

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



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

April 2010

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# Joint Standing Committee on Judiciary

LD 445 An Act To Improve Tribal-State Relations

PUBLIC 636

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST BLISS	OTP-AM	H-714

This bill was carried over from the First Regular Session pursuant to Joint Order, H.P. 1053.

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 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. 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 Committee Amendment was initially adopted during the First Regular Session, but was replaced by Committee Amendment "B" in the Second Regular Session.

### **Committee Amendment "B" (H-714)**

This amendment replaces the bill.

Part A of this amendment makes statutory changes necessary to include a representative of the Houlton Band of Maliseet Indians in the Maine House of Representatives beginning with the Second Regular Session of the 125th Legislature in January 2012.

Part B of this amendment adds a 714-acre parcel of land located in a portion of the unorganized territory known as Argyle East Parcel in Penobscot County to the Penobscot Indian Reservation.

Part C of this amendment addresses the process of developing the budget for the Maine Indian Tribal-State Commission.

Part D of this amendment clarifies that the laws specifically addressing interlocal cooperation agreements expressly include the federally recognized Indian tribes of the Passamaquoddy Tribe and the Penobscot Nation.

### **Enacted Law Summary**

Public Law 2009, chapter 636 is divided into four parts.

Part A makes statutory changes necessary to include a representative of the Houlton Band of Maliseet Indians in the Maine House of Representatives beginning with the Second Regular Session of the 125th Legislature in January 2012. It adds the Representative of the Houlton Band of Maliseet Indians to the compensation language for members of the House of Representatives.

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Part B adds a 714-acre parcel of land located in a portion of the unorganized territory known as Argyle East Parcel in Penobscot County to the Penobscot Indian Reservation. This provision takes effect only if approved by the Penobscot Nation and certification of the approval is received by the Secretary of State within 90 days of the adjournment of the Second Regular Session of the 124th Legislature.

Part C addresses the process of developing the budget for the Maine Indian Tribal-State Commission. These changes to the Maine Implementing Act take effect only if approved by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and certification of the approval is received by the Secretary of State within 90 days of the adjournment of the Second Regular Session of the 124th Legislature.

Part D clarifies that the laws specifically addressing interlocal cooperation agreements expressly include the federally recognized Indian tribes of the Passamaquoddy Tribe and the Penobscot Nation. The Passamaquoddy Tribe and the Penobscot Nation and their political subdivisions may participate in the activities authorized under those laws as parties to such agreements. Part D also clarifies that those laws do not apply to and do not affect any agreement to which a federally recognized Indian tribe is a party if the agreement has not been entered into under the authority of those laws.

### **LD 529      An Act To Create a Traffic Court**

**ONTP**

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

This bill was carried over from the First Regular Session pursuant to Joint Order, H.P. 1053.

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

This bill proposes to move the Violations Bureau from the District Court of the Judicial Branch to the office of the Secretary of State.

### **LD 1256      An Act To Provide Protections for Consumers Subject to Mandatory Arbitration Clauses**

**PUBLIC 572**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLAHERTY BLISS	OTP-AM	H-715

This bill was carried over from the First Regular Session pursuant to Joint Order, H.P. 1053

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

#### **Committee Amendment "A" (H-715)**

This amendment replaces the bill. It amends the current law concerning consumer arbitration agreements by repealing the existing requirement that arbitration providers that provide arbitration services related to credit or loans for personal, family or household purposes report to the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation. Instead, providers of arbitration services are required to make available information about consumer arbitrations occurring in this State.

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## Enacted Law Summary

Public Law 2009, chapter 572 amends the laws concerning consumer arbitrations. It provides that a consumer arbitration agreement not allowed under federal law is void and unenforceable. The narrow reporting requirement for certain areas of consumer arbitrations is repealed, and chapter 572 requires all providers of arbitration services in Maine to make available detailed information about consumer arbitrations and their outcomes. The information must be posted on publicly accessible websites, and the Office of the Attorney General notified about the websites.

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

ONTP

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

This bill was carried over from the First Regular Session pursuant to Joint Order, H.P. 1053.

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

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

ONTP

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

This bill was carried over from the First Regular Session pursuant to Joint Order, H.P. 1053.

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.

See Maine Rules of Evidence, Rule 408 and Rule 514.

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**LD 1511    An Act To Remove the Age Limit Governing When a Court Must Consider the Wishes of a Child in a Proceeding for the Termination of Parental Rights**

**ONTP**

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

This bill removes the age limit governing when a court must consider the wishes of a child in a proceeding for the termination of parental rights. Current law requires a court to consider the wishes of a child 12 years of age or older in such a proceeding.

See LD 1623.

**LD 1537    Resolve, Directing the Maine Human Rights Commission To Report on Improvements**

**RESOLVE 178**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLODGETT BLISS	OTP-AM	H-662 S-457 BLISS

This bill shortens from two years to one year the period within which the Maine Human Rights Commission must conclude an investigation of a complaint.

**Committee Amendment "A" (H-662)**

This amendment replaces the bill with a resolve directing the Maine Human Rights Commission to report on case processing revisions, both planned and implemented, as well as recommendations for legislative action to reduce the time to complete investigations. The estimated costs must be included in the report. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out a bill to the First Regular Session of the 125th Legislature concerning the recommendations contained in the report.

**Senate Amendment "A" To Committee Amendment "A" (S-457)**

This amendment removes authority for the joint standing committee of the Legislature having jurisdiction over judiciary matters to submit legislation to the First Regular Session of the 125th Legislature.

**Enacted Law Summary**

Resolve 2009, chapter 178 directs the Maine Human Rights Commission to report on case processing revisions, both planned and implemented, as well as recommendations for legislative action to reduce the time to complete investigations. The estimated costs must be included in the report.

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**LD 1550 An Act To Promote Opportunity for Workers in the Maine Woods**

**PUBLIC 532**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L BLISS	OTP	

This bill allows in civil court procedure an exemption from attachment and execution for professional logging implements, similar to the exemption already allowed for farm implements and fishing boats for persons employed in commercial farming and fishing.

### Enacted Law Summary

Public Law 2009, chapter 532 allows in civil court procedure an exemption from attachment and execution for professional logging implements, similar to the exemption already allowed for farm implements and fishing boats for persons employed in commercial farming and fishing.

**LD 1551 Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Communications of Members of Public Bodies**

**RESOLVE 171**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOSTIE NUTTING J	OTP-AM	H-704

This bill amends the law governing access to public records and proceedings. This bill:

1. Provides definitions of "electronic mail," "group electronic mail" and "substantive matter";
2. Prohibits a member of a public body from knowingly sending a group electronic mail to a quorum of the members of that body regarding a substantive matter that is before the body;
3. Prohibits a member of a public body from directly or through an intermediary communicating that a majority of that body is in agreement regarding a substantive matter that is before the body to interested persons who are not members of the body;
4. Specifies that "public records" includes electronic mail that is sent by a member of a public body to a quorum of members of that same body regarding a substantive matter that is before the body; and
5. Requires that if a member of a public body sends electronic mail to a quorum of members of that same body regarding a substantive matter that is before the body, the electronic mail must be printed and made available to the public at the next public meeting before the body takes a vote on that matter.

### Committee Amendment "A" (H-704)

This amendment replaces the bill and changes it to a resolve.

This amendment directs the Right To Know Advisory Committee to examine and make recommendations on the issues concerning the use of communication technologies, penalties for violations of the freedom of access laws and access to partisan caucuses. The Right To Know Advisory Committee shall include its recommendations in its

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annual report due January 15, 2011.

## Enacted Law Summary

Resolve 2009, chapter 171 directs the Right To Know Advisory Committee to examine and make recommendations on the following issues:

1. How the freedom of access laws can appropriately address the use of communication technologies, both existing and those to be developed in the future, to ensure that decisions are made in proceedings that are open and accessible to the public;
2. If penalties for violations of the freedom of access laws should be revised, including consideration of criminalizing violations and making the individual who violates the laws responsible for the penalty, rather than the governmental entity; and
3. If partisan party caucuses should be specifically excluded from the definition of "public proceedings."

The Right To Know Advisory Committee shall include its recommendations in its annual report due January 15, 2011.

## LD 1574 An Act To Amend the Rights and Liabilities of the Supervising Physician of a Physician Assistant

PUBLIC 587

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAREY SULLIVAN	OTP-AM MAJ ONTP MIN	H-732 H-755 PRIEST

This bill amends the rights and liabilities of military force members to extend civil and criminal immunity to the supervisory physician of a physician assistant regardless of the duty status of the supervisory physician.

### Committee Amendment "A" (H-732)

This amendment is the majority report of the committee.

This amendment replaces the bill, but retains the intent to immunize and provide for the defense of the physician who supervises a physician assistant who is on active state service in the performance of the physician assistant's duties. Current law applies to the supervising physician only if the supervising physician is on active state service. This amendment provides the same protection when the supervising physician is not on active state service, but the physician assistant is on active state service in the performance of the physician assistant's duty. This amendment applies to osteopathic and allopathic physicians who are the supervising physicians of physician assistants.

### House Amendment "A" To Committee Amendment "A" (H-755)

Committee Amendment "A" provides protection from liability to the supervising physician of a physician assistant when the physician assistant is on active state service in the performance of the physician assistant's duty even when the supervising physician is not on active state service. This amendment limits this protection from liability provided a supervising physician in Committee Amendment "A" to acts of the physician assistant when the physician assistant is providing services to individuals not on active state service.

## Enacted Law Summary

Public Law 2009, chapter 587 provides protection from liability to the supervising physician of a physician assistant

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when the physician assistant is on active state service in the performance of the physician assistant's duty even when the supervising physician is not on active state service. The supervising physician is protected from liability based on acts of the physician assistant when the physician assistant is providing service to individuals not on active state service.

### LD 1580 An Act To Replace the Maine Limited Liability Company Act

PUBLIC 629

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST HOBBINS	OTP-AM	H-819

This bill directs the Secretary of State to prepare draft legislation revising the laws governing limited liability companies. The draft must be submitted by January 15, 2011 to the joint standing committee of the Legislature having jurisdiction over judiciary matters, which may report out legislation based on the draft.

#### Committee Amendment "A" (H-819)

This amendment replaces the bill. It repeals the existing Maine Limited Liability Company Act, currently the Maine Revised Statutes, Title 31, chapter 13, and replaces it with a new Maine Limited Liability Company Act. The Committee Amendment Summary contains a detailed explanation of the new limited liability company act and how it differs from the provisions of the predecessor Act. Information contained in the summary is consistent with information that would be provided in comments that are part of a uniform act.

Part B of this amendment corrects cross-references.

This Act takes effect July 1, 2011.

#### Enacted Law Summary

Public Law 2009, chapter 629 repeals the existing Maine Limited Liability Company Act, currently the Maine Revised Statutes, Title 31, chapter 13, and replaces it with a new Maine Limited Liability Company Act. The Committee Amendment Summary contains a detailed explanation of the new limited liability company act and how it differs from the provisions of the predecessor Act. Information contained in the summary is consistent with information that would be provided in comments that are part of a uniform act.

Public Law 2009, chapter 629 takes effect July 1, 2011.

### LD 1622 An Act To Make Technical Changes to the Laws Governing the Practice of Law

PUBLIC 480

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

The statute prohibiting the practice of law by persons not licensed in this State is currently in conflict with Rule 5.5 of the Maine Rules of Professional Conduct adopted by the Supreme Judicial Court in August 2009. This bill eliminates that conflict by providing that practice by an attorney licensed by another jurisdiction in the United States does not violate the unlicensed practice statute as long as that practice conforms to the requirements of Rule 5.5.

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## Enacted Law Summary

Public Law 2009, chapter 480 updates the statute governing the practice of law by persons not licensed in this State to be consistent with Rule 5.5 of the Maine Rules of Professional Conduct adopted by the Supreme Judicial Court in August 2009.

### LD 1623 An Act To Expand Options in Child Protection Proceedings for Children in Foster Care

PUBLIC 557

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M	OTP-AM MAJ ONTP MIN	H-706

This bill adopts federal law requirements to clarify that all in-state and out-of-state placements must be considered to provide a child with all possible permanency options and that the rights of the child must be respected through providing accommodations that will allow the child to state the child's wishes directly to the court.

#### Committee Amendment "A" (H-706)

This amendment is the majority report of the committee. This amendment changes and clarifies the title of the bill and strikes the bill language and amends the Maine Revised Statutes, Title 22, section 4005, subsection 3; section 4038-B, subsection 5; and section 4055, subsection 3 to ensure that the wishes of the child are considered by the court in a manner appropriate to the age of the child in child protection matters.

The bill is amended to comply with the federal Adoption and Safe Families Act of 1997, 42 United States Code, Section 675(5)(C); 45 Code of Federal Regulations, Section 1355.20; and the United States Social Security Act, Title IV-E to clarify that all in-state and out-of-state placements must be considered to provide children who are placed in foster care with all possible permanency options.

In addition, the law referring to the licensing of foster homes, Title 22, section 8101, subsection 1, is amended to clarify language defining the type of home that can be licensed as a foster home so that relatives are included among those families that may hold a license and receive the full benefits of licensure.

## Enacted Law Summary

Public Law 2009, chapter 557 amends the child protection laws to comply with the federal laws and regulations to clarify that all in-state and out-of-state placements must be considered to provide children who are placed in foster care with all possible permanency options. Chapter 557 ensures that the wishes of the child are considered by the court in a manner appropriate to the age of the child in child protection matters. In addition, the law referring to the licensing of foster homes is amended to clarify language defining the type of home that can be licensed as a foster home so that relatives are included among those families that may hold a license and receive the full benefits of licensure.

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**LD 1624    An Act To Ensure Rights to Children for Caretaker Relatives**

**ONTP**

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

Current law authorizes grandparents to petition for visitation rights to their grandchildren under certain specified conditions. This bill extends the laws governing grandparent visitation to apply to aunts, uncles, spouses of aunts and uncles, siblings and spouses of grandparents. This bill also establishes a presumption that a sufficient existing relationship exists between a child and a relative if the child has been left in the care and custody of the relative for 18 months or more.

**LD 1625    An Act To Establish a Policy of Communication and Consultation on Issues Affecting Tribal Communities of the Passamaquoddy Tribe**

**ONTP**

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

This bill requires every state agency to adopt a policy of communication and consultation with the Passamaquoddy Tribe to provide for meaningful and timely input by the Passamaquoddy tribal government into the development of legislation, rules and policies on matters that significantly or uniquely affect the Passamaquoddy tribal community before the agency may propose, adopt or implement legislation, rules or policies that may materially affect the Passamaquoddy tribal community.

See Executive Order 06 FY 10/11, An Order to Promote Effective Communication Between the State of Maine and the Native American Tribes Located Within the State of Maine.

**LD 1710    An Act Concerning Litigation Brought by the Attorney General To Enforce Provisions of the Forest Practices Laws**

**PUBLIC 536**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST	OTP-AM	H-682

This bill allows the Department of Conservation, Bureau of Forestry to recover court costs when an action or proceeding brought by the Attorney General on the bureau's behalf prevails, with the costs to be deposited in the General Fund.

**Committee Amendment "A" (H-682)**

This amendment replaces the bill, but retains the bill's original intent to allow the Attorney General or the agency it represents to collect reasonable attorney's fees and other costs of litigation for enforcement actions under laws regulating forest practices. This amendment provides that the court has discretion to award costs to the State if the State prevails and the defendant's defense is not substantially justified.

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## Enacted Law Summary

Public Law 2009, chapter 536 gives the court discretion to award reasonable attorney's fees and other costs to the Attorney General or the agency it represents for enforcement actions under laws regulating forest practices when the State prevails and the defendant's defense is not substantially justified.

### LD 1714 An Act To Protect Information Maintained by Registers of Deeds

ONTP

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

This bill provides that records maintained by registers of deeds are not considered public records for the purposes of the freedom of access laws in order to clarify that public access to those records is governed by the laws relating to those registers.

See LD 1554, reported out by the Joint Standing Committee on State and Local Government.

### LD 1722 An Act To Strengthen Protection from Abuse and Protection from Harassment Laws

PUBLIC 555

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL SIMPSON	OTP-AM	H-705

This bill allows printed copies of electronically transmitted protection from harassment and protection from abuse orders to be served on individuals and allows a formal report of the service of such an order to be transmitted electronically.

#### Committee Amendment "A" (H-705)

This amendment replaces the bill but carries out the original intent to facilitate the proper and timely service of protection from harassment and protection from abuse orders.

## Enacted Law Summary

Public Law 2009, chapter 555 allows the service of temporary orders and final protection orders when the original court orders have been electronically transmitted directly from the court issuing the order to the authorized law enforcement agency or correctional facility making the service.

Chapter 555 ensures that a person served with an electronically transmitted order has an opportunity in a prosecution for violating the order to exercise the right to confrontation with regard to the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

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**LD 1738     An Act To Establish a Duty To Report Serious Injuries**

**ACCEPTED ONTP  
REPORT**

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

This bill requires a person who observes that another person has received a serious injury to immediately report that injury to and request first aid by the quickest means of communication available from a police department, emergency dispatch center, licensed medical facility or licensed medical provider.

**Committee Amendment "A" (H-733)**

This amendment is the minority report of the committee and replaces the bill. It creates a new civil violation focused on the knowing or intentional failure to report and request first aid for another person who has suffered serious bodily injury. The duty applies regardless of whether the injury was self-inflicted or caused intentionally, recklessly, negligently or accidentally. It does not impose a duty to provide first aid or other medical treatment. The duty is satisfied if another person has already made or agreed to make the report and request for first aid. The duty applies unless making the report and the request for first aid would create danger or peril to the person making the report or others. The creation of the duty does not create a civil cause of action for failing to comply with the duty.

This amendment was not adopted.

**LD 1791     Resolve, Directing the Right To Know Advisory Committee To Further Examine Requirements That Public Bodies Keep Records of Public Proceedings**

**RESOLVE 186**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-734 S-476 BLISS

This bill is a recommendation of a majority of the Right To Know Advisory Committee as described in its Fourth Annual Report. This bill requires that a record of all public proceedings for which notice is required under the Maine Revised Statutes, Title 1, section 406 must be made within a reasonable period of time after the proceeding. The record is a public record and must be open to public inspection. At a minimum, the record must include: the date, time and place of the public proceeding; the members of the body recorded as either present or absent; the general substance of all matters proposed, discussed or decided; and all motions and votes taken, by individual member if there is a roll call. An audio, video or other electronic recording of a public proceeding is sufficient.

**Committee Amendment "A" (H-734)**

This amendment replaces the bill with a resolve directing the Right To Know Advisory Committee to further examine issues related to requiring public bodies to keep records of public proceedings. The Advisory Committee must submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than February 15, 2011, and the joint standing committee of the Legislature having jurisdiction over judiciary matters may report out a bill to the First Regular Session of the 125th Legislature based on the report.

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## Senate Amendment "A" To Committee Amendment "A" (S-476)

This amendment removes the authorization of the joint standing committee of the Legislature having jurisdiction over judiciary matters to report out a bill.

### Enacted Law Summary

Resolve 2009, chapter 186 directs the Right To Know Advisory Committee to further examine issues related to requiring public bodies to keep records of public proceedings. The advisory committee must submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than February 15, 2011.

## LD 1792 An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions

PUBLIC 567

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-750

This bill contains the recommendations concerning public records exceptions of the Right To Know Advisory Committee as described in its Fourth Annual Report. This bill includes the recommended amendments to existing public records exceptions to provide as much consistency as possible across the statutes.

### Committee Amendment "A" (H-750)

This amendment deletes the changes to public records exceptions concerning the Finance Authority of Maine.

### Enacted Law Summary

Public Law 2009, chapter 567 enacts the recommendations concerning public records exceptions of the Right To Know Advisory Committee as described in its Fourth Annual Report. Chapter 567 includes the recommended amendments to existing public records exceptions to provide as much consistency as possible across the statutes. Chapter 567 enacts provisions providing confidentiality concerning complaints made to the State Auditor's hotline or referral service as enacted by Public Law 2005, chapter 682, and repealed by its own terms on July 1, 2009. Chapter 567 amends the laws concerning the Maine International Trade Center to treat all proceedings and records as open to the public, with exceptions for proprietary information. Chapter 567 amends the laws governing mineral exploration claims on state lands to make the language consistent with other confidentiality language. Chapter 567 amends the laws governing well drilling information to provide that the information required to be reported to the Department of Conservation, Bureau of Geology and Natural Areas, Maine Geological Survey is public unless the well drilling company reporting the information requests that the information be designated confidential and the bureau determines that it is proprietary information. Chapter 567 amends the laws governing the Lobster Promotion Council to establish that information provided to or developed by the council and included in a promotional plan or market study is public unless the council determines that it contains proprietary information. Chapter 567 amends the laws governing confidentiality of information related to experimental forestry practice areas to provide that the information is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the Department of Conservation, Bureau of Forestry determines that it is proprietary information. Chapter 567 amends the laws governing the confidentiality of information about the Commissioner of Education's disciplinary actions with regard to educational personnel. It makes public certain information concerning final written decisions relating to disciplinary action taken by the commissioner against persons holding certifications. Chapter 567 directs the Right To Know Advisory Committee to review and make recommendations concerning issues involved with requests for public records in bulk. The recommendations must be included in the advisory committee's annual report to be submitted by January 15, 2011.

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**LD 1795      Resolve, Regarding Legislative Review of Chapter 2: Standards for Qualifications of Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal Services**

**RESOLVE 180  
EMERGENCY**

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

This resolve provides for legislative review of Chapter 2: Standards for Qualifications of Assigned Counsel, a major substantive rule of the Maine Commission on Indigent Legal Services.

**Enacted Law Summary**

Resolve 2009, chapter 180 provides for the authorization of Chapter 2: Standards for Qualifications of Assigned Counsel, a major substantive rule of the Maine Commission on Indigent Legal Services.

Resolve 2009, chapter 180 was finally passed as an emergency measure effective March 29, 2010.

**LD 1802      Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Private Information Contained in the Communications of Public Officials**

**RESOLVE 184**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL HOBBINS	OTP-AM	H-735  H-788 HILL

This bill exempts from public records that are subject to the laws governing freedom of access any communication from a constituent to an elected official that the constituent expects to be confidential or that contains certain personal information and any communication from an elected official in response to such a communication.

**Committee Amendment "A" (H-735)**

This amendment replaces the bill with a resolve directing the Right To Know Advisory Committee to examine the issues relating to the protection of private information in electronic and other communications sent and received by public officials, particularly communications between elected officials and their constituents. A report is due by February 15, 2011, and the joint standing committee of the Legislature having jurisdiction over judiciary matters may report out a bill based on the report in 2011.

**House Amendment "A" To Committee Amendment "A" (H-788)**

This amendment changes the reporting date of the Right To Know Advisory Committee from February 15, 2011 to November 30, 2010. It also removes the authorization of the joint standing committee of the Legislature having jurisdiction over judiciary matters to report out a bill in 2011 and requires the advisory committee to suggest legislation at the end of 2010.

**Enacted Law Summary**

Resolve 2009, chapter 184 directs the Right To Know Advisory Committee to examine the issues relating to the

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protection of private information in electronic and other communications sent and received by public officials, particularly communications between elected officials and their constituents. The Advisory Committee must report by November 30, 2010.

**LD 1805 An Act To Correct Errors and Inconsistencies in the Laws of Maine**

**PUBLIC 652  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-832 S-535 BLISS S-545 BLISS

This bill provides technical corrections to errors and inconsistencies in the laws of Maine.

### **Committee Amendment "A" (H-832)**

This amendment designates the substance of the bill as Part A and then adds additional Parts. Part B contains additional technical corrections. Parts C, D and E contain amendments that are or could be considered to make substantive changes.

### **Senate Amendment "A" To Committee Amendment "A" (S-535)**

This amendment amends Public Law 2009, chapter 571, Part EEE, section 1 to correct an agency name and clarify that the rules reducing the fees for copies of vital records will apply retroactively to April 1, 2010.

### **Senate Amendment "B" To Committee Amendment "A" (S-545)**

This amendment corrects the effective date of the amendment to the Maine Revised Statutes, Title 14, section 6030-C, subsection 1 to 90 days after adjournment of the Second Regular Session to be consistent with the effective date of Public Law 2009, chapter 566, which amends the same section.

### **Enacted Law Summary**

Public Law 2009, chapter 652 makes corrections to the laws of Maine.

Part A contains technical corrections originally contained in the bill.

Part B makes additional technical corrections.

Part C makes the following changes that are substantive or may be considered substantive.

Section 1 corrects a conflict concerning sea urchin licenses created when Public Law 2009, chapter 396 repealed Title 12, section 6536 and chapter 213 amended section 6536, subsection 4.

Section 2 amends the license term for a game of chance license to operate an electronic video machine from a period not to exceed 6 months to a period of up to 12 months. Section 3 amends the games of chance laws concerning the maximum number of players in a licensed card game in one location at any one time to be consistent with the changes made in Public Law 2009, chapter 224. Section 4 makes section 2 and section 3 corrections take effect 90 days after the adjournment of the Second Regular Session of the 124th Legislature.

Section 5 repeals and replaces current law concerning the use of helmets by passengers on motorcycles and

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autocycles to delete the application of the law to passengers of autocycles. Autocycle passengers were not intended to be included in Public Law 2009, chapter 55.

Section 6 corrects an inconsistency between the new language in the statute concerning temporary licenses for delivery and plant operators and the unallocated transition language as enacted by Public Law 2009, chapter 334. Section 7 makes the correction apply retroactively to the effective date of chapter 334, which is January 1, 2010.

Sections 8 and 9 correct the contingent effective date sections in Public Law 2009, chapter 496. In Public Law 2009, chapter 496, sections 30 and 31 provide for a contingent effective date, based on a pending people's veto referendum. However, the law should have provided for a contingent retroactive effective date since it is correcting a definition that is already in effect. The premium imposed on bulk motor vehicle oil changed from a per oil change surcharge to a surcharge on bulk motor vehicle oil, beginning August 1, 2008. If the change is not made, the surcharge is not excluded from the definition of "sale price" for the period of time between August 1, 2008 and when Public Law 2009, chapter 496 takes effect.

Part D corrects two problems created by Public Law 2009, chapter 461 concerning Pine Tree Development Zones.

Part E corrects definitions in the new law creating the Universal Childhood Immunization Program, enacted by Public Law 2009, chapter 595.

Part F amends Public Law 2009, chapter 571, Part EEE, section 1 to correct an agency name and clarify that the rules reducing the fees for copies of vital records will apply retroactively to April 1, 2010.

Public Law 2009, chapter 652 was enacted as an emergency measure effective April 14, 2010 unless otherwise provided.

### **LD 1814      An Act To Implement Recommendations Concerning Domestic Violence and Parental Rights and Responsibilities**

**PUBLIC 593**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill adds an exception to the public policy in favor of a child's contact with both parents and shared parental rights and responsibilities when the court determines that the contact or an award of shared parental rights and responsibilities would not be in the best interest of the child. This bill requires the court to consider how the existence of domestic abuse between the parents would affect the other best interest factors. This bill also adds another factor to the list of best interest factors that would require the court to consider whether allocation of some or all parental rights and responsibilities would best support the child's safety and well-being.

#### **Enacted Law Summary**

Public Law 2009, chapter 593 enacts statutory recommendations of the Maine Commission on Domestic and Sexual Abuse made pursuant to Resolve 2009, chapter 120.

Chapter 593 amends the laws concerning parental rights and responsibilities to add an exception to the public policy in favor of a child's contact with both parents and shared parental rights and responsibilities when the court determines that the contact or an award of shared parental rights and responsibilities would not be in the best interest of the child. It also requires the court to consider how the existence of domestic abuse between the parents would affect the other best interest factors. Chapter 593 also adds another factor to the list of best interest factors that would require the court to consider whether allocation of some or all parental rights and responsibilities would best

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support the child's safety and well-being.

**LD 1824      An Act To Decriminalize Violations of Rules or Permit Conditions of the  
Baxter State Park Authority**

**PUBLIC 644  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ADAMS NUTTING J	OTP-AM	H-812

This bill decriminalizes violations of the rules of the Baxter State Park Authority or the conditions of permits issued by the authority.

**Committee Amendment "A" (H-812)**

The amendment adds an appropriations and allocations section.

**Enacted Law Summary**

Public Law 2009, chapter 644 decriminalizes violations of the rules of the Baxter State Park Authority or the conditions of permits issued by the authority.

Public Law 2009, chapter 644 was enacted as an emergency measure effective April 12, 2010.

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## SUBJECT INDEX

### *Arbitration and Mediation*

#### Enacted

LD 1256      **An Act To Provide Protections for Consumers Subject to  
Mandatory Arbitration Clauses**      **PUBLIC 572**

#### Not Enacted

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

### *Attorney General*

#### Enacted

LD 1710      **An Act Concerning Litigation Brought by the Attorney General  
To Enforce Provisions of the Forest Practices Laws**      **PUBLIC 536**

### *Business & Nonprofit Organizations*

#### Enacted

LD 1580      **An Act To Replace the Maine Limited Liability Company Act**      **PUBLIC 629**

### *Child Protection*

#### Enacted

LD 1623      **An Act To Expand Options in Child Protection Proceedings for  
Children in Foster Care**      **PUBLIC 557**

#### Not Enacted

LD 1511      **An Act To Remove the Age Limit Governing When a Court Must  
Consider the Wishes of a Child in a Proceeding for the  
Termination of Parental Rights**      **ONTP**

### *Confidentiality/Freedom of Access*

#### Enacted

LD 1551      **Resolve, Directing the Right To Know Advisory Committee To  
Examine Issues Related to Communications of Members of  
Public Bodies**      **RESOLVE 171**

LD 1791      **Resolve, Directing the Right To Know Advisory Committee To  
Further Examine Requirements That Public Bodies Keep  
Records of Public Proceedings**      **RESOLVE 186**

LD 1792      An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions      PUBLIC 567

LD 1802      Resolve, Directing the Right To Know Advisory Committee To Examine Issues Related to Private Information Contained in the Communications of Public Officials      RESOLVE 184

Not Enacted

LD 1714      An Act To Protect Information Maintained by Registers of Deeds      ONTP

*Courts and Court Procedure*

Enacted

LD 1550      An Act To Promote Opportunity for Workers in the Maine Woods      PUBLIC 532

Not Enacted

LD 529      An Act To Create a Traffic Court      ONTP

*Domestic Violence/Protection from Abuse*

Enacted

LD 1722      An Act To Strengthen Protection from Abuse and Protection from Harassment Laws      PUBLIC 555

LD 1814      An Act To Implement Recommendations Concerning Domestic Violence and Parental Rights and Responsibilities      PUBLIC 593

*Family Law, General*

Not Enacted

LD 1624      An Act To Ensure Rights to Children for Caretaker Relatives      ONTP

*Human Rights and Medical Rights*

Enacted

LD 1537      Resolve, Directing the Maine Human Rights Commission To Report on Improvements      RESOLVE 178

*Legal Services*

Enacted

LD 1622      An Act To Make Technical Changes to the Laws Governing the Practice of Law      PUBLIC 480

LD 1795	<b>Resolve, Regarding Legislative Review of Chapter 2: Standards for Qualifications of Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal Services</b>	<b>RESOLVE 180 EMERGENCY</b>
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*Torts and Immunity, General*

Not Enacted

LD 1738	<b>An Act To Establish a Duty To Report Serious Injuries</b>	<b>ACCEPTED ONTP REPORT</b>
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*Torts and Immunity, Medical Malpractice*

Enacted

LD 1574	<b>An Act To Amend the Rights and Liabilities of the Supervising Physician of a Physician Assistant</b>	<b>PUBLIC 587</b>
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*Tribal-State Relations*

Enacted

LD 445	<b>An Act To Improve Tribal-State Relations</b>	<b>PUBLIC 636</b>
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Not Enacted

LD 1625	<b>An Act To Establish a Policy of Communication and Consultation on Issues Affecting Tribal Communities of the Passamaquoddy Tribe</b>	<b>ONTP</b>
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*Uncategorized*

Enacted

LD 1805	<b>An Act To Correct Errors and Inconsistencies in the Laws of Maine</b>	<b>PUBLIC 652 EMERGENCY</b>
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LD 1824	<b>An Act To Decriminalize Violations of Rules or Permit Conditions of the Baxter State Park Authority</b>	<b>PUBLIC 644 EMERGENCY</b>
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Not Enacted

LD 1289	<b>An Act To Enact the Uniform Debt Management Services Act</b>	<b>ONTP</b>
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