed To Prevent Domestic Violence and Abuse**

ONTP

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

This resolve is a concept draft pursuant to Joint Rule 208.

This resolve proposes to establish a study commission that would:

1. Review the various state and federal laws governing the confidentiality of personal information, including but not limited to laws governing the privacy of health records and financial information; and
2. Propose measures that strike an appropriate balance between an individual's interest in preserving privacy and the community's interest in preventing domestic violence.

See LD 324.

LD 23 An Act To Amend the Laws Governing Powers of Attorney

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to enact measures that would serve to revive or extend the duration of a power of attorney in instances in which the subject of the power of attorney is impaired.

LD 24 An Act To Prevent Domestic Violence and Abuse

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

The purpose of this bill is to aid communities in the prevention of domestic violence. This bill proposes to enact measures designed to authorize the limited release of certain confidential information, including but not limited to health records and financial records, to law enforcement personnel in order to prevent domestic violence.

See LD 324.

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LD 25 An Act To Protect Child Victims of Sexual Abuse

ONTP

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

This bill amends the law concerning the admissibility of out-of-court statements by certain victims of sexual assault in criminal prosecutions. This bill allows the admission of statements made by the victim to another person when the statements are not considered testimonial. The bill allows the person to whom the statement was made to repeat the statement in testimony in open court if the statement was made in circumstances having sufficient guarantees of trustworthiness, and the person testifying can be confronted and cross-examined as required under the Constitution of Maine or the United States Constitution. This bill applies to statements made by a victim who has a developmental disability as well as to children under 16 years of age. Whether the circumstances have sufficient guarantees of trustworthiness is determined by the facts of each case.

LD 135 An Act To Increase Mileage Reimbursement for Jurors

ONTP

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

This bill increases the mileage paid a juror from 15 cents a mile to 32 cents a mile for each day of required attendance at sessions of court.

LD 162 An Act To Clarify Child Abuse and Neglect Information Disclosure

PUBLIC 38

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CASAVANT	OTP	

The Maine Revised Statutes, Title 22, section 4008-A sets forth the limits of disclosure of information in the investigation of abuse and neglect of children and in the confidentiality of records pertaining to child abuse and neglect. The federal Department of Health and Human Services, Administration for Children and Families has informed the State that corrections are needed in this section of the statutes to be in compliance with the federal Adoption and Safe Families Act of 1997, the Child Abuse Prevention and Treatment Act and the Social Security Act. The bill removes the word “visitor” and clarifies the persons eligible to receive information, namely guardians ad litem and attorneys. The bill revises language to clarify the responsibility of the department to make public disclosure of the findings in situations where there has been a child fatality or near fatality as long as the disclosure does not jeopardize a criminal investigation or proceeding.

Enacted Law Summary

Public Law 2009, chapter 38 amends the child protection confidentiality statutes to comply with the federal

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Adoption and Safe Families Act of 1997, the Child Abuse Prevention and Treatment Act and the Social Security Act. It clarifies the persons eligible to receive information, namely guardians ad litem and attorneys. Chapter 38 revises language to clarify the responsibility of the department to make public disclosure of the findings in situations where there has been a child fatality or near fatality as long as the disclosure does not jeopardize a criminal investigation or proceeding.

LD 291 An Act To Exempt Breast-feeding Mothers from Jury Duty

ONTP

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

This bill allows a mother who is breast-feeding to request a deferral from jury duty as long as she is breast-feeding and does not require the mother to appear in court if the request is made in writing.

LD 300 An Act To Increase Child Support Collection by Expanding the New Hire Reporting Requirements

PUBLIC 198

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	S-117

The purpose of this bill is to increase child support collection by expanding the new hire reporting requirements to include the reporting of independent contractors by any employer who is already required to report new hires.

Committee Amendment "A" (S-117)

This amendment revises the bill to apply to independent contractors when the payments to the independent contractor are anticipated to equal or exceed \$2,500 in a year. The bill had a lower threshold of \$600.

This amendment exempts direct sellers as defined in the federal Internal Revenue Code from the definition of "independent contractor."

Enacted Law Summary

Public Law 2009, chapter 198 requires the reporting of independent contractors in the new hire reporting system when the payments to the independent contractor are anticipated to equal or exceed \$2,500 in a year. Direct sellers are exempted from the definition of "independent contractor."

LD 301 An Act To Require Home Sellers To Disclose Energy Usage Data

LEAVE TO WITHDRAW

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

Joint Standing Committee on Judiciary

This bill is a concept draft pursuant to Joint Rule 208.

This bill would require that a home seller provide to a prospective home buyer a listing of typical utility and energy use for that home, including but not limited to electricity use and home heating and hot water heating energy sources and their use.

LD 324 An Act To Allow Limited Information Sharing in Domestic Violence Cases

PUBLIC 181

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL SIMPSON	OTP-AM	H-213

The purpose of this bill is to allow law enforcement agencies to share investigative reports with family violence projects and other providers of services to victims. This bill amends the criminal history record information laws to provide an exception to the prohibition on the dissemination of intelligence and investigative information consistent with the existing law concerning the dissemination of nonconviction information.

Committee Amendment "A" (H-213)

This amendment allows a criminal justice agency to share intelligence and investigative information with an advocate for victims of family or domestic violence pursuant to an agreement between the advocate and the criminal justice agency. The agreement must contain, at a minimum, specific requirements governing the use and dissemination of the information. This amendment creates a Class E crime for the intentional dissemination of a report or record containing intelligence and investigative information in violation of the section.

Enacted Law Summary

Public Law 2009, chapter 181 allows a criminal justice agency to share intelligence and investigative information with an advocate for victims of family or domestic violence pursuant to an agreement between the advocate and the criminal justice agency. The agreement must contain, at a minimum, specific requirements governing the use and dissemination of the information. Chapter 181 creates a Class E crime for the intentional dissemination of a report or record containing intelligence and investigative information in violation of the section.

LD 326 An Act To Allow the Request for and Granting of Permanent Protection from Abuse Orders

ONTP

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

This bill allows a person to request a permanent protection from abuse order from the court and allows the court to issue such an order.

Joint Standing Committee on Judiciary

**LD 365 An Act To Amend the Laws Governing MaineCare Estate Recovery
Undertaken by the Department of Health and Human Services**

PUBLIC 150

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-120

This bill provides that the homestead allowance established in the Maine Revised Statutes, Title 18-A, section 2-401 is the sole exemption available for a decedent's homestead. It also provides that only personal property included in the decedent's estate that is exempt under Title 14, section 4422, is not liable for payment of debts of the decedent or claims against the decedent's estate. This bill amends the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures. This bill establishes April 1, 2006 as the date on which certain transfers are made fully subject to the reach of estate recovery activities.

Committee Amendment "A" (S-120)

This amendment deletes the proposed changes to the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures and instead specifies that joint tenancies in real property are not included in the decedent's estate for these purposes.

Enacted Law Summary

Public Law 2009, chapter 150 provides that the homestead allowance established in the Maine Revised Statutes, Title 18-A, section 2-401 is the sole exemption available for a decedent's homestead. It also provides that only personal property included in the decedent's estate that is exempt under Title 14, section 4422 is not liable for payment of debts of the decedent or claims against the decedent's estate. It also specifies that the definition of "estate" for the purposes of recovery by the Department of Health and Human Services for MaineCare expenditures does not include joint tenancies in real property.

**LD 372 An Act To Authorize the Administration of Epinephrine Autoinjectors
and Asthma Inhalers in Emergencies**

**ACCEPTED ONTP
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO MARRACHE	ONTP MAJ OTP MIN	

This bill immunizes governmental entities from liability for claims for administering to an individual an emergency medication by or through an epinephrine autoinjector or asthma inhaler.

LD 375 An Act To Clarify the Amount of a Contract for Small Claim Purposes

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
INNES DAVIS G	ONTP	

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This bill clarifies that in a small claims actions, notwithstanding the total amount of a debt or contract, the amount considered for jurisdictional purposes is only the debt or damage claimed.

See LD 443.

LD 376 An Act To Remove Domestic Court Cases from the Probate Court

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WAGNER R CRAVEN	ONTP	

The purpose of this bill is to ensure the District Court has exclusive jurisdiction over family law actions. It clarifies that the jurisdiction of the District Court with regard to family matters is original and not concurrent with either the Superior Court or the Probate Court. It amends the general jurisdiction language of the Maine Revised Statutes, Title 19-A to provide that the District Court has exclusive jurisdiction over all court actions listed in Title 19-A unless expressly provided otherwise. This bill deletes the jurisdiction of the Probate Court over actions concerning a spouse's or parent's obligation to support the spouse or child. It also eliminates the jurisdiction of the Probate Court over parental rights and responsibilities for parents that are not married to each other.

LD 391 An Act To Amend the Law Concerning Adverse Possession

PUBLIC 255

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP	

The purpose of this bill is to remove ambiguity in the laws governing adverse possession. The bill specifies that, if a person takes possession of land by mistake with respect to the location of the true boundary line, the mistaken belief does not defeat a claim of adverse possession.

Enacted Law Summary

Public Law 2009, chapter 255 specifies that, if a person takes possession of land by mistake with respect to the location of the true boundary line, the mistaken belief does not defeat a claim of adverse possession. Chapter 255 is intended to codify *Dombkowski v. Ferland*, 2006 ME 24.

LD 394 An Act To Protect Nonprofit Organizations from Embezzlement

ONTP

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

This bill amends the Maine Nonprofit Corporation Act to require two authorized signatures on every check issued by a public benefit corporation. The signers may not be related. Checks that do not meet this requirement are void.

Joint Standing Committee on Judiciary

LD 399 Resolve, To Establish a Working Group To Increase Child Support Collections

RESOLVE 60

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	S-121

This bill requires persons licensed as slot machine operators and persons licensed to conduct pari-mutuel wagering at off-track betting facilities or commercial tracks to offset gambling winnings for the purpose of collecting child support debts prior to disbursing winnings to a child support obligor.

Committee Amendment "A" (S-121)

This amendment changes the bill into a resolve. It requires the Department of Health and Human Services, Office of Integrated Access and Support, Division of Support Enforcement and Recovery to convene a working group to develop a process to collect child support debts through a gambling payment intercept. The division must submit a report including the working group's recommendations by January 15, 2010. The Joint Standing Committee on Judiciary may submit legislation based on the report.

Enacted Law Summary

Resolve 2009, chapter 60 requires the Department of Health and Human Services, Office of Integrated Access and Support, Division of Support Enforcement and Recovery to convene a working group to develop a process to collect child support debts through a gambling payment intercept. The division must submit a report including the working group's recommendations by January 15, 2010. The Joint Standing Committee on Judiciary may submit legislation based on the report.

LD 426 An Act To Allow Stepparents To Take Certain Actions with Respect to Their Stepchildren

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to establish a simple process by which a stepparent can be authorized to:

1. Make decisions about education for the stepchild;
2. Make decisions regarding medical care for the stepchild;
3. Request and receive medical and school records; and
4. Attend school parent-teacher meetings and pupil evaluation team meetings.

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LD 427 An Act To Require School Bus Drivers and School Bus Attendants To Report Suspected Child Abuse

PUBLIC 41

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EATON	OTP	

This bill requires school bus drivers and school bus attendants to report, or cause a report to be made, to the Department of Health and Human Services if they suspect child abuse or neglect has occurred or is likely to occur.

Enacted Law Summary

Public Law 2009, chapter 41 requires school bus drivers and school bus attendants to report, or cause a report to be made, to the Department of Health and Human Services if they suspect child abuse or neglect has occurred or is likely to occur.

LD 428 An Act To Amend the Laws Concerning Wrongful Death

PUBLIC 180

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL BLISS	OTP-AM	H-212

This bill amends the intestate succession and wills laws concerning wrongful death by increasing the amount of punitive damages that may be awarded from \$75,000 to \$250,000. The bill also clarifies that claims for pecuniary losses are not lost by the death of either party.

Committee Amendment "A" (H-212)

This amendment ensures that the two-year statute of limitations applies to all wrongful death actions, not just those actions for punitive damages as implied in the bill. This amendment includes the increase of the cap on punitive damages from \$75,000 to \$250,000. This amendment deletes section 2 of the bill, which specified that claims for pecuniary losses are not lost by the death of either party.

Enacted Law Summary

Public Law 2009, chapter 180 increases the cap on punitive damages in wrongful death actions from \$75,000 to \$250,000.

LD 443 An Act To Increase the Jurisdictional Limit for Small Claims

PUBLIC 428

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY BRANNIGAN	OTP-AM	H-335

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This bill increases the jurisdictional limit for small claims damages from \$4,500 to \$10,000 and increases the filing fee for small claims actions for damages over \$4,500 to \$120.

Committee Amendment "A" (H-335)

This amendment reduces the increase in the jurisdictional limit for small claims actions to \$6,000, which is comparable with the rate of inflation since 1997. This amendment incorporates the concept included in Legislative Document 375, which is to allow a person to use small claims court to collect a claim on a debt or contract as long as the amount claimed is within the jurisdictional limits for small claims, even if the actual debt or contract has a higher value. The judgment on the amount claimed, however, is a final judgment with regard to the total debt or contract. This amendment does not prohibit a person who purchases debt from using small claims court to collect the debts, but it does require the plaintiff in such cases to file a statement with the complaint that lists the name and address of the original creditor. This amendment provides that the Legislature's intent is to increase access to justice and not to reduce revenue from filing fees. This amendment includes a recommendation to the Supreme Judicial Court that it review filing fees and revise them appropriately. This amendment adds an appropriations and allocations section to the bill.

Enacted Law Summary

Public Law 2009, chapter 428 increases the jurisdictional limit for small claims actions to \$6,000, which is comparable with the rate of inflation since 1997. Chapter 428 allows a person to use small claims court to collect a claim on a debt or contract as long as the amount claimed is within the jurisdictional limits for small claims, even if the actual debt or contract has a higher value. The judgment on the amount claimed, however, is a final judgment with regard to the total debt or contract. A person who purchases debt may use small claims court to collect the debts, but the plaintiff must file a statement with the complaint that lists the name and address of the original creditor. Chapter 428 states that the Legislature's intent is to increase access to justice and not to reduce revenue from filing fees; it includes a recommendation to the Supreme Judicial Court that it review filing fees and revise them appropriately.

LD 444 An Act To Allow a Verdict in a Criminal Trial To Be Considered a De Minimis Infraction

ONTP

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

This bill changes the requirements of allowing a court to dismiss a criminal offense based upon de minimis conduct by limiting the consideration to a Class D or Class E crime and by allowing a jury to also consider the de minimis conduct.

LD 445 An Act To Improve Tribal-State Relations

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST BLISS		H-516

This bill expressly provides that the law authorizing public agencies to enter interlocal agreements includes the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the Aroostook Band of

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Micmacs or any of their political subdivisions.

Committee Amendment "A" (H-516)

This amendment replaces the bill. It provides for a seat for a representative of the Houlton Band of Maliseet Indians in the House of Representatives by directing the process for informing the Legislature of the name and residence of the elected representative. It also establishes compensation at the same level as being proposed for the Passamaquoddy Representative and the Penobscot Representative in LD 1428 (State and Local Government Committee). The changes take effect in time for the convening of the 125th Legislature in December 2010. The amendment also adds an appropriations and allocations section.

LD 445 was recommitted to the Judiciary Committee and carried over pursuant to Joint Order, H.P. 1053.

This amendment deletes the appropriations and allocations section.

LD 455 An Act Regarding Parents' Rights

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

It proposes to amend the law to prevent discrimination against parents with mental illness.

LD 461 An Act To Adopt Amendments to the Uniform Interstate Family Support Act

PUBLIC 95

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

This bill amends, repeals and enacts new sections of the Uniform Interstate Family Support Act in accordance with the most recent amendments approved by the National Conference of Commissioners on Uniform State Laws during its meeting in July 2008.

Enacted Law Summary

Public Law 2009, c. 95 amends, repeals and enacts new sections of the Uniform Interstate Family Support Act in accordance with the most recent amendments approved by the National Conference of Commissioners on Uniform State Laws during its meeting in July 2008. In addition to numerous technical changes, chapter 95:

1. Enacts a section that specifies what provisions of the Uniform Interstate Family Support Act apply to a resident of a foreign country and a foreign support proceeding;
2. Enacts a provision that specifies that, notwithstanding the restrictions on modification stated elsewhere in the Uniform Interstate Family Support Act, a tribunal of this State retains jurisdiction to modify an order issued by a tribunal of this State if one party resides in another state and the other party resides in a foreign country;

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3. Enacts a section that specifies how a foreign support order not subject to the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance may be modified in this State; and
4. Enacts a new subchapter on support proceedings subject to the Convention that specifies how a foreign support order subject to the Convention may be enforced or modified in this State.

LD 466 An Act To Amend the Limited Liability Company Laws Concerning Management Standards

PUBLIC 164

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS	OTP-AM	S-118

This bill amends the Maine Limited Liability Company Act.

1. It repeals language that requires that, after dissolution of a limited liability company but before filing a certificate of cancellation, the articles of organization must be amended to reflect information about persons winding up the company's affairs and that requires such persons to file articles of amendment.
2. It provides that if the articles of organization provide that management vests in one or more managers, a member of a limited liability company who is not also a manager owes no duties to the company or to other members solely by reason of being a member.

Committee Amendment "A" (S-118)

This amendment clarifies that even if the articles of organization were not amended before the certificate of cancellation was filed under the Maine Revised Statutes, Title 31, section 623, former subsection 5, the certificate is still effective. This amendment clarifies that the limited liability company member who is not a manager does not owe any duties under the section of law that spells out the duties of the limited liability company and the other members. This amendment also amends the provisions concerning the winding up of a limited liability company to specify that the failure to comply with the former listing requirement does not affect the rights, duties, powers or authority of persons winding up the affairs of the limited liability company.

Enacted Law Summary

Public Law 2009, chapter 164 amends the Maine Limited Liability Company Act concerning dissolution and the winding up of the company's affairs. It also provides that if the articles of organization provide that management vests in one or more managers, a member of a limited liability company who is not also a manager owes no duties to the company or to other members solely by reason of being a member.

LD 477 An Act To Fund State Drug Prosecutors

ONTP

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

This bill transfers funding for six Assistant Attorney General positions and one Secretary Associate Legal position from the Federal Expenditures Fund to the General Fund.

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LD 484 An Act To Rescind the Statute of Limitations on the Ability To File a Civil Suit in Cases Dealing with Unlawful Sexual Contact ONTP

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

This bill removes the statute of limitations for a civil action based upon the complaint of unlawful sexual contact.

LD 487 An Act To Increase Judicial Salaries ONTP

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

This bill, submitted by the Judicial Compensation Commission as part of its December 2008 report to the Legislature, increases judicial salaries to levels that would have been achieved if the recommendations made in the commission's 1996 report had been fully implemented.

LD 488 An Act To Address an Inequity in the Judicial Retirement System PUBLIC 254

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-174

Public Law 2007, chapter 449 amended the judicial retirement laws to include in the calculation of retirement benefits the cost-of-living adjustments that were not paid to judges during fiscal years 2003-04 and 2004-05. It applied only to judges who retired on or after the effective date of chapter 449, which was September 20, 2007. Five justices or judges worked during the two-year period in which COLAs were withheld, but retired before September 20, 2007. This bill amends the judicial retirement laws to provide that for any judge who served during the two fiscal years in which the COLAs were not paid, the earnable compensation for retirement benefit calculation purposes includes the COLAs that would have been paid.

Committee Amendment "A" (S-174)

This amendment requires that the judges and justices who may benefit from revision of the application of the imputed salary, as provided in Public Law 2007, chapter 449, must pay all costs to the retirement program associated with including that salary in order to receive the increased benefits.

Enacted Law Summary

A previously enacted law (PL 2007, c. 449) amended the judicial retirement laws to include in the calculation of retirement benefits the cost-of-living adjustments that were not paid to judges during fiscal years 2003-04 and 2004-05. It applied only to judges who retired on or after the effective date of chapter 449, which was September

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20, 2007. Five justices or judges worked during the two-year period in which COLAs were withheld, but retired before September 20, 2007. Public law 2009, chapter 254 amends the judicial retirement laws to provide that for any judge who served during the two fiscal years in which the COLAs were not paid, the earnable compensation for retirement benefit calculation purposes includes the COLAs that would have been paid.

LD 491 An Act To Reform Maine's Judicial System

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to:

1. Ensure that claims of due process violations by state court judges be heard in federal courts of law;
2. Direct the Attorney General to initiate a class action lawsuit against judges, and allow citizens of the State with claims of violations of constitutional rights by state court judges to join the class action lawsuit;
3. Establish a procedure to provide redress to persons with complaints against Legislators and government employees;
4. Eliminate the prelitigation screening panel requirement for medical malpractice claims; and
5. Repeal state laws regulating the practice of law.

**LD 502 An Act To Require Additional Information in the Annual Reports of
Nonprofit Corporations**

ONTP

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

This bill adds to the content requirements of the annual report that nonprofit corporations must file with the Secretary of State:

1. The salaries paid to the president, treasurer, registered agent, secretary or clerk and directors; and
2. A summary of annual gross revenues and gross expenses.

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LD 508 An Act To Amend the Laws Relating to Corporations, Limited Liability Companies and Limited Liability Partnerships

PUBLIC 56

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS	OTP	

This bill makes several changes to the laws governing corporations, limited liability companies and limited liability partnerships.

Enacted Law Summary

Public Law 2009, chapter 56 makes the following changes to the laws governing corporations, limited liability companies and limited liability partnerships.

1. It amends the definition of "noncommercial clerk" in the newly enacted Model Registered Agents Act to clarify that the clerk cannot be a domestic or foreign entity.
2. It amends the Model Registered Agents Act to require that approval of the interest holders or governors of a domestic corporation is required when appointing a clerk of the corporation.
3. It amends the language for corporations created under special acts of the Legislature to comply with the filing requirements and fees for corporations filed under the Maine Revised Statutes, Title 13-C.
4. It amends and enacts provisions under Title 13, chapter 81 in regards to naming or changing a contact person for a corporation, obtaining a certificate of existence or certificate of fact from the Secretary of State and determining name availability.
5. It amends the language under Title 13, chapter 85 for cooperative corporations to make consistent a signature requirement.
6. It repeals provisions in Title 13-C relating to acceptance of appointment by the clerk or registered agent of the corporation.
7. It changes provisions in the Maine Insurance Code to bring these provisions in line with the duty of the Secretary of State for corporations governed by Title 13-C.
8. It amends the provisions for dissolving a limited liability company to cap the delayed effective date to not be more than 90 days after filing the certificate of dissolution.
9. It amends the provisions for dissolving a limited liability partnership to cap the delayed effective date to not be more than 90 days after filing the certificate of dissolution.
10. It repeals a duplicative provision in Title 31, chapter 17, for partnerships to convert to another type of business entity.
11. It corrects cross-references and updates a provision regarding when the incorporation of an insurer is effective.

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**LD 527 An Act To Require a Referee of a Land Dispute To Render a Decision
within One Year**

PUBLIC 166

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO GOOLEY	OTP-AM	H-191

This bill requires that a referee appointed by the court to hear a dispute involving real property must report the referee's decision within one year of appointment.

Committee Amendment "A" (H-191)

This amendment allows the reporting period to be extended if good cause is shown.

Enacted Law Summary

Public Law 2009, chapter 166 requires that a referee appointed by the court to hear a dispute involving real property must report the referee's decision within one year of appointment, although the one-year period may be extended if good cause is shown.

**LD 528 An Act To Prohibit a Person Whose Parental Rights Have Been
Terminated from Gaining Custody of a Grandchild**

ONTP

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

This bill amends the parental rights and responsibilities laws to ensure that a court does not award parental rights and responsibilities to a grandparent whose parental rights to any child have been terminated. It also prohibits the court from awarding rights of contact to a grandparent whose parental rights to any child have been terminated. This bill also amends the Probate Code to provide that appointment of a person as the guardian of that person's grandchild is not in the best interest of the child if the person's parental rights with respect to any child have been terminated and that such an appointment may not be made.

LD 529 An Act To Create a Traffic Court

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PILON DAMON		

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to move the violations bureau from the District Court to the office of the Secretary of State.

This bill was carried over pursuant to Joint Order, H.P. 1053.

Joint Standing Committee on Judiciary

LD 546 An Act To Ensure Access to Public Information

PUBLIC 165

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	OTP-AM	S-119

This bill amends the laws governing the Office of Information Technology to provide that the office must provide access to public records that exist in electronic format if the records requested are created, collected or used by an agency or agencies for which the office provides services. The bill requires the Chief Information Officer to adopt routine technical rules to carry out this change in law.

Committee Amendment "A" (S-119)

This amendment replaces the bill. It adds a new section to the law governing the Office of Information Technology to clarify that an agency that collects or uses data or information is responsible for responding to requests for the data or information and that the office is responsible for assisting the agency in searching for and identifying the data and information stored within the office. The office must also assist in retrieving and compiling the data and information to help the agency respond to the request.

Enacted Law Summary

Public Law 2009, chapter 165 adds a new section to the law governing the Office of Information Technology to clarify that an agency that collects or uses data or information is responsible for responding to requests for the data or information and that the office is responsible for assisting the agency in searching for and identifying the data and information stored within the office. The office must also assist in retrieving and compiling the data and information to help the agency respond to the request.

LD 580 An Act Concerning the Automatic Dissolution of Certain Marriages

**PUBLIC 96
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST HASTINGS	OTP	

This bill repeals the Maine Revised Statutes, Title 19-A, section 751, subsection 2, which provides that a marriage is void and dissolved without legal process when there is a final entry of a criminal judgment sentencing either spouse to a term of life imprisonment.

Enacted Law Summary

Public Law 2009, chapter 96 repeals the Maine Revised Statutes, Title 19-A, section 751, subsection 2, which provides that a marriage is void and dissolved without legal process when there is a final entry of a criminal judgment sentencing either spouse to a term of life imprisonment.

Public Law 2009, chapter 96 was enacted as an emergency measure effective May 8, 2009.

Joint Standing Committee on Judiciary

**LD 581 An Act To Allow Law Enforcement Officers To Obtain a Personal
Recognizance Bond in Certain Cases**

PUBLIC 205

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY	OTP-AM	H-239

This bill amends the civil order of arrest law by allowing a sheriff to release a debtor upon the debtor's personal recognizance and increases the costs of the arrest order from \$25 to \$50 and the mileage rate from 22¢ to 42¢ per mile.

Committee Amendment "A" (H-239)

This amendment deletes the proposed increase in the fee for issuing and serving civil orders of arrest, and for civil arrest and custody under arrest, paid to sheriffs and their deputies.

Enacted Law Summary

Public Law 2009, chapter 205 amends the civil order of arrest law by allowing a sheriff to release a debtor upon the debtor's personal recognizance and increases the mileage rate paid for serving the arrest warrant from 22¢ to 42¢ per mile.

**LD 582 An Act To Amend the Statute of Limitations for Actions against the
Estate of a Decedent**

PUBLIC 368

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL SIMPSON	OTP-AM	H-458

This bill allows a claim for personal injuries against the estate of a decedent within the statute of limitations for that claim if the claimant did not have actual notice of the death of the decedent. Any recovery is limited to applicable insurance.

Committee Amendment "A" (H-458)

This amendment replaces section 3 of the bill to clarify the process for bringing a personal injury claim against a decedent. It allows the commencement of probate proceedings in relation to a claim for personal injuries against a decedent within six years after the cause of action accrues if the claimant did not have actual notice of the death of the decedent. Any recovery in respect to proceedings commenced beyond three years after the decedent's death is limited to applicable insurance.

Enacted Law Summary

Public Law 2009, chapter 368 allows the commencement of probate proceedings in relation to a claim for personal injuries against a decedent within six years after the cause of action accrues if the claimant did not have actual notice of the death of the decedent. This is consistent with the statute of limitations for personal injury actions. The fact that the Maine Revised Statutes, Title 14, section 853 could apply to toll the statute of limitations in a particular action does not extend the time to commence probate, appointment or testacy proceedings beyond six years after the cause of action accrues. Any recovery in respect to proceedings commenced beyond three years after the decedent's death is limited to applicable insurance.

Joint Standing Committee on Judiciary

**LD 614 An Act To Improve Child Support Collection Procedures by Changing
the Process of Modifying a Support Order**

PUBLIC 158

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODALL	OTP-AM	S-105

This bill strikes language that prohibits enforcement activities concerning past due child support payments once a noncustodial parent has filed a motion to amend ongoing payments.

Committee Amendment "A" (S-105)

This amendment repeals two provisions concerning the notice to the child support obligor who owes child support arrearages before a professional, recreational or driver's license is revoked. Eliminating these provisions is consistent with the bill's elimination of the automatic stay of enforcement actions when a motion to modify current child support is filed.

Enacted Law Summary

Public Law 2009, chapter 158 deletes language that prohibits enforcement activities - suspension and revocation of professional, recreational and driver's licenses - concerning past due child support payments once a noncustodial parent has filed a motion to amend ongoing payments.

**LD 615 An Act To Strengthen Landowner Rights in Certain Eminent Domain
Situations**

ONTP

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

This bill modifies the law governing the exercise of eminent domain by public utilities. Under current law, an owner can apply to the county commissioners to settle the amount of damages paid by the utility to the owner. Under this bill, the owner is provided the option of having an independent appraiser, approved by the owner and paid for by the utility, establish the amount of damages. The amount determined under this process is required to include the effect of the taking on the value of surrounding land of the owner not taken by the utility.

**LD 640 An Act To Ensure Public Access to Records Relating to Public
Contracts for Personal Services**

PUBLIC 221

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERRY MCCORMICK	OTP-AM	H-292

This bill provides that records of personal services work performed by private contractors pursuant to a contract with the State are open to the public to the same extent as records relating to work performed directly by the State.

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Committee Amendment "A" (H-292)

This amendment clarifies that proprietary information of the contractor is not public. "Proprietary information" is defined as information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available.

The public access provision applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

LD 640, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

Enacted Law Summary

Public Law 2009, chapter 221 provides that records of personal services work performed by private contractors are open to the public to the same extent as records relating to work performed directly by the State, although proprietary information of the contractor is not public. "Proprietary information" is defined as information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not considered proprietary information and must be treated as a public record. The public access provision applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

LD 642 An Act To Protect Parental Relationships during and after Divorce

ONTP

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

This bill is a concept draft pursuant to Joint Rule 208.

This bill seeks to provide that when a parent's relationship with a minor child of that parent is negatively affected by a court order either during or after a proceeding for divorce and the court has not made a finding of unfitness with respect to that parent, that parent must immediately be given an opportunity to repair the relationship with the child in keeping with the best interests of the child.

LD 643 An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions

PUBLIC 345

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAYES	OTP-AM	H-459

Joint Standing Committee on Judiciary

This bill authorizes a court to appoint a parenting coordinator to oversee and resolve disputes that arise between parents in interpreting and implementing the final court order in a divorce judgment or a parental rights and responsibilities judgment.

Committee Amendment "A" (H-459)

This amendment makes the following changes in the bill that establishes the court's authority to appoint parenting coordinators.

1. It clarifies that parenting coordinators may be selected from the guardian ad litem roster maintained by the District Court. It allows the court to establish additional requirements for parenting coordinators, but does not require that such additional qualifications be established.
2. It clarifies that no state funds may be used to pay the fees for a parenting coordinator.
3. It provides an automatic repeal date of January 1, 2014.
4. It allows the Supreme Judicial Court to enter into an agreement with a professional organization of guardians ad litem to establish a process to deal with comments and complaints about parenting coordinators.
5. It requires the Supreme Judicial Court to report annually to the joint standing committee of the Legislature having jurisdiction over judiciary matters regarding parenting coordinators. The committee may report out legislation based on the report to the 124th and 125th Legislatures.

Enacted Law Summary

Public Law 2009, chapter 345 authorizes a court to appoint a parenting coordinator to oversee and resolve disputes that arise between parents in interpreting and implementing the final court order in a divorce judgment or a parental rights and responsibilities judgment. A parenting coordinator may be appointed when the appointment is in the best interest of the child or children involved, and when the parents have demonstrated a pattern of persistent inability or unwillingness to make parenting decisions on their own, comply with parenting agreements and orders, reduce their child-related conflicts or protect their child from the effects of that conflict. An individual serving as a parenting coordinator acts as the court's agent and has quasi-judicial immunity for acts performed within the scope of the duties of the parenting coordinator as set forth in the court's order. The new provisions do not limit the court's authority to appoint a person to assist the parties in implementing specifically identified issues as set forth in the terms of the court's judgment even though the person is not qualified as a parenting coordinator. The parties must consent to the appointment, the appointment must be in the best interest of the child and the court must consider any domestic abuse between the parties before making the appointment. The Supreme Judicial Court may enter into an agreement with a professional organization of guardians ad litem to establish a process to deal with comments and complaints about parenting coordinators. The parenting coordinator law contains an automatic repeal date of January 1, 2014.

Public Law 2009, chapter 345 directs the Supreme Judicial Court to report annually to the joint standing committee of the Legislature having jurisdiction over judiciary matters regarding parenting coordinators. The committee may report out legislation based on the report to the 124th and 125th Legislatures.

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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,

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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

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the plaintiff has no new evidence to present concerning the alleged perjury. The pleading and proof requirements must be strictly construed.

LD 716 An Act To Change the Definition of "Domestic Partner" in the Laws Governing Custody of Remains PUBLIC 159

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRATT	OTP	

This bill changes the definition of "domestic partner" in the laws governing the custody of remains to make it consistent with other laws.

Enacted Law Summary

Public Law 2009, chapter 159 changes the definition of "domestic partner" in the laws governing the custody of remains to make it consistent with other laws.

LD 734 An Act To Provide for Treble Damages for Injuries Caused by a Person under the Influence of Alcohol or Drugs ACCEPTED ONTP REPORT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	ONTP MAJ OTP MIN	

This bill allows for treble recovery of compensatory damages for bodily injury caused by negligence involving operating a motor vehicle under the influence of alcohol or illegal drugs.

LD 742 An Act To Amend the Composition of the Maine Commission on Domestic and Sexual Abuse PUBLIC 257

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM	S-166

This bill 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 provides services to tribal victims of domestic or sexual violence. All of these members are appointed by the Governor.

Committee Amendment "A" (S-166)

This amendment clarifies that one member of the Maine Commission on Domestic and Sexual Abuse be a tribal member and provide services, as part of a tribal program, to tribal members who are victims of domestic or sexual violence.

Enacted Law Summary

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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)

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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.

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**LD 796 An Act To Direct Fines Derived from Tribal Law Enforcement
Activities to the Passamaquoddy Tribe and the Penobscot Nation**

PUBLIC 417

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SOCTOMAH RAYE	OTP-AM	H-527 S-344 DIAMOND

This bill provides that any civil penalties or fines or criminal fines imposed for a violation of any tribal or state law within the Indian territory of the Passamaquoddy Tribe or the Penobscot Nation must be remitted to the Passamaquoddy Tribe or the Penobscot Nation, respectively. This provision does not apply to a civil penalty or fine or a criminal fine imposed for a violation of any tribal or state law within the Indian territory of the Passamaquoddy Tribe or the Penobscot Nation by a state court.

Committee Amendment "A" (H-527)

This amendment replaces the bill and changes the title.

It provides that all fines for Class D and Class E crimes and for civil violations in which a tribal law enforcement agency is involved by issuing a ticket, complaint, summons or warrant or by making an arrest must be remitted to the appropriate tribe, with one exception. The civil and criminal fines may not be remitted to the Passamaquoddy Tribe or the Penobscot Nation if the violation is a violation of the Maine Revised Statutes, Title 38. The court may award the Passamaquoddy Tribe and the Penobscot Nation costs associated with their participation in the investigation and prosecution of a Title 38 violation.

Senate Amendment "A" To Committee Amendment "A" (S-344)

This amendment requires the Judicial Branch to submit a report by January 15, 2012 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters concerning the fiscal, administrative and practical effects of the new law providing for the remitting of certain civil and criminal fines to the Passamaquoddy Tribe and the Penobscot Nation. The Attorney General may submit information to be included in the report.

This amendment repeals the new law on June 30, 2012.

Enacted Law Summary

Public Law 2009, chapter 417 provides that all fines for Class D and Class E crimes and for civil violations in which a tribal law enforcement agency is involved by issuing a ticket, complaint, summons or warrant or by making an arrest must be remitted to the appropriate tribe, except that civil and criminal fines may not be remitted to the Passamaquoddy Tribe or the Penobscot Nation if the violation is a violation of the Maine Revised Statutes, Title 38. The court may award the Passamaquoddy Tribe and the Penobscot Nation costs associated with their participation in the investigation and prosecution of a Title 38 violation. The Judicial Branch must submit a report by January 15, 2012 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters concerning the fiscal, administrative and practical effects of the new law providing for the remitting of certain civil and criminal fines to the Passamaquoddy Tribe and the Penobscot Nation. The Attorney General may submit information to be included in the report. The entire section sunsets on June 30, 2012.

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LD 797 An Act To Fully Implement the Legislative Intent in Prohibiting Offensive Place Names

PUBLIC 284

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL W SCHNEIDER	OTP-AM	H-312

This bill clarifies the law concerning offensive place names prohibiting the use of terminology degrading towards women by prohibiting any derivation of "squaw" or "squa" as a separate word or as part of a word or phrase.

Committee Amendment "A" (H-312)

This amendment provides that use of "squa" as a separate syllable in a word is also prohibited in naming places.

Enacted Law Summary

Public Law 2009, chapter 284 clarifies the law concerning offensive place names prohibiting the use of terminology degrading towards women by prohibiting any derivation of "squaw" or "squa" as a separate word or as part of a word or phrase, and the use of "squa" as a separate syllable in a word.

LD 803 An Act To Authorize an Active Retired Justice or Judge To Conduct Arbitration and Chair Medical Malpractice Screening Panels

PUBLIC 136

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-106

This bill amends the law to allow an active retired justice or judge to conduct arbitration and chair medical malpractice screening panels in addition to those retired justices and judges who may perform those duties now.

Committee Amendment "A" (S-106)

This amendment amends the law to allow an active retired justice or judge to chair medical malpractice screening panels in addition to those retired justices and judges who may perform those duties now. This amendment also permits the Supreme Judicial Court to adopt rules that would permit an active retired justice or judge to conduct arbitration. This amendment also includes technical changes to the Maine Revised Statutes, Title 4, section 104 to clarify that the Chief Justice of the Superior Court is authorized to direct and assign an Active Retired Justice of the Superior Court and that an Active Retired Justice of the Superior Court is entitled to reimbursement for expenses actually and reasonably incurred in the performance of duties. These technical changes also make the law as applied to an Active Retired Justice of the Superior Court compatible with Title 4, section 157-B regarding an Active Retired Judge of the District Court.

Enacted Law Summary

Public Law 2009, chapter 136 amends the law to allow an active retired justice or judge to conduct arbitration and chair medical malpractice screening panels and permits the Supreme Judicial Court to adopt rules that would permit an active retired justice or judge to conduct arbitration. Chapter 136 also includes technical changes to the Maine Revised Statutes, Title 4, section 104 to clarify that the Chief Justice of the Superior Court is authorized to direct and assign an Active Retired Justice of the Superior Court and that an Active Retired Justice of the Superior Court is entitled to reimbursement for expenses actually and reasonably incurred in the performance of duties. These

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technical changes also make the law as applied to an Active Retired Justice of the Superior Court compatible with Title 4, section 157-B regarding an Active Retired Judge of the District Court.

**LD 826 An Act To Protect Recreational Trails on Private Land by Exempting
Certain Information on Recreational Trails from the Definition of
"Public Records"**

PUBLIC 176

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M BRYANT B	OTP-AM	H-211

This bill exempts from the definition of "public records" information in the possession of the Department of Conservation, Bureau of Parks and Lands regarding recreational trails that are located on private land and are authorized voluntarily as such by the landowner.

Committee Amendment "A" (H-211)

This amendment narrows the exception to the definition of "public records." This amendment provides that geographic information about recreational trails is not a public record for trails located on private lands for which the landowners have voluntarily authorized the use of the trails, but there is no public deed or guaranteed right of public access for the trails. If the landowner authorizes the release of the information, it becomes a public record. Other information about the trails continues to be public.

LD 826, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

Enacted Law Summary

Public Law 2009, chapter 176 provides that geographic information about recreational trails is not a public record for trails located on private lands for which the landowners have voluntarily authorized the use of the trails, but there is no public deed or guaranteed right of public access for the trails. If the landowner authorizes the release of the information, it becomes a public record. Other information about the trails continues to be public.

**LD 827 An Act To Exempt Protection from Abuse Orders from the Notification
and 30-day Waiting Period Requirements under the Uniform
Enforcement of Foreign Judgments Act**

**PUBLIC 202
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M HOBBINS	OTP-AM	H-240

This bill exempts foreign protection orders from the requirements of providing notice to the defendant and the 30-day waiting period for enforcement. This bill also exempts from registration, docketing, transcription or other enforcement fees the filing of a foreign protection order.

Committee Amendment "A" (H-240)

This amendment adds an emergency preamble and emergency clause to the bill.

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Enacted Law Summary

Public Law 2009, chapter 202 exempts foreign protection orders from the requirements of providing notice to the defendant and the 30-day waiting period for enforcement. Chapter 202 also exempts from registration, docketing, transcription or other enforcement fees the filing of a foreign protection order.

Public Law 2009, chapter 202 was enacted as an emergency measure effective May 26, 2009.

LD 828 An Act To Enhance the Shielding of Journalists' Sources

ACCEPTED ONTP
REPORT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK BLISS	ONTP MAJ OTP MIN	

This bill expands the protections of the journalist shield law to include all information, both confidential and nonconfidential, received by a journalist acting in a journalistic capacity as well as the source of that information.

LD 882 An Act To Consolidate and Modernize Maine's Courts

INDEF PP

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

This bill increases the maximum amount of securities that may be issued by the Maine Governmental Facilities Authority for specific allocation to the judicial branch. The increase will be used to fund projects for court facilities in Augusta, Dover-Foxcroft and Machias.

Committee Amendment "A" (S-154)

This amendment corrects the total amount to be available for the identified court construction and renovation projects.

The amendment also adds an appropriations and allocations section.

LD 882 was incorporated in the Committee Amendment to LD 353 (Budget), and is Part WWW of Public Law 2009, chapter 213.

LD 889 An Act To Limit Liability for Certain Noncommercial Aviation Activities

PUBLIC 156

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS R	OTP	

Joint Standing Committee on Judiciary

This bill amends the landowner recreational liability law to include noncommercial aviation activities in the definition of "recreational or harvesting activities." A landowner who allows recreational or harvesting activities on the landowner's property is not liable for injuries or property damage that happens to those members of the public taking part in that activity.

Enacted Law Summary

Public Law 2009, chapter 156 amends the landowner recreational liability law to include noncommercial aviation activities in the definition of "recreational or harvesting activities." A landowner who allows recreational or harvesting activities on the landowner's property is not liable for injuries or property damage that happens to those members of the public taking part in that activity.

LD 897 An Act To Prohibit Mandatory Binding Arbitration ONTP

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

This bill requires agreements to submit to arbitration to be optional, except for collective bargaining agreements.

See LD 1256.

LD 898 An Act To Amend the Law Pertaining to Permanently Restricted Funds of Municipal Public Libraries ONTP

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

This bill allows the governing board of a municipal public library to spend the dividend and interest income of an endowment fund, even if the fair value of the endowment fund is less than the historic dollar value of the endowment fund.

See LD 1402.

LD 944 An Act To Increase the Evidentiary Standard Required To Establish a Guardianship PUBLIC 349

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M BRYANT B	OTP-AM	H-479

This bill amends the Probate Code to require clear and convincing evidence to support court findings under the Probate Code in guardianship and conservatorship proceedings. The two exceptions are that findings necessary to remove a guardian or conservator must be made upon a preponderance of the evidence and that a conservator

Joint Standing Committee on Judiciary

may be appointed if the court determines upon a preponderance of the evidence that property will be wasted or dissipated unless proper management is provided or that funds are needed for support, care and welfare.

Committee Amendment "A" (H-479)

This amendment replaces the bill. It clarifies that the clear and convincing standard applies only to nontemporary, adult guardianships and conservatorships in which the protected person does not consent to the guardianship or conservatorship. Consent is valid only if the alleged incapacitated person appears in court or provides voluntary written consent. It also clarifies that in conservatorship proceedings a court must find by clear and convincing evidence that the person is unable to manage the person's property or affairs but can find by a preponderance of the evidence that the person has property that needs protection. Finally, the amendment also clarifies the procedure for the termination of guardianship and conservatorship by a protected person. These provisions provide that the protected person must present a prima facie case that guardianship or conservatorship is not necessary and then the burden shifts to the respondent to show by clear and convincing evidence that the conservatorship or guardianship is necessary.

Enacted Law Summary

Public Law 2009, chapter 349 provides that the evidentiary standard to establish a guardianship or conservatorship is clear and convincing evidence for only nontemporary, adult guardianships and conservatorships in which the protected person does not consent to the guardianship or conservatorship. Consent is valid only if the alleged incapacitated person appears in court or provides voluntary written consent. It also clarifies that in conservatorship proceedings a court must find by clear and convincing evidence that the person is unable to manage the person's property or affairs but can find by a preponderance of the evidence that the person has property that needs protection. Chapter 349 also clarifies the procedure for the termination of guardianship and conservatorship by a protected person.

LD 945 An Act To Protect the Rights of Siblings Separated by Adoption

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M BRYANT B	ONTP	

This bill protects the right of an adoptee who is under 21 years of age and has had sibling relationships disrupted by the adoption of that person from foster care to maintain contact with that person's siblings. An adoption court has the authority to weigh the person's best interest against the person's right to maintain sibling contact and, if contact is approved, may incorporate in the adoption decree any appropriate conditions of contact between siblings.

LD 947 An Act To Amend the Laws To Ensure Equity in the Judicial Retirement Program

PUBLIC 267

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRINWARD	OTP-AM	H-313

This bill implements the recommendation of the Judicial Compensation Commission that members of Maine's judiciary with retirement contributions earned in the Legislative Retirement Program be allowed to fully transfer these contributions to the Judicial Retirement Program. The bill also requires any member who transfers retirement contributions from the State Employee and Teacher Retirement Program or the Legislative Retirement Program to

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pay the costs to have the contributions transferred to the Judicial Retirement Program.

Committee Amendment "A" (H-313)

This amendment clarifies that, upon appointment as a judge, a member of the Legislative Retirement Program may transfer accumulated contributions and membership to the Judicial Retirement Program only if that member pays the full actuarial costs associated with including the transferred service as service in the Judicial Retirement Program. This amendment deletes any changes proposed in the bill concerning members of the State Employee and Teacher Retirement Program.

Enacted Law Summary

Public Law 2009, chapter 267 provides that, upon appointment as a judge, a member of the Legislative Retirement Program may transfer accumulated contributions and membership to the Judicial Retirement Program only if that member pays the full actuarial costs associated with including the transferred service as service in the Judicial Retirement Program.

LD 961 An Act To Amend the Maine Condominium Act Regarding Escrow of Assessments

PUBLIC 332

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL	OTP-AM MAJ OTP-AM MIN	H-418

This bill creates the definition in the Maine Condominium Act of "priority amounts," which includes heat, utility and regular condominium association assessments for a 6-month period before filing a lawsuit to enforce a lien and the costs and attorney's fees to enforce the lien. This bill also gives a lien based upon priority amounts priority over a first mortgage and establishes that, if the association fails to send the first mortgagee notice of a lien action, the association cannot collect costs or attorney's fees.

Committee Amendment "A" (H-418)

This amendment is the majority report. This amendment replaces the bill and authorizes a condominium association to require the payment into escrow of assessments to a total of 6 months' worth of assessments for each unit. Interest must be paid on the amounts escrowed. The association shall return the assessment payments made, together with interest earned, to the unit owner when the owner sells the unit and has fully paid all the assessments due. The association may use the balance in the account to offset any assessments remaining unpaid.

Committee Amendment "B" (H-419)

This amendment is the minority report. This amendment deletes heat and utilities from the priority amounts to which a condominium association is entitled and limits attorney's fees to \$1,500. This amendment gives the condominium association's lien priority over a first mortgage only if the mortgage is created on or after October 1, 2009. This amendment does not affect the priority of existing mortgages. (Not adopted)

Enacted Law Summary

Public Law 2009, chapter 332 authorizes a condominium association to require the payment into escrow of assessments to a total of 6 months' worth of assessments for each unit. Interest must be paid on the amounts escrowed. The association shall return the assessment payments made, together with interest earned, to the unit owner when the owner sells the unit and has fully paid all the assessments due. The association may use the balance in the account to offset any assessments remaining unpaid.

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LD 962 An Act To Protect Family Caregivers

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL BLISS	OTP-AM MAJ ONTP MIN	

This bill amends the Maine Human Rights Act to expand the protections against discrimination in employment to include family caregivers. "Family caregiver" means a person who cares for that person's child, parent, spouse, domestic partner or sibling.

Committee Amendment "A" (H-295)

This amendment is the majority report. This amendment clarifies the definition of "family member," which the bill added to the Maine Human Rights Act, to cross-reference the definitions of "domestic partner" and "sibling" in the laws concerning family medical leave. This amendment directs that the addition of family caregiver status as a category protected from employment discrimination may not be construed to require an employer to provide accommodation for family caregivers. (Not adopted)

Senate Amendment "A" To Committee Amendment "A" (S-259)

This amendment deletes the section of Committee Amendment "A" that establishes a rule of construction in unallocated language. This amendment adds a new provision to the Maine Human Rights Act in the description of what constitutes unlawful discrimination to clarify that a claim for unlawful discrimination based on family caregiver status may be maintained only by proof that the complaining party has been harmed by a covered entity's bias, prejudice or unwarranted stereotyping relating to the claimant's status as a family caregiver. The new provision provides that the inclusion of family caregiver status as a prohibited category of discrimination does not create a right to accommodation or impose any duty on employers to alter work schedules or other conditions of employment. (Not adopted)

**LD 981 Resolve, To Establish a Study Commission To Examine the Issue of
Eminent Domain**

ONTP

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

This resolve establishes a study commission to examine the issue of eminent domain and to ascertain when it is proper to use eminent domain. The commission must submit a report and suggested legislation to the Joint Standing Committee on the Judiciary, which has authority to submit legislation to the Second Regular Session of the 124th Legislature.

Joint Standing Committee on Judiciary

LD 1006 An Act To Create the Probate and Trust Law Advisory Commission

PUBLIC 262

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL HASTINGS	OTP-AM	H-349

This bill establishes the Probate and Trust Law Advisory Commission, which is modeled on the Family Law Advisory Commission and the Criminal Law Advisory Commission, to conduct an ongoing evaluation of probate and trust laws and to recommend amendments based on that examination.

Committee Amendment "A" (H-349)

This amendment deletes the payment of expenses to the Probate and Trust Law Advisory Commission. Members of the commission will not receive compensation. This amendment directs the Chief Justice of the Supreme Judicial Court, rather than the Governor, to appoint two Probate Court Judges to the commission. This amendment requires the commission to report on its activities by January 15th in 2010 and 2011.

Enacted Law Summary

Public Law 2009, chapter 262 establishes the Probate and Trust Law Advisory Commission, which is modeled on the Family Law Advisory Commission and the Criminal Law Advisory Commission, to conduct an ongoing evaluation of probate and trust laws and to recommend amendments based on that examination.

LD 1020 An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom

PUBLIC 82

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM A ONTP B OTP-AM C	S-109

This bill repeals the provision that limits marriage to one man and one woman and replaces it with the authorization for marriage between any two persons that meet the other requirements of Maine law. It also specifies that a marriage between two people of the same sex in another state that is valid in that state is valid and must be recognized in this State. This bill also clarifies that the authorization of marriage between two people of the same sex does not compel any religious institution to alter its doctrine, policy or teaching regarding marriage or to solemnize any marriage in conflict with that doctrine, policy or teaching. It also specifies that a person authorized to join persons in marriage and who fails or refuses to join persons in marriage is not subject to any fine or other penalty for such failure or refusal.

Committee Amendment "A" (S-109)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It incorporates a fiscal note.

Committee Amendment "B" (S-110)

This is the minority report of the Joint Standing Committee on Judiciary. This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. The title of the bill is changed to reflect the referendum addition. (Not adopted)

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Senate Amendment "A" (S-112)

This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. The title of the bill is changed to reflect the referendum addition. (Not adopted)

Senate Amendment "B" (S-113)

This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. (Not adopted)

Senate Amendment "C" (S-114)

This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. The title of the bill is changed to reflect the referendum addition. (Not adopted)

Senate Amendment "D" (S-115)

This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. (Not adopted)

House Amendment "A" (H-230)

This amendment makes the Act contingent on approval by the voters in a referendum at the general election in November. The title of the bill is changed to reflect the referendum addition. (Not adopted)

Enacted Law Summary

Public Law 2009, chapter 82 repeals the provision that limits marriage to one man and one woman and replaces it with the authorization for marriage between any two persons that meet the other requirements of Maine law. It also specifies that a marriage between two people of the same sex in another state that is valid in that state is valid and must be recognized in this State. Chapter 82 also clarifies that the authorization of marriage between two people of the same sex does not compel any religious institution to alter its doctrine, policy or teaching regarding marriage or to solemnize any marriage in conflict with that doctrine, policy or teaching. It also specifies that a person authorized to join persons in marriage and who fails or refuses to join persons in marriage is not subject to any fine or other penalty for such failure or refusal.

LD 1039 An Act Concerning Advanced Directives To Give Effect to a Person's End-of-life Health Care Decisions

P & S 17

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M BRYANT B	OTP-AM	H-210

This bill directs the Attorney General to develop two education programs. The first education program is directed at educating the public about the steps necessary to have their end-of-life decisions honored by medical personnel. The second education program is aimed at the legal community and others who prepare or help individuals complete living wills and other advance health care directives. This bill directs the Attorney General to convene a study group of interested parties to ensure patients' end-of-life decisions are honored when patients are transferred from a nursing home to a hospital.

Committee Amendment "A" (H-210)

This amendment deletes section 2 of the bill, which directs the Attorney General to convene a study group to address honoring health care decisions when patients are transferred from nursing homes to hospitals.

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Enacted Law Summary

Private & Special Law 2009, chapter 17 directs the Attorney General to develop two education programs. The first education program is directed at educating the public about the steps necessary to have their end-of-life decisions honored by medical personnel. The second education program is aimed at the legal community and others who prepare or help individuals complete living wills and other advance health care directives.

LD 1079 An Act To Prohibit a Parent without Parental Rights from Inheriting from an Adult Child Who Dies without a Will

ONTP

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

This bill prohibits a parent whose parental rights have been terminated with regard to a child from inheriting from that child if the child dies intestate.

LD 1108 An Act To Amend the Statute of Limitations under the Maine Human Rights Act

PUBLIC 235

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL BLISS	OTP-AM	H-293

This bill changes the statute of limitations under the Maine Human Rights Act from six months to 300 days after an alleged act of discrimination to file a complaint with the commission, requires the Maine Human Rights Commission to conclude its investigation of a complaint within two years of the alleged act of discrimination and changes the time frame to file a lawsuit from two years after the alleged act of discrimination to 90 days after the issuance of a right-to-sue letter.

Committee Amendment "A" (H-293)

This amendment provides that complaints filed with the Maine Human Rights Commission may be notarized after filing.

This amendment revises the bill to provide that the commission must conclude its investigation of a complaint within two years after the complaint is filed with the commission. This amendment amends the bill to require that a lawsuit must be filed within either two years after the act of unlawful discrimination complained of or 90 days after the commission dismisses a complaint, issues a right-to-sue letter or fails to conciliate a reasonable grounds case, whichever is later.

Enacted Law Summary

Public Law 2009, chapter 235 provides that complaints filed with the Maine Human Rights Commission may be notarized after filing. It provides that the commission must conclude its investigation of a complaint within two years after the complaint is filed with the commission. A lawsuit must be filed within either two years after the act of unlawful discrimination complained of or 90 days after the commission dismisses a complaint, issues a right-to-sue letter or fails to conciliate a reasonable grounds case, whichever is later.

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LD 1118 An Act To Expand Rights for Maine Families

ONTP

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

This bill provides that registered domestic partners have the same rights, protections and benefits and are subject to the same responsibilities, obligations and duties under law, whether they derive from statute, administrative rule, court rule, government policy, common law or any other provision or source of law, as are granted to and imposed upon spouses. The delayed effective date of January 1, 2010 is included to provide time for preparations for the change in the law.

LD 1132 An Act To Establish the Maine Commission on Indigent Legal Services

**PUBLIC 419
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-233

This bill establishes the Maine Commission on Indigent Legal Services, an independent and permanent statutory entity, to provide efficient high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. All attorneys providing indigent legal services will be paid through the commission. This bill also authorizes a one-time transfer of all necessary funds and positions from the judicial branch to the Maine Commission on Indigent Legal Services in order to create the commission at no additional cost to the General Fund.

Committee Amendment "A" (S-233)

This amendment clarifies language in the emergency preamble and elsewhere in the bill to correctly describe when the State is obligated to provide indigent legal services. This amendment revises language to maintain consistency throughout the bill with regard to quality indigent legal services. This amendment requires the Governor, the Chief Justice of the Supreme Judicial Court, the President of the Senate and the Speaker of the House of Representatives, when making recommendations and appointments to the commission, to consider input from persons and organizations with an interest in the delivery of indigent legal services. This amendment requires that the individuals appointed to the commission must have, in addition to the qualifications listed in the bill, the skills and knowledge required to ensure that quality representation is provided in each area of law. This amendment revises the qualifications for the executive director of the Maine Commission on Indigent Legal Services to provide that the executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services, but need not be an attorney licensed in this State. This amendment requires the commission to consider other programs necessary to provide quality and efficient indigent legal services and to recognize, when establishing minimum attorney qualifications, that quality representation in each of these types of cases requires counsel with experience and specialized training in that field. This amendment requires the commission to develop an administrative and review process for attorneys who are aggrieved by a decision of the executive director. This amendment provides that the commission's rules concerning standards governing experience, training and other qualifications for contract counsel and assigned counsel are major substantive rules and must be submitted to and reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters before they take effect. This amendment establishes the executive director as a major policy-influencing position and sets the

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salary at range 52. This amendment authorizes payment of the legislative per diem to the commission members, in addition to expenses. This amendment also adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2009, chapter 419 establishes the Maine Commission on Indigent Legal Services, an independent and permanent statutory entity, to provide an indigent person who is facing incarceration in a criminal case, who is charged with a juvenile crime, who is a parent subject to a child protection action or who is facing involuntary commitment to a psychiatric hospital counsel at state expense consistent with federal and state constitutional and statutory obligations. The commission consists of five members appointed by the Governor and confirmed by the Legislature. The Governor, the Chief Justice of the Supreme Judicial Court, the President of the Senate and the Speaker of the House of Representatives, when making recommendations and appointments to the commission, must consider input from persons and organizations with an interest in the delivery of indigent legal services. The individuals appointed to the commission must have, in addition to the qualifications listed in the bill, the skills and knowledge required to ensure that quality representation is provided in each area of law. The commission will develop standards for the delivery of indigent legal services and will establish and maintain a system that uses appointed private attorneys, contracts with individual attorneys or groups of attorneys and consider any other program necessary to provide quality and efficient indigent legal services. The commission shall appoint an executive director to carry out the day-to-day activities of the commission. All attorneys providing indigent legal services will be paid through the commission. Chapter 419 authorizes a one-time transfer of all necessary funds and positions from the Judicial Branch to the Maine Commission on Indigent Legal Services in order to create the commission at no additional cost to the General Fund. The commission shall develop an administrative and review process for attorneys who are aggrieved by a decision of the executive director. The commission's rules concerning standards governing experience, training and other qualifications for contract counsel and assigned counsel are major substantive rules and must be submitted to and reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters before they take effect.

Public Law 2009, chapter 419 was enacted as an emergency measure effective June 17, 2009.

LD 1143 **Resolve, Directing a Study of Domestic Violence and Parental Rights and Responsibilities**

RESOLVE 120

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MORRISON BLISS	OTP-AM	H-472

This bill creates a rebuttable presumption in the awarding of sole and joint parental rights and responsibilities in cases of domestic abuse in a family. It is presumed that a parent who has a history of perpetrating domestic abuse will not be awarded primary residence or shared residence with children. This bill is modeled on law enacted in Louisiana and many other states, as well as on the National Council of Juvenile and Family Court Judges' model code.

Committee Amendment "A" (H-472)

This amendment deletes the bill, changes the title and replaces it with a resolve directing the Maine Commission on Domestic and Sexual Abuse to undertake a study on domestic violence, parental rights and responsibilities and the protection from abuse process. The commission shall invite interested parties to participate and shall report to the Joint Standing Committee on Judiciary by February 1, 2010. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The committee may report out legislation to the 124th Legislature in 2010.

Enacted Law Summary

Joint Standing Committee on Judiciary

Resolve 2009, chapter 120 directs the Maine Commission on Domestic and Sexual Abuse to undertake a study on domestic violence, parental rights and responsibilities and the protection from abuse process. The commission shall invite interested parties to participate and shall report to the Joint Standing Committee on Judiciary by February 1, 2010. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The committee may report out legislation to the 124th Legislature in 2010.

LD 1179 An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings

PUBLIC 287

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-409

This bill is proposed by the Criminal Law Advisory Commission. It provides for a comprehensive post-judgment method of relief when a person's identity has been stolen and falsely used by another person in a criminal, civil violation or traffic infraction proceeding.

Committee Amendment "A" (H-409)

This amendment limits the right to appointed counsel for indigent petitioners to cases involving criminal convictions.

Enacted Law Summary

Public Law 2009, chapter 287 provides for a comprehensive post-judgment method of relief when a person's identity has been stolen and falsely used by another person in a criminal, civil violation or traffic infraction proceeding. The final outcome in that proceeding is immaterial. The relief offered is a court determination of factual innocence and the correction of the court records and related criminal justice agency records. This bill does not provide relief to a person who has stolen another person's identity and falsely used it in a criminal, civil violation or traffic infraction proceeding.

LD 1184 An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit

PUBLIC 245

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-175

This bill creates a new equitable cause of action to resolve disputes over rights in, title to or possession of personal property and to eliminate the personal property forcible entry and detainer action. The new course of action includes summary process, prompt relief and streamlined procedural requirements.

Committee Amendment "A" (S-175)

This amendment amends the bill to clarify that, for venue purposes, consumer transactions include rental-purchase agreements in addition to consumer credit transactions. The amendment retains, with a few changes, the text for the new cause of action to resolve disputes over rights in, title to or possession of personal property and to eliminate the personal property forcible entry and detainer action, but establishes a new separate chapter for the new cause of action. This amendment provides that the court may issue a writ of possession seven days after the judgement is

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entered, which is consistent with current law. The bill allows a writ to be issued six days after the entry of the judgment. The bill provides that, in a contempt proceeding that may be brought against a defendant who does not comply with the writ of possession within two days of service, the judgment creates a rebuttable presumption that the defendant has the ability to put the sheriff or constable into possession of the property. This amendment clarifies that the presumption shifts the burden of production of evidence to the defendant, but that the burden of persuasion remains upon the plaintiff in the contempt proceeding. The bill as amended is not intended to create any new right to a jury trial, or to expand any right to a jury trial that may now exist under the Maine Revised Statutes, Title 14, section 6012.

Enacted Law Summary

Public Law 2009, chapter 245 creates a cause of action to resolve disputes over rights in, title to or possession of personal property and eliminates the current personal property forcible entry and detainer action. The new cause of action includes summary process, prompt relief and streamlined procedural requirements. For venue purposes, consumer transactions include rental-purchase agreements in addition to consumer credit transactions. It is not intended to create any new right to a jury trial, or to expand any right to a jury trial that may now exist under the Maine Revised Statutes, Title 14, section 6012.

LD 1188 An Act To Clarify Child Protection Proceedings

ONTP

Sponsor(s)

PERRY J

Committee Report

ONTP

Amendments Adopted

This bill amends the child protection laws. It:

1. Gives a person seven days to petition the court to quash a subpoena requesting telephone or utility bills or personal information;
2. Requires the Department of Health and Human Services to provide a report prior to a child protective proceeding detailing the expenses incurred prosecuting the proceeding and in attempting to unify a child with or prevent removal of the child from the child's family;
3. Requires the department to provide sworn testimony or affidavit as to efforts to notify the parents or custodian of a child or facts justifying exception to notice in a preliminary protection proceeding;
4. Requires District Courts to keep publicly accessible records relating to preliminary protection hearings including notice given, exceptions to notice taken and other information;
5. Requires parties under most circumstances to resolve disputes within the adjudicatory structure of the department after disposition in a protection proceeding has been ordered;
6. Clarifies what constitutes reasonable efforts in the department's requirement to rehabilitate or reunify a family;
7. Clarifies the rights of a parent when a child is in the custody of an adult relative; and
8. Strengthens the provisions requiring placement of a child with an adult relative.

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LD 1192 An Act To Change the Statute of Limitations for Health Care Practitioners

ONTP

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

This bill provides a statute of limitations for actions for professional negligence regarding health care providers and health care practitioners of three years after the negligence is discovered but in no event more than six years after the cause of action accrues.

LD 1199 An Act To Implement the Recommendations of the Right To Know Advisory Committee

**PUBLIC 240
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-314

This bill implements the recommendations of the Right To Know Advisory Committee.

Committee Amendment "A" (H-314)

This amendment adds a section to repeal the sunset on the Public Access Division and the Public Access Ombudsman within the Department of the Attorney General. It adds an emergency preamble and emergency clause to make the bill as amended take effect in time to repeal the sunset. This amendment deletes the section of the bill addressing the confidentiality of credentialing decisions concerning education personnel.

Enacted Law Summary

Public Law 2009, chapter 240 includes the 2009 recommendations of the Right to Know Advisory Committee. Chapter 240 makes technical changes to the Maine Revised Statutes, Title 1, chapter 13. Chapter 240 also makes changes to several exceptions related to records maintained by the Department of Marine Resources to add a definition of "proprietary information" and use statutory language consistent with Title 12, section 6173-A. It also requires an aquaculture lessee to submit an annual seeding and harvesting report. The entire report is considered proprietary information and not public, but the Department of Marine Resources shall provide a copy of the report upon request to the municipalities in which or adjacent to which the lease is located. Chapter 240 also provides that confidential aquaculture monitoring program information may not be disclosed in a manner or form that permits identification of any person or vessel, except as required by court order or when otherwise specifically permitted. Chapter 240 repeals the sunset on the Public Access Division and the Public Access Ombudsman within the Department of the Attorney General.

Public Law 2009, chapter 240 was enacted as an emergency measure effective June 2, 2009.

Joint Standing Committee on Judiciary

LD 1200 An Act To Streamline the Process for Court-ordered Mental Health Examinations in Criminal Cases

PUBLIC 268

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-337

This bill is proposed by the Criminal Law Advisory Commission. The bill reorganizes the Maine Revised Statutes, Title 15 provisions that govern court-ordered mental health examinations of criminal defendants by linking the court's authority to order an examination to the specific issues to be addressed by the examination.

Committee Amendment "A" (H-337)

This amendment restructures part of the bill concerning evaluation with reference to insanity or abnormal condition of mind. The bill provides that the court shall forward any report filed by the State Forensic Service to both the defendant or the defendant's attorney and the State, unless the defendant has objected to the order for the examination, in which case the report is not provided to the State. This amendment provides that the report is not provided to the State if the State has agreed that the report need not be forwarded to the attorney for the State except when the defendant enters a plea of not criminally responsible by reason of insanity or the defendant provides notice of the intention to introduce testimony as to the defendant's abnormal condition of mind.

The amendment rewords the language with regard to the disposition of reports when the court orders an examination over the objection of the defendant. The report may not be shared with the attorney for the State unless the defendant enters a plea of not criminally responsible by reason of insanity or the defendant provides notice of the intention to introduce testimony as to the defendant's abnormal condition of mind.

Enacted Law Summary

Public Law 2009, chapter 268 is a recommendation of the Criminal Law Advisory Commission. It reorganizes the Maine Revised Statutes, Title 15 provisions that govern court-ordered mental health examinations of criminal defendants by linking the court's authority to order an examination to the specific issues to be addressed by the examination. It creates different provisions governing examinations to review competency to proceed, criminal responsibility and abnormal condition of the mind and mental condition relevant to other issues. By doing so, chapter 268 will conserve resources by eliminating existing language that often resulted in the State Forensic Service's being ordered to address all of these issues when a narrower review would have satisfied the needs of the court and the parties. Chapter 268 also eliminates existing language that requires examination by both a psychologist and a psychiatrist in insanity cases, often resulting in the expensive and unnecessary duplication of effort. Instead, the court is given discretion to determine, in conjunction with the State Forensic Service, the number and type of examinations required under the circumstances of a particular case. Chapter 268 provides a more flexible mechanism for the court to order a defendant committed for observation in an appropriate institution for the care and treatment of people with mental illness or mental retardation for the purpose of conducting the examination. Under existing law, such commitment may only occur after the State Forensic Service has conducted an initial examination and recommended commitment in its report to the court. The existing procedure often results in unnecessary expense and delay. Instead, chapter 268 authorizes the court to order commitment when advised by the State Forensic Service that such commitment would materially enhance its ability to conduct the examination. The State Forensic Service may make this determination based upon consultation with the parties and the court and upon such other information it determines appropriate. Finally, chapter 268 ensures that when a person who has been evaluated by the State Forensic Service on behalf of a court is committed into the custody of the Commissioner of Health and Human Services, the court shall order the State Forensic Service to share any information it has gathered with respect to that person with the institution in which the person is placed.

Joint Standing Committee on Judiciary

LD 1207 An Act To Base the Value of Eminent Domain Takings on Going Concern Value

**ACCEPTED ONTP
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GILES	OTP-AM MAJ ONTP MIN	

This bill establishes an impartial ombudsman and defines the ombudsman's duty, which is to ensure business owners who lose property by eminent domain are properly compensated. The role of the ombudsman does not preclude the role of the State Claims Commission. This bill establishes the criteria for determination of compensation for loss or impairment of the going concern value of a business when the property of a business is to be taken by the Department of Transportation or a municipality exercising its eminent domain power. The burden is on the business to prove the loss. The analysis takes place at the request of the owner of the displaced business. This process applies to compensation to be paid by municipalities when exercising eminent domain authority under general authorization provisions and for economic development purposes. This bill adds to the duties of the State Claims Commission the duty to include determination of just compensation in two categories of municipal condemnations: general eminent domain authority under the Maine Revised Statutes, Title 30-A, chapter 151 and community development under Title 30-A, chapter 205.

Committee Amendment "A" (H-361)

This amendment is the majority report. The amendment adds an appropriations and allocations section to the bill. (Not adopted)

LD 1208 An Act To Encourage Transparency in the Oversight of Interscholastic Activities

ONTP

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

This bill amends the definition of "public proceedings" under the freedom of access laws to require an association that oversees interscholastic activities in public or private schools and that receives funding from those schools to provide public access to the transaction of any functions of that association affecting a citizen of the State.

See LD 1306.

LD 1209 An Act Regarding the Consent of Minors To Receive Substance Abuse and Mental Health Treatment

ONTP

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

Joint Standing Committee on Judiciary

This bill requires a minor to have been living separately from parents and independent of parental support, be or have been legally married, be or have been a member of the Armed Forces of the United States or have been emancipated by a court in order to be able to consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems.

LD 1216 An Act To Strengthen the Kinship Preference in Child Welfare Residential Placement

ONTP

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

This bill strengthens the preference for placement with adult relatives over nonrelated caregivers in child welfare placement of a child.

LD 1256 An Act To Prohibit Predispute Mandatory Binding Arbitration Clauses in Consumer Contracts

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLAHERTY BLISS		

This bill prohibits predispute mandatory binding arbitration clauses in consumer contracts.

This bill was carried over pursuant to Joint Order, H.P. 1053.

LD 1265 Resolve, Regarding Low-profit Limited Liability Companies

RESOLVE 97

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLEMINGS NASS R	OTP-AM	H-410

This bill creates a new form of limited liability company that is formed for a charitable or education purpose within the meaning of the United States Internal Revenue Code of 1986 and does not have as a significant purpose the production of income or the appreciation of property or the purpose of accomplishing a political or legislative purpose and must contain the abbreviation "L3C" or "l3c" in its name.

Committee Amendment "A" (H-410)

This amendment replaces the bill and changes the title. It converts the bill into a resolve that directs the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions to review information about low-profit limited liability companies and consult with attorneys who practice in this area. The bureau shall submit a report to the Joint Standing Committee on Judiciary in January 2010. The Joint Standing Committee on Judiciary may report out legislation based on the report.

Joint Standing Committee on Judiciary

Enacted Law Summary

Resolve 2009, chapter 97 directs the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions to review information about low-profit limited liability companies and consult with attorneys who practice in this area. The bureau shall submit a report to the Joint Standing Committee on Judiciary in January 2010. The Joint Standing Committee on Judiciary may report out legislation based on the report.

LD 1266 *Resolve, Establishing a Blue Ribbon Panel To Address Disparities in Economic Development between the Passamaquoddy Tribe and the State and the United States* **ONTP**

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

This resolve establishes the Blue Ribbon Panel To Address Disparities in Economic Development between the Passamaquoddy Tribe and the State and the United States. The panel shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Business, Research and Economic Development may introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature.

LD 1289 *An Act To Enact the Uniform Debt Management Services Act* **Carried Over**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODE ALFOND		

This bill repeals the existing law governing debt management services and enacts in its stead the Uniform Debt Management Services Act.

This bill was carried over pursuant to Joint Order, H.P. 1053.

LD 1306 *An Act To Require Interscholastic Athletic Organizations To Comply with the Public Proceedings Provisions of the Freedom of Access Laws for Certain Meetings* **PUBLIC 334**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRESCOTT NUTTING J	OTP-AM MAJ ONTP MIN	H-470

This bill requires an interscholastic athletic organization that is incorporated in this State, such as the Maine Principals' Association, to comply with the freedom of access laws, such as having public meetings and making its records available to the public. If the Secretary of State determines that the corporation is not complying, the Secretary of State is allowed to commence dissolution proceedings against that corporation.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-470)

This amendment replaces the bill. It adds to the definition of "public proceedings" under the freedom of access laws the meetings of interscholastic organizations when the meetings pertain to interscholastic sports. Meetings limited to eligibility rule violations and personnel issues are not included as public proceedings. This amendment also provides that records and minutes of the meetings are public records.

Enacted Law Summary

Public Law 2009, chapter 334 adds to the definition of "public proceedings" under the freedom of access laws the meetings of interscholastic organizations when the meetings pertain to interscholastic sports. Meetings limited to eligibility rule violations and personnel issues are not included as public proceedings. Chapter 334 provides that records and minutes of the meetings are public records.

LD 1307 An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers

PUBLIC 238

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE GOODALL	OTP-AM	H-294

This bill establishes immunity from civil liability for a director, commissioner or volunteer of a road association similar to the immunity afforded to charitable directors, officers and volunteers.

Committee Amendment "A" (H-294)

This amendment replaces the bill. It provides that road associations' commissioners and boards, and the owners of parcels within a road association, have no civil liability to the other lot owners and lessees for the determination of the repairs and maintenance to be undertaken, the determination of assessments of materials and money, the collection of the money to be paid by the owners and the awarding of a contract authorized under the Maine Revised Statutes, Title 23, section 3103. This amendment also makes clear that the limited immunity provision does not provide immunity from enforcement actions by the Department of Environmental Protection or a municipality.

Enacted Law Summary

Public Law 2009, chapter 238 provides that road associations' commissioners and boards, and the owners of parcels within a road association, have no civil liability to the other lot owners and lessees for the determination of the repairs and maintenance to be undertaken, the determination of assessments of materials and money, the collection of the money to be paid by the owners and the awarding of a contract authorized under the Maine Revised Statutes, Title 23, section 3103. The limited immunity provision does not provide immunity from enforcement actions by the Department of Environmental Protection or a municipality.

LD 1353 An Act Regarding Salary Information for Public Employees

ONTP

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

Joint Standing Committee on Judiciary

This bill provides that salary information as it relates to an individual state, county, municipal, school, University of Maine System, Maine Community College System or Maine Maritime Academy employee is confidential. Salary information as it relates to specified positions, identified by those positions, is public information.

**LD 1377 An Act To Amend the 1980 Maine Implementing Act To Authorize the
Establishment of a Tribal Court for the Houlton Band of Maliseet
Indians and Related Matters**

PUBLIC 384

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY BLISS	OTP-AM	H-561

This bill provides the Houlton Band of Maliseet Indians with Tribal Court authority. This bill removes the sunset on the authority of law enforcement of the Houlton Band of Maliseet Indians. This bill provides for eligibility for state funding for the Houlton Band of Maliseet Indians. This bill 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 bill deletes language that pertained to the selection of the first chair of the Maine Indian Tribal-State Commission, as that is no longer necessary. It also includes provisions for the replacement of the chair of the commission.

Committee Amendment "A" (H-561)

This amendment replaces the bill and authorizes the establishment of the Houlton Band of Maliseet Indians tribal court, addresses the law enforcement authority of the Houlton Band of Maliseet Indians and provides options for making payments in lieu of taxes. This amendment is divided in Parts A, B, C, D, E, F and G. Part A addresses issues relating to the Houlton Band of Maliseet Indians; law enforcement authority and options for payments to municipalities in lieu of taxes. Part A requires approval as required by 25 United States Code, Section 1725(e)(2) by the Houlton Band of Maliseet Indians. Part B establishes the Houlton Band Tribal Court with jurisdiction only over members of the Houlton Band of Maliseet Indians. Parts D and E provide opportunities to expand the jurisdiction to members of the Penobscot Nation and the Passamaquoddy Tribe. Part B requires approval as required by 25 United States Code, Section 1725(e)(2) by the Houlton Band of Maliseet Indians. Part C covers full faith and credit of judicial proceedings. It requires approval by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation as required by 25 United States Code, Section 1725(e). Part D gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Penobscot Nation. It takes effect only if the Houlton Band of Maliseet Indians and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). Part E gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Passamaquoddy Tribe. It also amends the jurisdiction of the Passamaquoddy tribal court to give that court jurisdiction over members of the Houlton Band of Maliseet Indians. Part E takes effect only if the Houlton Band of Maliseet Indians and the Passamaquoddy Tribe approve it as required by 25 United States Code, Section 1725(e). Part F amends the Maine Indian Tribal-State Commission statutes to add two members of the Houlton Band of Maliseet Indians and two additional state representatives. It deletes obsolete language and revises language concerning the replacement of the chair. Part F takes effect only if the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). Part G directs the Revisor of Statutes to rename the headnote of the Maine Revised Statutes, Title 30. It does not require approval of the tribes.

Enacted Law Summary

Public Law 2009, chapter 384 includes seven parts. Parts A through F require the approval of one or more of the Federally-Recognized Tribes in Maine to take effect; Part G takes effect September 12, 2009.

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PART A continues the law enforcement authority of the Houlton Band of Maliseet Indians contained in Title 30, section 6206-B by repealing subsection 6, which provides for the repeal of the entire section in 2010. This Part addresses payments in lieu of taxes to be made by the Houlton Band of Maliseet Indians and authorizes the acceptance of other forms of payment, including but not limited to federal funds or other assistance. Part A is effective October 1, 2009 only if the Houlton Band of Maliseet Indians approves it as required by 25 United States Code, Section 1725(e)(2).

PART B provides authority for the Houlton Band of Maliseet Indians to establish a tribal court with jurisdiction over specific subjects: Class D and E crimes committed on Houlton Band Jurisdiction Land, proceedings regarding juveniles, certain civil actions, Indian child custody issues and other domestic relations actions. The band may decide whether to exercise jurisdiction over each category of jurisdiction and shall notify the Attorney General when it is prepared to exercise jurisdiction. Until the band exercises its exclusive jurisdiction over a category of jurisdiction, the State has exclusive jurisdiction over that category of actions. The band may choose to terminate its jurisdiction and may later reassert the jurisdiction and must notify the Attorney General when that occurs. Under this Part, the tribal court has jurisdiction only over members of the Houlton Band of Maliseet Indians. The tribal court may exercise jurisdiction over two parcels of Houlton Band Trust Land defined in the amendment as "Houlton Band Jurisdiction Land." The tribal court is effective only if the State, the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians, and the Houlton Band of Maliseet Indians gives full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation and the State. Part C provides the full faith and credit requirement. Part B takes effect October 1, 2009 if the Houlton Band of Maliseet Indians approves this Part as required by 25 United States Code, Section 1725(e)(2).

PART C provides that the State, the Passamaquoddy Tribe and the Penobscot Nation shall give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians, and that the Houlton Band of Maliseet Indians shall give full faith and credit to the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation. Part C takes effect upon the Houlton Band of Maliseet Indians approving Part B and the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving this Part as required by 25 United States Code, Section 1725(e).

PART D gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Penobscot Nation within the same categories of subject matter jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet Indians under Part B. Part D takes effect upon the Houlton Band of Maliseet Indians approving Part B, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving Part C and the Houlton Band of Maliseet Indians and the Penobscot Nation approving this Part as required by 25 United States Code, Section 1725(e).

PART E gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Passamaquoddy Tribe within the same categories of subject matter jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet Indians under Part B. It also amends the jurisdiction of the Passamaquoddy Tribal Court to provide that court with jurisdiction over members of the Houlton Band of Maliseet Indians. Part E takes effect upon the Houlton Band of Maliseet Indians approving Part B, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving Part C and the Houlton Band of Maliseet Indians and the Passamaquoddy Tribe approving this Part as required by 25 United States Code, Section 1725(e).

PART F amends the Maine Indian Tribal-State Commission statutes to add two members of the Houlton Band of Maliseet Indians and two additional state representatives. It deletes obsolete language and revises language concerning the replacement of the chair. Part F takes effect only if the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). PART G directs the Revisor of Statutes to rename the headnote of Title 30 from "Municipalities and Counties" to "Federally Recognized Indian Tribes." It does not require approval of the tribes.

Joint Standing Committee on Judiciary

LD 1378 An Act To Adopt Portions of the Uniform Mediation Act

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WAGNER R BLISS		

The purpose of this bill is to encourage parties involved in mediation to communicate openly, and to protect the confidentiality of participants in the mediation process. This bill adopts those portions of the Uniform Mediation Act, as adopted by the National Conference of Commissioners on Uniform State Laws, that:

1. Establish privileges for mediation communication regarding disclosure, admissibility and discovery;
2. Authorize exceptions and waivers to the established privileges;
3. Specifically prohibit and permit various communications by a mediator; and
4. Establish the confidentiality of mediation communications.

This bill was carried over pursuant to Joint Order, H.P. 1053.

LD 1382 An Act To Provide for Equality before the Law

ONTP

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

This bill prohibits a court when interpreting a statute or rule in a civil or criminal proceeding from giving any deference to a state department's or agency's interpretation of the statute or rule.

LD 1402 An Act To Enact the Uniform Prudent Management of Institutional Funds Act

PUBLIC 450

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST BLISS	OTP-AM A ONTP B OTP-AM C	H-503 H-559 PRIEST

This bill repeals the existing Uniform Management of Institutional Funds Act and replaces it with the Uniform Prudent Management of Institutional Funds Act adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Prefatory Note and Uniform Comments are included. This bill does not include the optional clause identifying 7 percent as the maximum level of "prudent spending." This bill increases the amount that defines a small fund for which an institution may release or modify a restriction according to cy pres principles but without court approval. The dollar limit is established at \$100,000, but must be indexed to inflation by the

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Attorney General. The restriction may be released or modified only if the fund is at least 20 years old and the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument. This bill takes effect July 1, 2010.

Committee Amendment "A" (H-503)

This amendment, which is the majority report of the committee, requires an institution to track the historic dollar value of its institutional funds. This amendment establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. This amendment provides that if the Attorney General objects to the release or modification of a restriction in a gift instrument that applies to a small fund that has been in existence for more than 20 years, the institution must seek court approval of the release or modification. This amendment changes the effective date of the Act to July 1, 2009 and adds a retroactive application date.

Committee Amendment "B" (H-504)

This amendment is a minority report. This amendment requires an institution to track the historic dollar value of its institutional funds. This amendment establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. This amendment requires an institution to notify the donor, if living, before the institution appropriates for expenditure any amount of an endowment fund if the donor's gift was at least \$50,000. This amendment provides that if the Attorney General objects to the release or modification of a restriction in a gift instrument that applies to a small fund that has been in existence for more than 20 years, the institution must seek court approval of the release or modification. This amendment changes the effective date of the Act to July 1, 2009 and adds a retroactive application date.

House Amendment "A" To Committee Amendment "A" (H-559)

This amendment moves the definition of "historic dollar value" to the general definitions section and provides that an institution's determination of historic dollar value made in good faith is conclusive. This amendment also:

1. Requires that an institution administering endowment funds with an aggregate value of \$2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of the Uniform Prudent Management of Institutional Funds Act; and
2. Requires that an institution administering endowment funds with an aggregate value of less than \$2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds.

Enacted Law Summary

Public Law 2009, chapter 450 repeals the existing Uniform Management of Institutional Funds Act and replaces it with the Uniform Prudent Management of Institutional Funds Act adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Prefatory Note and Uniform Comments are included. Chapter 450 requires an institution to track the historic dollar value of its institutional funds. It establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. An institution administering endowment funds with an aggregate value of \$2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of the Uniform Prudent Management of Institutional Funds Act. An institution administering endowment funds with an aggregate value of less than \$2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds.

Public Law 2009, chapter 450 takes effect September 12, 2009, but applies retroactively to July 1, 2009.

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LD 1403 An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code

PUBLIC 325

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-234

This bill replaces Article 1 of the Uniform Commercial Code with the 2001 Revision adopted by the National Conference of Commissioners on Uniform State Laws. The bill includes amendments approved in 2003 as part of the revision of Article 7. Explanatory notes and Uniform Comments as prepared by the Uniform Law Commissioners are included. This Act takes effect January 1, 2010.

Committee Amendment "A" (S-234)

This amendment changes the effective date from January 1, 2010 to February 15, 2010.

Enacted Law Summary

Public Law 2009, chapter 325 replaces Article 1 of the Uniform Commercial Code with the 2001 Revision adopted by the National Conference of Commissioners on Uniform State Laws. Chapter 325 includes amendments approved in 2003 as part of the revision of Article 7. Explanatory notes and Uniform Comments as prepared by the Uniform Law Commissioners are included.

Public Law 2009, chapter 325 takes effect February 15, 2010.

LD 1404 An Act To Enact the Maine Uniform Power of Attorney Act

PUBLIC 292

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-240

The Maine Uniform Power of Attorney Act, Maine UPOAA, replaces and expands the provisions relating to powers of attorney in Maine's Probate Code, currently in the Maine Revised Statutes, Title 18-A, Article 5, Part 5. This bill includes Uniform Comments and Maine Comments where applicable.

Committee Amendment "A" (S-240)

This amendment clarifies the definition of "incapacity." This amendment provides that a power of attorney is not valid unless acknowledged before a notary public or other individual authorized by law to take acknowledgments. It also clarifies that durable powers of attorney created in the bill must contain the notices in substantially the form provided in the bill. Minor omissions or deviations do not invalidate the power of attorney. This amendment includes appropriate cross-references to the Maine Uniform Trust Code with regard to the duties of a fiduciary. This amendment clarifies the agent's responsibilities with regard to safeguarding the principal's interests. This amendment cross-references guides to determining the reasonableness of an agent's compensation. This amendment clarifies liability for refusal to accept an acknowledged power of attorney when the person has a good faith belief about abuse, neglect, exploitation or abandonment of the principal and a report has been made to the Department of Health and Human Services. This amendment includes a reference to the principal's registered domestic partner with regard to payments for personal and family maintenance. It deletes the presumption that the principal's child is

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an automatic permissible beneficiary of payments for personal and family maintenance. This amendment clarifies the agent's authority to make gifts. This amendment includes changes to the Maine Comments related to these changes.

Enacted Law Summary

Public Law 2009, chapter 292 enacts the Maine Uniform Power of Attorney Act, Maine UPOAA, which replaces and expands the provisions relating to powers of attorney in Maine's Probate Code, currently in the Maine Revised Statutes, Title 18-A, Article 5, Part 5. Under Maine UPOAA, the agent serves in the same way a guardian or conservator would in relation to the principal's property. Maine UPOAA requires that certain powers, mostly related to estate planning, be expressly and specifically conferred rather than be accepted as general powers. Maine UPOAA also provides civil penalties for refusal by a third party to accept a properly executed power of attorney if that third party holds assets of the principal. Maine UPOAA does, however, create reasonable exceptions to the requirement that a third party accept a properly executed and acknowledged power of attorney and it creates certain protections for persons who accept a power of attorney in good faith. Maine UPOAA contains provisions that protect a principal and the principal's successors in interest from an agent who violates its provisions. Maine UPOAA does not contain provisions related to so-called durable health care powers of attorney as currently provided in Article 5, Part 5 of Maine's Probate Code; however, Maine UPOAA does not affect Maine's Uniform Health-care Decisions Act in Article 5, Part 8 of Maine's Probate Code, which already, and concurrently, allows for the creation of so-called durable health care powers of attorney. A power of attorney is not valid unless acknowledged before a notary public or other individual authorized by law to take acknowledgments. Durable powers of attorney must contain the notices in substantially the form provided in the law, but minor omissions or deviations do not invalidate the power of attorney. Chapter 292 clarifies liability for refusal to accept an acknowledged power of attorney when the person has a good faith belief about abuse, neglect, exploitation or abandonment of the principal and a report has been made to the Department of Health and Human Services. Uniform Comments and Maine Comments are included where applicable.

Public Law 2009, chapter 292 is effective July 1, 2010.

**LD 1405 An Act To Implement the Updates to Article 7 of the Uniform
Commercial Code Suggested by the National Conference of
Commissioners on Uniform State Laws**

PUBLIC 324

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-235

This bill replaces Article 7 of the Uniform Commercial Code with the 2003 version of the Article as approved by the National Conference of Commissioners on Uniform State Laws. Explanatory notes and Uniform Comments as prepared by the uniform law commissioners are included.

Committee Amendment "A" (S-235)

This amendment changes the effective date from January 1, 2010 to February 15, 2010.

Enacted Law Summary

Public Law 2009, chapter 324 replaces Article 7 (Documents of Title) of the Uniform Commercial Code with the 2003 version of the Article as approved by the National Conference of Commissioners on Uniform State Laws. Explanatory notes and Uniform Comments as prepared by the uniform law commissioners are included.

Public Law 2009, chapter 324 is effective February 15, 2010.

Joint Standing Committee on Judiciary

LD 1459 An Act To Modify Child Support Enforcement Procedures and Requirements

PUBLIC 290

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP-AM	S-241

This bill makes the following changes to the laws governing child support enforcement.

1. It authorizes a court to issue summary process for contempt if an administrative child support order has been disregarded or disobeyed.
2. It repeals the definition of "reasonable cost health insurance" and replaces it with definitions for "medical support," "private health insurance" and "reasonable cost" in accordance with final federal regulations for medical support in child support enforcement programs.
3. It clarifies that service of a notice in the expedited paternity process must be made in accordance with the requirements for personal service provided by Rule 4(d) of the Maine Rules of Civil Procedure.
4. It implements requirements of final federal regulations for medical support in child support enforcement programs.
5. It deletes the requirement that the amount of support in a child support order be "actually paid" before it can be excluded from the calculation of gross income for the purpose of calculating support for another child.
6. It repeals definitions of "health plan," "medical care costs" and "medical support" pursuant to requirements of final federal regulations for medical support in child support enforcement programs.
7. It implements requirements of final federal regulations for medical support in child support enforcement programs.
8. It extends the application of the child support table to the "highest income amount in the child support table."
9. It extends the application of the self-support reserve in the child support table to incomes greater than \$12,600.
10. It authorizes a process by which the Department of Health and Human Services may seek child support from a parent regardless of whether there is an order granting primary residential care of the child to that parent if the other parent is receiving public assistance for the child.
11. It clarifies that service of a motion to modify support is made in the manner as is provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
12. It clarifies that service of a notice of intention to certify that an obligor is not in compliance with a support order and therefore may have that obligor's license revoked or suspended is made in the same manner as is provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
13. It repeals specific biennial reporting requirements by the department to the Governor and Legislature regarding administrative license revocation.

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14. It requires a 20-day notice to an obligor and other interested parties before the sale of any property seized under an order to seize and sell and that service of the notice be made in the same manner as is provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
15. It clarifies that service of an administrative support enforcement notice, order or lien is made in the same manner as is provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
16. It creates joint and several liability of a responsible person for failure to timely send to the department support payments that have been withheld pursuant to a withholding order.
17. It clarifies that service of an order to appear and disclose must be made in accordance with the requirements for personal service provided by the Maine Rules of Civil Procedure, Rule 4(d).
18. It clarifies that service of an income withholding order for support is made in the same manner as is provided for service of process by the Maine Rules of Civil Procedure, Rule 4.
19. It clarifies what income withholding law applies to a withholding order issued by another state for an obligor whose principal place of employment is this State.
20. It clarifies that the maximum amount permitted to be withheld from an obligor's income is the same regardless of whether the withholding order is issued administratively or by a court.
21. It establishes, in accordance with the requirements of the Uniform Interstate Family Support Act as enacted in this State, the law of this State regarding priority and allocation of income withheld for two or more child support obligees.

Committee Amendment "A" (S-241)

This amendment deletes sections from the bill that authorize the court to issue summary process for contempt based on failure to comply with an administrative child support order and that create joint and several liability of a responsible person for failure to timely send to the Department of Health and Human Services support payments that have been withheld pursuant to a withholding order. This amendment extends the application of the child support table to \$400,000, the actual top income amount on the child support table, rather than referring to the highest income amount in the table. This amendment extends the application of the self-support reserve in the child support table to incomes up to \$22,800. This amendment deletes the repeal of reporting requirements concerning administrative license revocation. This amendment corrects the bill to appropriately repeal only the subsection referring to personal service of notices of child support and liens in the Maine Revised Statutes, Title 19-A, section 2253.

Enacted Law Summary

Public Law 2009, chapter 290 makes changes to the laws governing child support enforcement including provisions to address:

1. Medical support in accordance with final federal regulations for medical support in child support enforcement programs;
2. Service, consistent with the Maine Rules of Civil Procedure, of notices for expedited paternity process, motions to modify, license revocation and suspension process, administrative enforcement process, orders to appear and disclose, income withholding orders and notices to seize and sell;
3. The maximum income included on the child support table, and an increase in the self support reserve as incorporated into the child support table;

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4. Calculation and payment of child support when the obligor is responsible for child support for another child;
5. Child support from a parent regardless of whether there is an order granting primary residential care of the child to that parent if the other parent is receiving public assistance for the child;
6. A 20-day notice to an obligor and other interested parties before the sale of any property seized under an order to seize and sell;
7. Applicable income withholding law when a withholding order is issued by another state for an obligor whose principal place of employment is this State;
8. Maximum amount permitted to be withheld from an obligor's income regardless of whether the withholding order is issued administratively or by a court; and
9. Establishment of priority and allocation of income withheld for two or more child support obliges, consistent with the Uniform Interstate Family Support Act.

**LD 1472 An Act To Require a Municipality To Quiet Title to Certain Roads
Acquired by Adverse Possession**

ONTP

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

This bill requires that, in the specific instance that a municipality claims to obtain a public road by adverse possession and then subsequently abandons that road, the municipality must prove that the title to the road was established by a court decree. Failure to obtain the court decree voids a claim to the road by the municipality by adverse possession.

LD 1475 An Act To Correct Errors and Inconsistencies in the Laws of Maine

**PUBLIC 415
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-579

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

Committee Amendment "A" (H-579)

This amendment deletes several sections from Part A and all of Part B of the bill because the corrections are made in other bills or to avoid further conflicts. This amendment adds new Parts B, C, D and E.

Part B consists of technical amendments.

Part C makes substantive corrections to Public Law 2009, chapter 54: It corrects drafting errors in the original bill. One error inadvertently repealed that portion of Title 29-A, section 2558, subsection 2, paragraph B that enhances the penalty for aggravated operating after habitual offender revocation if the driver had been once previously convicted of the same offense. Without this amendment, a 2nd offender may be prosecuted only for a Class D crime.

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Part C also limits the retroactivity provision of Public Law 2009, chapter 54 to the sections of Title 29-A that affect suspension of a motor vehicle license. Portions of the law that affect sentencing are not made retroactive. It makes the correction to the retroactivity section of Public Law 2009, chapter 54 retroactive to the effective date of chapter 54, April 22, 2009.

Part D makes substantive corrections to discrepancies between the GIS shape file for the proposed expedited wind energy development area recommended by the Governor's Wind Energy Development Task Force and the written description of the areas corresponding to the shape file included in legislation adopting this task force recommendation. The corrections to the description of the areas in Chain of Ponds and T25 MD BPP were identified prior to enactment of the legislation but were never incorporated into the final language of the bill. The corrections to the description for Skinner Township were discovered during the recent process of reviewing the legislation. Part D deletes a reference to the time period after the enactment of Public Law 2007, chapter 661 and the effective date of rulemaking by the Maine Land Use Regulation Commission. Part D also directs the Maine Land Use Regulation Commission to change its rules to be consistent with these changes.

Part E adds a word that was inadvertently omitted from Public Law 2009, chapter 372. Part E also clarifies that those provisions providing for joint administration of the Renewable Resource Fund program by the Efficiency Maine Trust and the Public Utilities Commission take effect July 1, 2010, when the Efficiency Maine Trust takes over other programs pursuant to Public Law 2009, chapter 372.

Enacted Law Summary

Public Law 2009, chapter 415 corrects errors and inconsistencies in the laws of Maine. Parts A and B make technical corrections.

Part C makes substantive corrections to Public Law 2009, chapter 54: It corrects drafting errors in the original bill. One error inadvertently repealed that portion of Title 29-A, section 2558, subsection 2, paragraph B that enhances the penalty for aggravated operating after habitual offender revocation if the driver had been once previously convicted of the same offense. Without this correction, a 2nd offender may be prosecuted only for a Class D crime. Part C also limits the retroactivity provision of Public Law 2009, chapter 54 to the sections of Title 29-A that affect suspension of a motor vehicle license. Portions of the law that affect sentencing are not made retroactive. It makes the correction to the retroactivity section of Public Law 2009, chapter 54 retroactive to the effective date of chapter 54, April 22, 2009.

Part D makes substantive corrections to discrepancies between the GIS shape file for the proposed expedited wind energy development area recommended by the Governor's Wind Energy Development Task Force and the written description of the areas corresponding to the shape file included in legislation adopting this task force recommendation. The corrections to the description of the areas in Chain of Ponds and T25 MD BPP were identified prior to enactment of the legislation but were never incorporated into the final language of the bill. The corrections to the description for Skinner Township were discovered during the recent process of reviewing the legislation. Part D deletes a reference to the time period after the enactment of Public Law 2007, chapter 661 and the effective date of rulemaking by the Maine Land Use Regulation Commission. Part D also directs the Maine Land Use Regulation Commission to change its rules to be consistent with these changes.

Part E adds a word that was inadvertently omitted from Public Law 2009, chapter 372. Part E also clarifies that those provisions providing for joint administration of the Renewable Resource Fund program by the Efficiency Maine Trust and the Public Utilities Commission take effect July 1, 2010, when the Efficiency Maine Trust takes over other programs pursuant to Public Law 2009, chapter 372.

Public Law 2009, chapter 415 was enacted as an emergency measure effective June 17, 2009.

Joint Standing Committee on Judiciary

SUBJECT INDEX

Adoption

Not Enacted

LD 945 **An Act To Protect the Rights of Siblings Separated by Adoption** **ONTP**

Arbitration and Mediation

Not Enacted

LD 897 **An Act To Prohibit Mandatory Binding Arbitration** **ONTP**

LD 1256 **An Act To Prohibit Predispute Mandatory Binding Arbitration
Clauses in Consumer Contracts**

LD 1378 **An Act To Adopt Portions of the Uniform Mediation Act**

Attorney General

Not Enacted

LD 477 **An Act To Fund State Drug Prosecutors** **ONTP**

Business & Nonprofit Organizations

Enacted

LD 466 **An Act To Amend the Limited Liability Company Laws
Concerning Management Standards** **PUBLIC 164**

LD 508 **An Act To Amend the Laws Relating to Corporations, Limited
Liability Companies and Limited Liability Partnerships** **PUBLIC 56**

LD 1265 **Resolve, Regarding Low-profit Limited Liability Companies** **RESOLVE 97**

Not Enacted

LD 394 **An Act To Protect Nonprofit Organizations from Embezzlement** **ONTP**

LD 502 **An Act To Require Additional Information in the Annual
Reports of Nonprofit Corporations** **ONTP**

Child Protection

Enacted

LD 162	An Act To Clarify Child Abuse and Neglect Information Disclosure	PUBLIC 38
LD 427	An Act To Require School Bus Drivers and School Bus Attendants To Report Suspected Child Abuse	PUBLIC 41

Not Enacted

LD 1188	An Act To Clarify Child Protection Proceedings	ONTP
LD 1216	An Act To Strengthen the Kinship Preference in Child Welfare Residential Placement	ONTP

Commercial Code

Enacted

LD 1403	An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code	PUBLIC 325
LD 1405	An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws	PUBLIC 324

Confidentiality/Freedom of Access

Enacted

LD 546	An Act To Ensure Access to Public Information	PUBLIC 165
LD 640	An Act To Ensure Public Access to Records Relating to Public Contracts for Personal Services	PUBLIC 221
LD 679	An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals	PUBLIC 423
LD 826	An Act To Protect Recreational Trails on Private Land by Exempting Certain Information on Recreational Trails from the Definition of "Public Records"	PUBLIC 176
LD 1199	An Act To Implement the Recommendations of the Right To Know Advisory Committee	PUBLIC 240 EMERGENCY
LD 1306	An Act To Require Interscholastic Athletic Organizations To Comply with the Public Proceedings Provisions of the Freedom of Access Laws for Certain Meetings	PUBLIC 334

Not Enacted

LD 828	An Act To Enhance the Shielding of Journalists' Sources	ACCEPTED ONTP REPORT
LD 1208	An Act To Encourage Transparency in the Oversight of Interscholastic Activities	ONTP

LD 1353 An Act Regarding Salary Information for Public Employees ONTP

Courts and Court Procedure

Enacted

LD 443 An Act To Increase the Jurisdictional Limit for Small Claims PUBLIC 428

LD 527 An Act To Require a Referee of a Land Dispute To Render a Decision within One Year PUBLIC 166

LD 581 An Act To Allow Law Enforcement Officers To Obtain a Personal Recognizance Bond in Certain Cases PUBLIC 205

LD 657 An Act To Allow the Award of Court Costs or Attorney's Fees in Protection from Harassment Actions PUBLIC 263

LD 703 An Act Regarding Claims for Civil Perjury PUBLIC 187

LD 1132 An Act To Establish the Maine Commission on Indigent Legal Services PUBLIC 419
EMERGENCY

LD 1179 An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings PUBLIC 287

LD 1184 An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit PUBLIC 245

LD 1200 An Act To Streamline the Process for Court-ordered Mental Health Examinations in Criminal Cases PUBLIC 268

Not Enacted

LD 25 An Act To Protect Child Victims of Sexual Abuse ONTP

LD 375 An Act To Clarify the Amount of a Contract for Small Claim Purposes ONTP

LD 376 An Act To Remove Domestic Court Cases from the Probate Court ONTP

LD 444 An Act To Allow a Verdict in a Criminal Trial To Be Considered a De Minimis Infraction ONTP

LD 491 An Act To Reform Maine's Judicial System ONTP

LD 529 An Act To Create a Traffic Court

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

LD 882 An Act To Consolidate and Modernize Maine's Courts INDEF PP

LD 1382 An Act To Provide for Equality before the Law ONTP

Courts, Jury Duty

Not Enacted

LD 135 An Act To Increase Mileage Reimbursement for Jurors ONTP

LD 291 An Act To Exempt Breast-feeding Mothers from Jury Duty ONTP

Courts, Justices and Judges

Enacted

LD 488 An Act To Address an Inequity in the Judicial Retirement System PUBLIC 254

LD 803 An Act To Authorize an Active Retired Justice or Judge To
Conduct Arbitration and Chair Medical Malpractice Screening
Panels PUBLIC 136

LD 947 An Act To Amend the Laws To Ensure Equity in the Judicial
Retirement Program PUBLIC 267

Not Enacted

LD 487 An Act To Increase Judicial Salaries ONTP

Domestic Violence/Protection from Abuse

Enacted

LD 324 An Act To Allow Limited Information Sharing in Domestic
Violence Cases PUBLIC 181

LD 742 An Act To Amend the Composition of the Maine Commission on
Domestic and Sexual Abuse PUBLIC 257

LD 827 An Act To Exempt Protection from Abuse Orders from the
Notification and 30-day Waiting Period Requirements under the
Uniform Enforcement of Foreign Judgments Act PUBLIC 202
EMERGENCY

Not Enacted

LD 22 Resolve, To Establish a Study Commission To Develop
Legislation Designed To Prevent Domestic Violence and Abuse ONTP

LD 24 An Act To Prevent Domestic Violence and Abuse ONTP

LD 326 An Act To Allow the Request for and Granting of Permanent
Protection from Abuse Orders ONTP

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

Family Law, General

Enacted

LD 580	An Act Concerning the Automatic Dissolution of Certain Marriages	PUBLIC 96 EMERGENCY
LD 643	An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions	PUBLIC 345
LD 1143	Resolve, Directing a Study of Domestic Violence and Parental Rights and Responsibilities	RESOLVE 120

Not Enacted

LD 426	An Act To Allow Stepparents To Take Certain Actions with Respect to Their Stepchildren	ONTP
LD 455	An Act Regarding Parents' Rights	ONTP
LD 528	An Act To Prohibit a Person Whose Parental Rights Have Been Terminated from Gaining Custody of a Grandchild	ONTP
LD 642	An Act To Protect Parental Relationships during and after Divorce	ONTP
LD 689	An Act Regarding Guardians Ad Litem	ONTP

Family Law, Child Support

Enacted

LD 300	An Act To Increase Child Support Collection by Expanding the New Hire Reporting Requirements	PUBLIC 198
LD 399	Resolve, To Establish a Working Group To Increase Child Support Collections	RESOLVE 60
LD 461	An Act To Adopt Amendments to the Uniform Interstate Family Support Act	PUBLIC 95
LD 614	An Act To Improve Child Support Collection Procedures by Changing the Process of Modifying a Support Order	PUBLIC 158
LD 1459	An Act To Modify Child Support Enforcement Procedures and Requirements	PUBLIC 290

Human Rights and Medical Rights

Enacted

LD 716	An Act To Change the Definition of "Domestic Partner" in the Laws Governing Custody of Remains	PUBLIC 159
LD 1020	An Act To End Discrimination in Civil Marriage and Affirm Religious Freedom	PUBLIC 82

LD 1039 **An Act Concerning Advanced Directives To Give Effect to a Person's End-of-life Health Care Decisions** P & S 17

LD 1108 **An Act To Amend the Statute of Limitations under the Maine Human Rights Act** PUBLIC 235

Not Enacted

LD 962 **An Act To Protect Family Caregivers** DIED ON
ADJOURNMENT

LD 1118 **An Act To Expand Rights for Maine Families** ONTP

LD 1209 **An Act Regarding the Consent of Minors To Receive Substance Abuse and Mental Health Treatment** ONTP

Probate

Enacted

LD 365 **An Act To Amend the Laws Governing MaineCare Estate Recovery Undertaken by the Department of Health and Human Services** PUBLIC 150

LD 582 **An Act To Amend the Statute of Limitations for Actions against the Estate of a Decedent** PUBLIC 368

LD 944 **An Act To Increase the Evidentiary Standard Required To Establish a Guardianship** PUBLIC 349

LD 1006 **An Act To Create the Probate and Trust Law Advisory Commission** PUBLIC 262

LD 1404 **An Act To Enact the Maine Uniform Power of Attorney Act** PUBLIC 292

Not Enacted

LD 23 **An Act To Amend the Laws Governing Powers of Attorney** ONTP

LD 1079 **An Act To Prohibit a Parent without Parental Rights from Inheriting from an Adult Child Who Dies without a Will** ONTP

Real Property, Property Rights and Eminent Domain

Enacted

LD 391 **An Act To Amend the Law Concerning Adverse Possession** PUBLIC 255

LD 961 **An Act To Amend the Maine Condominium Act Regarding Escrow of Assessments** PUBLIC 332

Not Enacted

LD 301	An Act To Require Home Sellers To Disclose Energy Usage Data	LEAVE TO WITHDRAW
LD 615	An Act To Strengthen Landowner Rights in Certain Eminent Domain Situations	ONTP
LD 981	Resolve, To Establish a Study Commission To Examine the Issue of Eminent Domain	ONTP
LD 1207	An Act To Base the Value of Eminent Domain Takings on Going Concern Value	ACCEPTED ONTP REPORT
LD 1472	An Act To Require a Municipality To Quiet Title to Certain Roads Acquired by Adverse Possession	ONTP

Torts and Immunity, General

Enacted

LD 428	An Act To Amend the Laws Concerning Wrongful Death	PUBLIC 180
LD 702	An Act To Allow the Donation of Certain Perishable Food Products to Nonprofit Organizations	PUBLIC 168
LD 889	An Act To Limit Liability for Certain Noncommercial Aviation Activities	PUBLIC 156
LD 1307	An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers	PUBLIC 238

Not Enacted

LD 372	An Act To Authorize the Administration of Epinephrine Autoinjectors and Asthma Inhalers in Emergencies	ACCEPTED ONTP REPORT
LD 734	An Act To Provide for Treble Damages for Injuries Caused by a Person under the Influence of Alcohol or Drugs	ACCEPTED ONTP REPORT

Torts and Immunity, Statutes of Limitation

Not Enacted

LD 484	An Act To Rescind the Statute of Limitations on the Ability To File a Civil Suit in Cases Dealing with Unlawful Sexual Contact	ONTP
LD 1192	An Act To Change the Statute of Limitations for Health Care Practitioners	ONTP

Tribal-State Relations

Enacted

LD 796	An Act To Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation	PUBLIC 417
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LD 797 **An Act To Fully Implement the Legislative Intent in Prohibiting
Offensive Place Names** **PUBLIC 284**

LD 1377 **An Act To Amend the 1980 Maine Implementing Act To
Authorize the Establishment of a Tribal Court for the Houlton
Band of Maliseet Indians and Related Matters** **PUBLIC 384**

Not Enacted

LD 445 **An Act To Improve Tribal-State Relations**

LD 1266 **Resolve, Establishing a Blue Ribbon Panel To Address
Disparities in Economic Development between the
Passamaquoddy Tribe and the State and the United States** **ONTP**

Uncategorized

Enacted

LD 777 **An Act To Provide for an Expiration Date for Certain
Harassment Notices** **PUBLIC 246**

LD 1402 **An Act To Enact the Uniform Prudent Management of
Institutional Funds Act** **PUBLIC 450**

LD 1475 **An Act To Correct Errors and Inconsistencies in the Laws of
Maine** **PUBLIC 415
EMERGENCY**

Not Enacted

LD 898 **An Act To Amend the Law Pertaining to Permanently Restricted
Funds of Municipal Public Libraries** **ONTP**

LD 1289 **An Act To Enact the Uniform Debt Management Services Act**

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