

## *Joint Standing Committee on Judiciary*

**LD 61**                      **An Act To Authorize a Judge To Order Involuntary Commitment of a Person with Mental Illness Not Taking Prescribed Medication**                      **ONTP**

<u>Sponsor(s)</u> JACKSON MARTIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 61 is a concept draft pursuant to Joint Rule 208.

The bill proposed to amend the emergency application procedures for involuntary commitment under the laws governing the Department of Health and Human Services. Under the bill, if a person with mental illness is under the care of a health care professional and is under a current prescription for medication to address the mental illness, a judge could order involuntary commitment if the person is not taking the medication.

See LD 151, Health and Human Services Committee.

**LD 162**                      **An Act To Protect the Rights of Leaseholders and Ensure Their Continued Access to Land**                      **ONTP**

<u>Sponsor(s)</u> CLARK DAVIS P		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 162 proposed to allow a lessee the right of first refusal to continue leasing a parcel of land when the land is transferred to a different owner and the new owner intends to continue leasing the land.

See also LD 1646.

**LD 816**                      **An Act To Replace the Common Enemy Rule with Regard to Changing the Flow of Surface Water**                      **PUBLIC 564**

<u>Sponsor(s)</u> ANDREWS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-542
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LD 816 proposed to classify as a nuisance the act of draining or reversing the direction of the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others. Similar to the nuisance of unlawfully diverting water from its natural course, a person who is aggrieved by the unlawful draining or changing of the direction of water would be able to maintain a civil action against the person causing the nuisance.

**Committee Amendment “A” (S-542)** proposed to replace the bill and changes the title. It proposed to change the applicable rule governing alteration of surface water flow that affects another person's land from the “common

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enemy rule” to the “reasonable use rule.” It proposed to establish as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land.

### *Enacted law summary*

Public Law 2005, chapter 564 changes the applicable rule governing alteration of surface water flow that affects another person's land. Existing Maine case law applies the “common enemy rule” to define a landowner's responsibility for altering the flow of surface water, also known as “diffuse surface water,” that affects another's land. Chapter 564 adopts the “reasonable use rule;” it establishes as a nuisance the unreasonable use of a person's land that results in the altering of the flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land. An action must be commenced within 3 years after the cause of action accrues. Chapter 564 takes effect January 1, 2007 and applies to actions for which the cause of action accrues on or after that date.

**LD 986**                      **An Act To Amend the Maine Revised Uniform Limited Partnership Act**                      **ONTP**

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

LD 986 is a concept draft pursuant to Joint Rule 208. It proposed to make changes to the Maine Revised Uniform Limited Partnership Act of the Maine Revised Statutes, Title 31, chapter 11.

See LD 1609, to which the Uniform Limited Partnership Act was added as part of the Committee Amendment.

**LD 1045**                      **An Act Regarding Contract Indemnification**                      **ONTP**

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

LD 1045 proposed to prohibit certain indemnification agreements by which a contracting party indemnifies itself from its own negligence or willful misconduct.

**Committee Amendment “A” (S-514)**, the minority report of the Joint Standing Committee on Judiciary, proposed to replace the bill but maintain the purpose of prohibiting certain indemnification agreements in construction and related contracts, but only when the agreement would indemnify the promisee against liability for certain damages arising solely from the negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors. The amendment proposed to clarify that the parties would not be prohibited from agreeing that the promisee must be included as an insured or an additional insured in an insurance contract.

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**LD 1177**

**An Act To Limit the Early Release of Persons Convicted of Certain Crimes**

**PUBLIC 464**

<u>Sponsor(s)</u> WOODCOCK		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-428
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LD 1177 proposed to require that before a person who has been found not criminally responsible for the crime of murder or a Class A crime by reason of mental disease or mental defect may be released from institutional commitment, the Department of Health and Human Services must identify the level of supervision needed to ensure that the person takes any medication as prescribed and complies with any other conditions of release. The bill also proposed to require that the court order for release direct the Department of Health and Human Services to provide the necessary level of supervision.

**Committee Amendment “A” (S-428)** proposed to replace the bill. The amendment proposed changes consistent with Public Law 2005, chapter 263, which amended the laws to describe the defense of not criminally responsible by reason of insanity. The amendment proposed that when the head of the institution in which the person is placed determines that the person may be released, the annual report must include a statement describing the supervision that would be necessary for the release, including the monitoring of the taking of psychoactive medication. If the court orders the person to be released, the amendment proposed that the court order must include the details of the supervision the department will provide, specifically including the measures the department will take to provide psychoactive medication monitoring.

*Enacted law summary*

Public Law 2005, chapter 464 addresses the proposed release of a person found not criminally responsible of murder or a Class A crime by reason of insanity. When the head of the institution in which the person is placed determines that the person may be released, the annual report must include a statement describing the supervision that would be necessary for the release. Chapter 464 requires the monitoring of psychoactive medication. The report provided to the Commissioner of Health and Human Services, which is then forwarded to the court, must contain details of the supervision the Department of Health and Human Services will provide, specifically including measures the department will take to provide psychoactive medication monitoring. If the court orders the person to be released, the order that provides for the release of the person must include the details of the supervision the department will provide, specifically including the measures the department will take to provide psychoactive medication monitoring.

**LD 1203**

**An Act To Amend the Laws Concerning Eminent Domain**

**PUBLIC 642**

<u>Sponsor(s)</u> SCHNEIDER CROSBY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-609
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LD 1203 proposed to require the Department of Transportation to pay 110% of the appraised value of property taken by eminent domain. It proposed to direct the Commissioner of Transportation and the Commissioner of Economic and Community Development to convene a working group to develop recommendations to assist businesses that are displaced due to eminent domain acquisitions.

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**Committee Amendment “A” (S-120)** proposed to add an appropriations and allocations section to the bill. (Report of the Joint Standing Committee on Transportation in 2005; not adopted)

**Committee Amendment “B” (S-609)** proposed to replace the bill. It proposed to increase reimbursement of search expenses for businesses, increase expenses necessary to reestablish a farm, nonprofit organization or small business, and increase the maximum fixed payment for business and farm displacements when the property is taken by eminent domain by the Department of Transportation or a municipality. It also proposed to apply to municipalities the same relocation and reimbursement provisions concerning residential takings that currently apply to the Department of Transportation when residential property is taken.

The amendment proposed to require the Department of Transportation to examine the criteria currently used to determine in lieu payments rather than actual relocation costs, compile information and determine consequences should another formula be adopted. The amendment proposed to require the department to report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2007. The committee may report out legislation to the 123rd Legislature.

The amendment proposed to add a mandate preamble and an appropriations and allocations section.

See also LD 1297, LD 1870 and LD 1904.

### *Enacted law summary*

Public Law 2005, chapter 642 increases the amount of reimbursement from \$1,000 to \$2,500, consistent with federal changes, paid by the Department of Transportation to a business for actual reasonable expenses for searching for a replacement when the property is taken through eminent domain. It also increases the maximum reimbursement for expenses necessary to reestablish a farm, nonprofit organization or small business from a maximum of \$10,000 to a maximum of \$20,000, consistent with federal changes. The maximum fixed payment for business and farm displacements is increased from \$20,000 to \$100,000. Chapter 642 applies the same reimbursement and displacement payment responsibilities to municipalities when exercising eminent domain authority under the general authorization and for economic development purposes.

Chapter 642 applies to municipalities the same relocation and reimbursement provisions concerning residential takings that currently apply to the Department of Transportation when municipalities exercise eminent domain authority under the general authorization and for economic development purposes.

The Department of Transportation is required to examine the criteria currently used to determine in lieu payments rather than actual relocation costs. The department shall compile information from January 1, 2004 to the present, and determine consequences that would result from changing the criteria to a net operating income basis or other formulation. The department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2007. The committee may report out legislation to the 123rd Legislature.

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**LD 1229**                      **An Act To Strengthen the Enforcement of Divorce Decrees**                      **ONTP**

<u>Sponsor(s)</u> MCKENNEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1229 proposed to enhance the sanctions available for violations of parental rights and responsibilities orders, particularly concerning contact between the child and the parent who does not provide the primary residence of the child. The bill also proposed to direct the Governor to designate an appropriate state agency to develop a parenting time enforcement program. The agency would be authorized to seek other funding, including federal grants, to develop, implement, monitor and evaluate the program. The bill is modeled on a similar program in Colorado.

**LD 1288**                      **An Act To Reduce Costs and Improve Efficiency of the Maine Criminal Justice System**                      **ONTP**

<u>Sponsor(s)</u> BURNS CLUKEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1288 proposed to require the State Court Administrator to provide for the transposition of all criminal records of Maine courts to electronic format by July 1, 2006. Thereafter, a criminal record made by a court would be transposed to electronic format within one week of the making of the record. The administrator would be required to make these electronic court records available to the public.

**LD 1296**                      **Resolve, To Create the Human Trafficking Task Force**                      **RESOLVE 200 EMERGENCY**

<u>Sponsor(s)</u> MARRACHE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-864 S-534 HOBBS
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LD 1296 was a concept draft pursuant to Joint Rule 208. It proposed to enact 2 types of legislative initiatives to combat the trafficking of human beings across borders and into the State for sexual and labor exploitation. It proposed criminal statutes and a study commission.

**Committee Amendment “A” (H-864)** proposed to replace the bill with a resolve. It proposed to create the Human Trafficking Task Force, with the direction to propose criminal statutes. The amendment, based on the concept draft description of the bill, proposed that the task force also review current programs and services for victims of human trafficking, collect research and information on trafficking victims and evaluate approaches to increasing public awareness, review legislation concerning “bride trafficking” and “international matchmaking organizations,” address the reduction of barriers faced by victims of trafficking who may seek assistance and make recommendations on methods to provide a coordinated system of support to persons who are victims of trafficking.

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**Senate Amendment “A” to Committee Amendment “A” (S-534)** proposed to expand the membership of the task force from 11 to 12 members. It proposed to provide that one member will represent providers of services and support for survivors of domestic violence, and another member will represent providers of services and support for survivors of sexual assault. The amendment also proposed a change in the appropriations and allocations section.

### *Enacted law summary*

Resolve 2005, chapter 200 creates the Human Trafficking Task Force and directs it to propose criminal statutes. The task force will also review current programs and services for victims of human trafficking, collect research and information on trafficking victims and evaluate approaches to increasing public awareness, review legislation concerning “bride trafficking” and “international matchmaking organizations,” address the reduction of barriers faced by victims of trafficking who may seek assistance and make recommendations on methods to provide a coordinated system of support to persons who are victims of trafficking. The task force must seek outside funding. The task force shall report no later than November 30, 2006 and may submit legislation.

Resolve 2005, chapter 200 was passed as an emergency measure effective April 28, 2006.

**LD 1297**                      **An Act To Provide Just Compensation for Established Businesses  
During Eminent Domain Proceedings**                      **ONTP**

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

LD 1297 proposed to provide that in certain eminent domain proceedings, established businesses are entitled to compensation for the loss of business profits and income resulting from the taking of the land that is the subject of the eminent domain proceedings.

See also LD 1203, LD 1870 and LD 1904.

**LD 1372**                      **RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Establish a Victims' Bill of Rights**                      **ONTP**

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

LD 1372 proposed to amend the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights for victims of crime.

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**LD 1455**

**An Act To Codify Public Records Exceptions**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1455 proposed to meet the requirements of Public Law 2003, chapter 709, section 9. The bill proposed to lists statutes that by designating records or information as confidential remove the records or information from the definition of “public record” in the freedom of access laws. The statutes would be listed according to the purpose for which the information is collected, used or maintained.

See LD 2111.

**LD 1518**

**An Act To Increase Access to Justice in Maine's Court System**

**INDEF PP**

<u>Sponsor(s)</u> RICHARDSON J EDMONDS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-620
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LD 1518 proposed to establish, in Part A, the Consumer and Commercial Division pilot project within the Maine court system beginning January 1, 2006. The proposed purpose of this division is to administer and resolve disputes regarding issues related to business activity in a coordinated, responsive and speedy manner and to afford convenient and timely access for consumers, entrepreneurs, attorneys and any other party involved with business activity. Under the pilot project, the small claims division would be under the jurisdiction of the Consumer and Commercial Division in an attempt to streamline resolution of matters currently heard by it.

Part B of the bill proposed to establish the Consumer and Commercial Division Steering Committee. The steering committee would function as a partnership between the legislative and judicial branches of government. The steering committee, with membership reflecting a spectrum of interests, was proposed to work to develop proposals to implement this new project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts.

**Committee Amendment “A” (H-620)** proposed to replace the bill. Part A of the amendment proposed to establish the Business and Consumer Specialized Civil Docket pilot project within the Maine court system beginning January 1, 2006.

This pilot project was intended to assist all litigants, regardless of area of law, in finding prompt resolution of matters before the Court. The proposed purpose of this pilot project was to provide resources for improved administration and resolution of disputes concerning issues related to business activity in a coordinated, responsive and speedy manner and to afford convenient and timely access to justice for consumers, entrepreneurs, attorneys and any other parties involved with business activity while maintaining appropriate access to justice for litigants in cases of all types. The amendment also proposed resources to enhance the courts' response to intermediate business and consumer matters and small claims cases.

Part B of the amendment proposed to establish the Business and Consumer Specialized Civil Docket Advisory Committee. The advisory committee was designed to function as a partnership between the legislative and judicial branches of government. The advisory committee's proposed purpose is to make recommendations to the

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Supreme Judicial Court. The advisory committee, with membership reflecting a spectrum of interests, was proposed to work to develop proposals to implement the new pilot project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts. (Committee Amendment “A” was not adopted.)

LD 1518 as amended was carried over to the Second Regular Session on the Special Appropriations Table. The positions and funding supporting the Business and Consumer Specialized Civil Docket were included in the Supplemental Budget, LD 1968, Public Law 2005, chapter 519, Part JJJ.

**LD 1526**                      **An Act To Enact the Uniform Parentage Act and Conforming Amendments and Additional Amendments to Laws Concerning Probate, Adoption, Child Support, Child Protection and Other Family Law Issues**                      **ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1526 proposed to do the following:

### PART A

Part A of this bill proposed to enact the Maine version of the Uniform Parentage Act. Separate Maine comments were included to explain deviations from the uniform act.

### PART B

Part B proposed to contain amendments to the Maine Revised Statutes, Title 4 and Title 19-A provisions concerning paternity and child support to make them consistent with the Uniform Parentage Act.

### PART C

Part C proposed to amend the intestate succession provisions of the Probate Code so that children would inherit from parents as recognized in the Uniform Parentage Act and parents recognized by the Uniform Parentage Act would inherit from their children.

### PART D

Part D of the bill proposed to amend the adoption laws, guardianship laws and child protection laws to be consistent with the Uniform Parentage Act.

### PART E

Part E proposed to make cross-reference changes.

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LD 1569

An Act To Abolish the Maine Indian Tribal-State Commission

ONTP

<u>Sponsor(s)</u> MOORE F		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1569 proposed to abolish the Maine Indian Tribal-State Commission and proposed to create in its place the Intergovernmental Tribal-State Board. The board would have the same responsibilities that the Maine Indian Tribal-State Commission was assigned under the Act to Implement the Maine Indian Claims Settlement. The legislative members would not participate in rule-making functions of the board.

The bill would not take effect until approved by the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.

LD 1609

An Act To Establish the Uniform Partnership Act and the Uniform Limited Partnership Act

PUBLIC 543

<u>Sponsor(s)</u> HOBBINS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-506
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LD 1609 proposed to repeal the existing Uniform Partnership Act and enact the Revised Uniform Partnership Act of 1997 (RUPA) as the new Uniform Partnership Act.

**Committee Amendment “A” (S-506)** proposed to add to the bill the Uniform Limited Partnership Act, adopted by the National Conference of Commissioners on Uniform State Laws in 2001. The amendment was proposed to take the place of L.D. 986, which is a concept draft. The amendment proposed to add the Uniform Limited Partnership Act as Part C and the respective conforming amendments and cross-references as Part D. A Maine Comment is included when necessary to explain a deviation from the Uniform Limited Partnership Act.

The amendment proposed to revise the conversion language in the Uniform Partnership Act.

The amendment proposed to set the effective date for the Uniform Partnership Act, the Uniform Limited Partnership Act and all the conforming amendments as July 1, 2007.

### *Enacted law summary*

Public Law 2005, chapter 543 repeals the existing Uniform Partnership Act and enacts the Revised Uniform Partnership Act of 1997 (RUPA) as the new Uniform Partnership Act. It also repeals the Uniform Limited Partnership Act and enacts the Maine Revised Uniform Limited Partnership Act (2001). Chapter 543 takes effect July 1, 2007.

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**LD 1646**

**An Act Regarding Buildings on Leased Lots**

**ONTP**

<u>Sponsor(s)</u> CLARK DAVIS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1646 proposed to change the laws governing buildings on leased land in the following ways.

1. It proposed to provide that these laws apply to land in an organized area as well as to land in the unorganized territory.
2. It proposed to provide that a lessor may not terminate a lease without just cause and that a lessor would reimburse a lessee for the fair market value of all improvements on the leased real estate if the lessor terminates the lease.
3. It proposed to provide a lessee with a right of first refusal for the fair market value of the leased land with regard to the leased premises if the lessor intends to sell any real estate in this State. If a lessee does not elect to purchase the leased premises, the lease would continue with the same terms, except for annual rental fees, for no less than 50 years. The annual rental fee would be capped at 5% of the fair market value of the leased premises, excluding improvements.
4. It proposed to exempt certain transactions from capital gains taxation and certain land use laws.

See LD 162.

**LD 1679**

**An Act To Amend the Procedures Used in Criminal Proceedings  
Involving Victims with Developmental Disabilities**

**PUBLIC 557**

<u>Sponsor(s)</u> TUTTLE HOBBINS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-845
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LD 1679 proposed to allow into evidence certain out-of-court statements describing sexual contact when the statements are made by persons with mental retardation.

**Committee Amendment “A” (H-845)** proposed to revise the extension of admissibility of certain out-of-court statements by victims to include certain statements by persons with developmental disabilities as defined in current law.

### *Enacted law summary*

Current law allows into evidence certain out-of-court statements made by minors describing sexual contact. Public Law 2005, chapter 557 extends the admissibility into evidence of such statements to those made by persons with developmental disabilities.

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**LD 1682**

**An Act To Support Sibling Rights in Child Welfare Custody Matters**

**PUBLIC 526**

<u>Sponsor(s)</u> ANDREWS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-500
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LD 1682 proposed to give the court authority to order sibling visitation for a child in foster care when it is in the best interests of the child to do so.

**Committee Amendment “A” (S-500)** proposed to require the court to order sibling visitation for children who are the subjects of child protection proceedings when it is reasonable, practicable and in the best interests of the children involved to do so. It also proposed to require the Department of Health and Human Services to make reasonable efforts to obtain from prospective adoptive parents an agreement to maintain visitation with a child's siblings after the adoption of the child. It proposed to authorize a child, in a child protection action, to request visitation rights with a sibling from whom the child has been separated as a result of the child protection action.

***Enacted law summary***

Public Law 2005, chapter 526 requires the court to order sibling visitation for children who are the subjects of child protection proceedings when it is reasonable, practicable and in the best interests of the children involved to do so. It also requires the Department of Health and Human Services to make reasonable efforts to obtain from prospective adoptive parents an agreement to maintain visitation with a child's siblings after the adoption of the child. It authorizes a child, in a child protection action, to request visitation rights with a sibling from whom the child has been separated as a result of the child protection action.

**LD 1726**

**An Act To Allocate Child Support Appropriately**

**ONTP**

<u>Sponsor(s)</u> FLOOD		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1726 proposed to provide that a parent is not liable for a parental support obligation for any period of time that the child who is the subject of the parental support obligation lives with and is supported by that parent.

**LD 1741**

**An Act To Encourage Reporting of Potential Fraud, Waste, Inefficiency and Abuse in State Government**

**PUBLIC 682**

<u>Sponsor(s)</u> SCHNEIDER SMITH N		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-1081 SIMPSON S-543
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LD 1741 proposed to ensure the confidentiality of any information that is provided to a state-maintained hotline for the reporting of potential fraud regarding the internal financial operation of State Government.

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**Committee Amendment “A” (S-543)** proposed to replace the bill with new provisions in the statutes governing the State Auditor. The amendment proposed to establish confidentiality protections for certain information if the State Auditor creates a hotline or other referral service for the confidential reporting of fraud, waste, inefficiency and abuse in State Government. It also proposed that the content of the complaint is confidential, except that the State Auditor would be required to publish a report of each complaint alleging fraud, waste, inefficiency or abuse. The report must include a detailed description of the nature of the complaint, the identity of the person or persons who are the subject of the complaint and a statement indicating the degree to which the complaint has been substantiated. The amendment proposed that the State Auditor submit an annual summary of the complaints made to the hotline or other referral service. The summary must provide aggregate information, including the number of referrals to the Attorney General for fraud or other criminal conduct and the number of referrals to the Office of Program Evaluation and Governmental Accountability for performance issues.

The amendment proposed a repeal date for these provisions of July 1, 2009.

**House Amendment “A” to Committee Amendment “A” (H-995)** proposed to replace the State Auditor's reporting requirement concerning substantiated complaints alleging fraud, waste, inefficiency and abuse. It proposed a requirement that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. (Not adopted)

**House Amendment "B" to Committee Amendment “A” (H-1027)** proposed to replace the State Auditor's reporting requirement concerning substantiated complaints alleging fraud, waste, inefficiency and abuse. It proposed a requirement that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. The amendment also proposed that the State Auditor submit a written report on and publish on the auditor's publicly accessible website all other complaints within 120 days of the receipt of the complaint, indicating the nature of the complaint, the agency that is the subject of the complaint and the degree to which the complaint was substantiated. (Not adopted)

**House Amendment “C” to Committee Amendment “A” (H-1081)** proposed to allow a person making a complaint through a hotline or other referral service to allow that person's name to be disclosed if the person agrees in writing. It proposed that the State Auditor publicly report the identification of cost savings as a result of the investigation. The report must include recommendations for any action necessary to achieve the cost savings. The amendment also proposed that the State Auditor submit a written report to the Governor and publish on the auditor's publicly accessible website all other complaints within 120 days of the receipt of the complaint, indicating the nature of the complaint, the agency that is the subject of the complaint and the degree to which the complaint was substantiated. This amendment also proposed that the State Auditor, the Attorney General and the Director of the Office of Program Evaluation and Government Accountability jointly establish criteria for the referral to the appropriate agency of complaints received by that hotline or other referral service maintained by the State Auditor and for coordination of response. The amendment proposed that the State Auditor report the criteria to the joint standing committee of the Legislature having jurisdiction over state and local government matters no later than 30 days following development of the criteria or at the next convenient meeting of the committee.

### *Enacted law summary*

Public Law 2005, chapter 682 establishes confidentiality protections for certain information if the State Auditor creates a hotline or other referral service for the confidential reporting of fraud, waste, inefficiency and abuse in State Government. The identity of a person making a complaint alleging fraud, waste, inefficiency or abuse in State Government to a hotline or other referral service is confidential, except that the person making the complaint

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may allow disclosure. The content of the complaint and any resulting investigation are confidential, except that the State Auditor shall publish a report of each complaint alleging fraud, waste, inefficiency or abuse within 120 days of receiving the complaint. In addition, the State Auditor must submit an annual summary of the complaints made to the hotline or other referral service. Chapter 682 requires coordination between the State Auditor and the director of the Office of Program Evaluation and Governmental Accountability, and specifically gives the director access to confidential information to be shared by the State Auditor. The provisions relating to the State Auditor are repealed July 1, 2009.

Chapter 682 requires (in unallocated law) that the State Auditor, the director of the Office of Program Evaluation and Governmental Accountability and the Attorney General jointly establish criteria for the referral of complaints and the coordination of response.

**LD 1743**                      **An Act To Allow the Department of Health and Human Services  
To Locate Parents Who Are Delinquent in Child Support  
Payments through Information Related to Cellular Telephones**                      **PUBLIC 566  
EMERGENCY**

<u>Sponsor(s)</u> PLOWMAN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-535
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LD 1743 proposed to require a wireless service provider to provide at the department's request information to the Department of Health and Human Services on an owner of a cellular telephone who is a delinquent child support obligor after the department has exhausted all other avenues in attempting to locate the person.

**Committee Amendment "A" (S-535)** proposed to replace the bill with language based on the current law that authorizes the Department of Health and Human Services to conduct a data match with financial institutions for the purpose of locating child support obligors.

### *Enacted law summary*

Public Law 2005, chapter 566 is based on the current law that authorizes the Department of Health and Human Services to conduct a data match with financial institutions for the purpose of locating child support obligors.

Chapter 566 allows the department to submit a list of child support obligors to wireless service providers to be used to conduct computerized matches with the wireless service providers' account holders. The wireless service providers must provide in return lists of the matched names, plus the birth dates, social security numbers, addresses and employers of those matched, if that information is available. The department may submit the list for matching no more often than once every calendar quarter.

To cover the costs of carrying out the requirements of this section, a wireless service provider may assess a reasonable fee to the department not to exceed the actual costs incurred by the wireless service provider.

Public Law 2005, chapter 566 was enacted as an emergency measure effective April 11, 2006.

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LD 1763

Resolve, Concerning the Authority of “Do Not Resuscitate”  
Directives

RESOLVE 169  
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT B BRYANT M	OTP-AM	S-522

LD 1763 proposed to require emergency medical responders to follow an order to not resuscitate a patient contained in that patient's advance health-care directive.

**Committee Amendment “A” (S-522)** proposed to replace the bill with a resolve to address an individual's informed decision to refuse resuscitation. It proposed to direct the Department of Public Safety, Medical Direction and Practices Board to revise the Maine Emergency Medical Services protocols to allow emergency medical services providers to honor an individual's decision to refuse resuscitation if that decision is made available in an individual instruction that shows informed consent to the decision. The protocols must result in forms that are clear and can be made immediately available to emergency medical services providers. The amendment proposed to direct the Director of Maine Emergency Medical Services within the Department of Public Safety to report by January 15, 2007 to the joint standing committee of the Legislature having jurisdiction over judiciary matters in four areas. The amendment proposed to authorize the joint standing committee of the Legislature having jurisdiction over judiciary matters to submit legislation to the 123rd Legislature concerning advance health-care directives and “do not resuscitate” decisions.

### *Enacted law summary*

Resolve 2005, chapter 169 addresses an individual's informed decision to refuse resuscitation. It directs the Department of Public Safety, Medical Direction and Practices Board to revise the Maine Emergency Medical Services protocols to allow emergency medical services providers to honor an individual's decision to refuse resuscitation if that decision is made available in an individual instruction that shows informed consent to the decision. The protocols must result in forms that are clear and can be made immediately available to emergency medical services providers.

Resolve 2005, chapter 169 directs the Director of Maine Emergency Medical Services within the Department of Public Safety to report by January 15, 2007 to the joint standing committee of the Legislature having jurisdiction over judiciary matters about the change in protocols, the forms and the instructions developed to implement and complement the protocols, educational initiatives undertaken and planned and any recommended legislation.

Resolve 2005, chapter 169 authorizes the joint standing committee of the Legislature having jurisdiction over judiciary matters to submit legislation to the 123rd Legislature concerning advance health-care directives and “do not resuscitate” decisions.

Resolve 2005, chapter 169 was finally passed as an emergency measure effective April 7, 2006.

## Joint Standing Committee on Judiciary

LD 1778

### An Act To Protect Children from Contact with Convicted Sex Offenders

PUBLIC 567

<u>Sponsor(s)</u> PERRY J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-536
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LD 1778 proposed to require a court to consider persons with whom a parent lives in determining whether to grant primary residence or contact. It proposed to allow the court to prohibit residence or contact with a parent who lives with a convicted sex offender.

**Committee Amendment “A” (S-536)** proposed to revise the additional factor the court must consider in determining the best interests of the child when establishing a parental rights and responsibilities order. The new wording would ensure that the court will consider whether one of the parents is residing with a person who has been convicted of a sexual offense or sexual exploitation of a minor or a person who was adjudicated as having committed a sexual offense in a child protective proceeding in which the person was a party. The same would apply to a person who was adjudicated as a juvenile as having committed the same types of offenses. The amendment would not affect the judge's discretion in determining the best interests of the child.

#### *Enacted law summary*

Public Law 2005, chapter 567 creates an additional factor the court must consider in determining the best interests of the child when establishing a parental rights and responsibilities order. The new wording ensures that the court will consider whether one of the parents is residing with a person who has been convicted of a sexual offense or sexual exploitation of a minor or a person who was adjudicated as having committed a sexual offense in a child protective proceeding in which the person was a party. The same applies to a person who was adjudicated as a juvenile as having committed the same types of offenses. Chapter 567 does not affect the judge's discretion in determining the best interests of the child.

LD 1800

### An Act To Amend the Fees for Probate Filings

PUBLIC 654

<u>Sponsor(s)</u> WESTON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-617
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LD 1800 proposed to raise the filing fees for probate filings and require that the recording fee to be paid to the register of deeds.

**Committee Amendment “A” (S-617)** proposed to replace the bill. It proposed to raise certain Probate Court filing fees and set other fees at the same amount charged by the District Court and Superior Court for similar procedures.

#### *Enacted law summary*

Public Law 2005, chapter 654 raises certain Probate Court filing fees and sets other fees at the same amount charged by the District Court and Superior Court for similar procedures.

## *Joint Standing Committee on Judiciary*

**LD 1805**                      **An Act To Provide Adult Adoptees Access to Their Original Birth Certificates**                      **ONTP**

<u>Sponsor(s)</u> DAVIS G TURNER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1805 proposed to establish a process by which an adult adopted person may obtain a copy of that person's original, unaltered birth certificate. The bill, modeled on New Hampshire law, proposed to allow a birth parent to include with the child's original birth certificate a medical history form and a form that indicates whether the parent wishes to be contacted by the child.

See also Joint Order, H.P. 1502.

**LD 1811**                      **An Act Regarding Child Custody Evaluations**                      **ONTP**

<u>Sponsor(s)</u> DUNN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1811 proposed to provide good-faith protection for psychologists and psychiatrists conducting child custody evaluations similar to protections existing in Florida and West Virginia.

**LD 1812**                      **An Act To Correct Deficiencies in the Divorce Laws**                      **PUBLIC 594**

<u>Sponsor(s)</u> MILLS J	<u>Committee Report</u> OTP-AM    MAJ ONTP        MIN	<u>Amendments Adopted</u> H-869
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LD 1812 proposed to change the divorce laws by adding as a ground for divorce the judicial determination that one of the spouses is mentally incompetent. It also proposed to authorize the court to award spousal support while the divorce action is pending, including while the case is on appeal.

**Committee Amendment “A” (H-869)**, the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill. It proposed to add a divorce ground a judicial finding that one of the parties is incapacitated. It also proposed to authorize an order governing spousal support while a divorce action is pending.

### *Enacted law summary*

Public Law 2005, chapter 594 adds as a ground for divorce that a judicial determination has been made that one of the parties is an incapacitated person, as defined in the Probate Code, for whom a guardian with full powers has been appointed. The court hearing the divorce must appoint a guardian ad litem for the incapacitated person. Chapter 594 also specifies that the trial court in a divorce may issue an order concerning spousal support while the action is pending, including on appeal, and also that the trial court may modify and enforce such orders while the action is pending.

## *Joint Standing Committee on Judiciary*

**LD 1817**                      **An Act To Protect Access to Social Security Numbers**                      **ONTP**

<u>Sponsor(s)</u> HOTHAM		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1817 proposed to expand the prohibition under current law on use of social security numbers to prohibit all businesses, organizations, government entities and all other entities operating in the State from requesting a person's social security number for any purpose, with exceptions. The bill proposed to allow businesses and the other specified entities to request a person's social security number when necessary to collect or disburse social security funds and when federal law requires the Federal Government to obtain a person's social security number from the business and other specified entities. Under the proposed bill, employers would be permitted to request an employee's social security number without these limitations.

**LD 1837**                      **An Act To Protect Retirement Funds**                      **ONTP**

<u>Sponsor(s)</u> SMITH W MARTIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1837 proposed to exempt from creditors, including in bankruptcy proceedings, the full value of individual retirement accounts and "Roth individual retirement accounts" established under Section 408A of the United States Internal Revenue Code.

See LD 948 from the First Regular Session.

**LD 1842**                      **An Act To Allow Certain End-of-life-care Decision-makers To Consent to Organ and Tissue Donation**                      **PUBLIC 587**

<u>Sponsor(s)</u> GROSE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-890
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LD 1842 is a concept draft pursuant to Joint Rule 208. It proposed to set forth standard language to be included in living wills to provide increased guidance and certainty in situations when a patient is terminally ill or when a doctor has determined that all lifesaving means have been exhausted.

**Committee Amendment "A" (H-890)** proposed to replace the bill. It proposed to amend the Uniform Anatomical Gift Act to revise who can make organ donation decisions.

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### Enacted law summary

Public Law 2005, chapter 587 amends the Uniform Anatomical Gift Act to include in the prioritized list of persons who can make decisions about organ donation both agents appointed under a durable health-care power of attorney or an advance health-care directive and registered domestic partners.

**LD 1870**

**An Act To Clarify Laws Governing Eminent Domain**

**PUBLIC 579**

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-945
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LD 1870 was proposed in response to the United States Supreme Court decision in Kelo v. City of New London, 73 USLW 4552 (2005). The bill proposed to prohibit the use of eminent domain authority for purposes of private retail, office, commercial, industrial or residential development; primarily for the enhancement of tax revenue; or for transfer to a person, nongovernmental entity, public-private partnership, corporation or other business entity. The proposed restriction would not apply to an area upon a finding of blight under current law governing urban development and community development, or to utilities.

**Committee Amendment “A” (H-945)** proposed the following changes to the bill.

1. The amendment proposed to limit the new restrictions on the use of eminent domain authority to land used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures. The restrictions, therefore, would not apply to vacant or open land that is not in use.
2. The amendment proposed to revise the restriction on transferring property taken through eminent domain authority to prohibit transfers to individuals and to for-profit business entities.
3. The amendment proposed to revise the blight exception to the restrictions to include property taken under housing authority programs.
4. The amendment proposed to revise the bill's provisions relating to governmental purposes that are not affected by the eminent domain restrictions. Instead of listing permitted purposes as proposed by the bill, this amendment proposed to provide that the new provisions do not prohibit municipalities and counties from exercising eminent domain authority for any purposes other than private retail, office, commercial, industrial and residential development; tax revenue enhancement; and transfers to impermissible transferees.

The amendment proposed to make the changes take effect retroactively to June 23, 2005.

See also LD 1203, LD 1297 and LD 1904.

### Enacted law summary

Public Law 2005, chapter 579 prohibits the use of eminent domain authority for purposes of private retail, office, commercial, industrial or residential development; primarily for the enhancement of tax revenue; or for transfer to individuals and to for-profit business entities. The restriction does not apply to an area upon a finding of blight under current law governing urban development, community development and housing authority programs. The

## Joint Standing Committee on Judiciary

restriction does not apply to utilities. The restriction applies to land currently used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures.

Public Law 2005, chapter 579 applies retroactively to the date the United States Supreme Court issued the Kelo v. City of New London opinion, which is June 23, 2005.

**LD 1873**

**An Act Regarding Sexual Assault Forensic Examinations**

**PUBLIC 538**

Sponsor(s)  
SIMPSON

Committee Report  
OTP-AM

Amendments Adopted  
H-846

LD 1873 proposed to provide hospitals and health care practitioners immunity from criminal or civil liability for an act or omission in performing a forensic examination on an alleged victim of gross sexual assault under certain circumstances.

**Committee Amendment “A” (H-846)** proposed to replace the bill. The amendment proposed to authorize a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam, and proposed to establish procedures for storage and testing of the kit. The amendment proposed that if the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit.

### *Enacted law summary*

Public Law 2005, chapter 538 authorizes a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam. The forensic examination kit must be identified without specifying the alleged victim's name and stored as required under current law. The law enforcement agency involved must notify the appropriate district attorney that the examination has been conducted and a kit has been completed.

If the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit. The District Court may order continued storage of the kit, may order it to be sent to the Maine State Police Crime Laboratory for processing or may order such other disposition that the court determines is just. The court may conduct hearings confidentially and in camera and impound pleadings and other records related to them.

**LD 1874**

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

**PUBLIC 529**

Sponsor(s)  
SIMPSON

Committee Report  
OTP-AM

Amendments Adopted  
H-831

LD 1874 proposed to make changes to business and other entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, this bill proposed

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to make corrections to the time period an entity has to replace its registered agent upon resignation from 30 to 60 days.

**Committee Amendment “A” (H-831)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Public Law 2005, chapter 529 makes changes to business entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, chapter 529 makes corrections to the time period an entity has to replace its registered agent upon resignation from 30 to 60 days.

**LD 1885**                      **An Act To Protect Drivers' Privacy by Clarifying Ownership of Data Recorded by Motor Vehicle Data Recorders**                      **PUBLIC 544**

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-876
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LD 1885, based on Arkansas law, proposed to govern the use of data from motor vehicle data recorders.

**Committee Amendment “A” (H-876)** proposed to replace the bill. It proposed to provide that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions.

### *Enacted law summary*

Public Law 2005, chapter 544 provides that data recorded by an event data recorder in a motor vehicle are the property of the owner of the motor vehicle and may not be downloaded or accessed by anyone other than the owner, with certain exceptions. The exceptions are:

1. The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information;
2. A court of competent jurisdiction in this State orders the production of the data;
3. For purposes of improving motor vehicle safety, security or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner or driver is not disclosed in connection with that retrieved data;
4. The data are retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle;
5. The data are retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash;
6. The data are retrieved by a law enforcement officer acting pursuant to authority recognized under applicable statutory or constitutional law; and

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7. The data are requested as part of routine discovery.

If the event data recorder is capable of recording or transmitting the motor vehicle's location as part of a subscription service, that information must be disclosed in the subscription service agreement. The limitation on the downloading and accessing of data does not apply to subscription services meeting the service subscription agreement disclosure requirement.

The manufacturer of a new motor vehicle that contains an event data recorder and that is sold or leased in this State shall disclose the presence of the event data recorder in the owner's manual for that motor vehicle.

The duty of an insured to cooperate with the insurer in the investigation of any accident or claim under the policy is not affected by the new provisions.

**LD 1892**

**An Act To Prevent Price Gouging**

**PUBLIC 580**

Sponsor(s)  
MILLS J

Committee Report  
OTP-AM

Amendments Adopted  
H-875  
H-894 SIMPSON

LD 1892 proposed to amend the law that prohibits profiteering in necessities. It proposed to establish a ceiling of 15% plus costs on increases in prices for necessities of life affected by an abnormal market disruption due to natural disaster, stress of weather, failure or shortage of electric power or other source of energy, strike, civil disorder, war, terror or a national or local emergency or another precipitating event.

**Committee Amendment “A” (H-875)** proposed to replace the bill. It proposed to repeal and replace the current “profiteering in necessities” statute to protect consumers from unconscionably high prices for necessities during abnormal market disruptions. The amendment proposed to tie such profiteering to the Maine Unfair Trade Practices Act, authorizing injunctive relief and significant monetary penalties.

The amendment proposed to establish the authority of the Governor to declare the existence of an abnormal market disruption in one or more necessities or categories of necessities. During a declared abnormal market disruption, profiteering in necessities would be a civil violation and may be prosecuted as a violation of the Maine Unfair Trade Practices Act, except that private remedies are not available. Profiteering in necessities means selling or offering to sell necessities at an unconscionable price.

**House Amendment “A” to Committee Amendment “A” (H-894)** proposed to clarify the definition of “unconscionable price.”

### *Enacted law summary*

Public Law 2005, chapter 580 repeals and replaces the current “profiteering in necessities” statute to protect consumers from unconscionably high prices for necessities during abnormal market disruptions. It ties such profiteering to the Maine Unfair Trade Practices Act, authorizing injunctive relief and significant monetary penalties. It establishes the authority of the Governor to declare the existence of an abnormal market disruption in one or more necessities or categories of necessities. During a declared abnormal market disruption, profiteering in necessities is a civil violation and may be prosecuted as a violation of the Maine Unfair Trade Practices Act,

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except that private remedies are not available. Profiteering in necessities means selling or offering to sell necessities at an unconscionable price.

<b>LD 1904</b>	<b>An Act To Protect Businesses from Unnecessary Eminent Domain Takings</b>	<b>ONTP</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MERRILL	ONTP      MAJ OTP-AM    MIN	

LD 1904 proposed to apply to all takings under the eminent domain authority of the State, any political subdivision or any other entity that has eminent domain power. It proposed to require that the taking be an absolute necessity to carry out the public purpose that is the basis of the taking. It also proposed to require the taking of property on which a business is located to be limited to the minimum amount necessary to carry out the public purpose, thus allowing the business to continue. The bill proposed to apply to takings that had not been completed as of its effective date. The bill proposed to take effect when approved.

**Committee Amendment “A” (H-1046)**, the minority report of the Joint Standing Committee on Judiciary, proposed to replace the bill and remove the emergency preamble and emergency clause.

The amendment proposed to provide that eminent domain authority may not be exercised to take property on which a business is located unless the taking is necessary to carry out the purposes for which the property is being taken and unless the amount taken is limited to the minimum amount necessary to carry out the public purpose and is limited so as to maximize the ability of the business to continue.

The amendment proposed to provide for an expedited de novo review of the necessity of the taking for the stated public purpose, of the determination that the amount of property taken is the minimum amount necessary and of the determination whether the property taken is incidental to the business. The Superior Court would balance the need to accomplish the stated public purpose with the preservation of jobs and businesses in this State.

The amendment proposed to provide that the changes apply to pending eminent domain takings, notwithstanding the Maine Revised Statutes, Title 1, section 302.

The amendment proposed to include an appropriation and allocation section.

(Not adopted)

See also LD 1203, LD 1297 and LD 1870.

<b>LD 1907</b>	<b>An Act To Amend the Law Governing DNA Testing</b>	<b>PUBLIC 659</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PARADIS MARTIN	OTP-AM	H-994

## *Joint Standing Committee on Judiciary*

LD 1907 was modeled on the Innocence Project's model statute for obtaining postconviction DNA testing. It proposed to amend the laws regarding postjudgment conviction motions for DNA analysis in the following ways:

1. It proposed to allow a motion to be brought at any time by any convicted person, regardless of whether the person is incarcerated and the length of the sentence of incarceration;
2. It proposed to allow the motion to be brought before any judge or justice, not just the judge or justice who imposed the sentence;
3. It proposed to provide a time limit for the State to respond to the motion and for the court to hear the motion;
4. It proposed to require the State or law enforcement agency to preserve all evidence in the State's or law enforcement agency's possession or control for the period of time that a person remains incarcerated, on probation, civilly committed or subject to registration as a sex offender;
5. It proposed to allow the court, if the petitioner has retained private counsel, including a nonprofit organization that represents indigent persons, to award reasonable attorney's fees and costs to that private counsel;
6. It proposed to allow a petition to be brought if the petitioner is able to show that the person would not have been convicted or would have received a lesser sentence if favorable results had been obtained through DNA analysis at the time of the original prosecution;
7. It proposed to require the petitioner and the State to agree on a laboratory to perform the DNA analysis or, if agreement is not possible, require the court to choose the laboratory with input from the petitioner and the State;
8. It proposed to require the State to bear the costs of DNA analysis if it is performed by the Maine State Police Crime Laboratory located in Augusta;
9. It proposed to allow the court, if it orders DNA analysis, to make other orders including specifying the type of DNA analysis and testing procedures to be used and requiring the collection and analysis of biological samples from persons other than the petitioner;
10. It proposed to require the court to notify the petitioner's probation officer if the results of the DNA analysis are inconclusive or show that the petitioner is the source of the DNA;
11. It proposed to require the court to hold a hearing on the results if the results of the DNA analysis are favorable to the petitioner. Based on the DNA analysis and any other evidence or matter raised at the hearing, it proposed to require the court to issue an order:
  - A. Setting aside or vacating the petitioner's judgment of conviction, judgment of not guilty by reason of mental disease or defect or adjudication;
  - B. Granting the petitioner a new trial or fact-finding hearing;
  - C. Granting the petitioner a new sentencing hearing, commitment hearing or dispositional hearing;
  - D. Discharging the petitioner from custody;
  - E. Specifying the disposition of any evidence that remains after the completion of the DNA analysis;

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- F. Granting the petitioner additional discovery on matters related to the DNA analysis or the underlying conviction or sentence, including, but not limited to, documents pertaining to the criminal investigation or the identities of other suspects; or
  - G. Directing the State to place any unidentified DNA profile obtained from postjudgment of conviction DNA analysis into the state DNA database and state DNA data bank;
12. It proposed to eliminate the requirement that the petitioner prove that only the perpetrator of the crime or crimes for which the petitioner was convicted could be the source of the DNA evidence;
  13. It proposed to allow the petitioner to appeal, as a matter of right, the court's denial of the motion for DNA analysis;
  14. It proposed to allow the petitioner or the State, as a matter of right, to appeal an order of the court made after the hearing conducted due to DNA analysis results favorable to the petitioner;
  15. It proposed to allow successive motions for DNA analysis to be brought if the petitioner asserts new or different grounds for relief, including, but not limited to, factual, scientific or legal arguments not previously presented or the availability of more advanced DNA analysis technology; and
  16. It proposed to allow a convicted person and the State to consent to and conduct postjudgment of conviction DNA analysis without filing a motion before the court. The process following the completion of DNA analysis would be the same as if the DNA analysis had been ordered by the court.

**Committee Amendment “A” (H-994)** proposed to replace the bill. It proposed to amend the postjudgment of conviction motion for DNA analysis procedures in the Maine Revised Statutes, Title 15, chapter 305-B to expand who may file a motion for postjudgment of conviction relief, establish a two-year statute of limitations and revise the criteria for the granting of a new trial based on DNA evidence. It also proposed an effective date of September 1, 2006.

### *Enacted law summary*

Public Law 2005, chapter 659 amends the postjudgment of conviction motion for DNA analysis procedures in the Maine Revised Statutes, Title 15, chapter 305-B. It expands the universe of convicted persons authorized to seek relief under Title 15, chapter 305-B to those persons who have been convicted of any Maine felony crime and whose actual sentence includes straight imprisonment or imprisonment accompanied by parole, probation, supervised release or administrative release that has not yet been fully served. It provides that a qualifying person who may have previously sought relief under Title 15, chapter 305-B and obtained DNA test results that showed that the person was not the source of the evidence may again seek relief based upon the new standards. It establishes a two-year period of limitation for filing a motion seeking relief under Title 15, chapter 305-B.

Chapter 659 amends the law governing the five things to be demonstrated by the convicted person for a new trial. It includes consideration of what information DNA analysis technology that was not available when the person was convicted is capable of providing with respect to the evidence sought to be analyzed in the event the evidence has been previously analyzed.

Chapter 659 provides three alternative standards for granting a new trial in the event the results of the DNA analysis show the convicted person is not the source of the evidence. The third and final standard, new paragraph

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C, differs from the first two in that a convicted person need not establish by clear and convincing evidence that only the perpetrator of the crime or crimes for which the person was convicted can be the source of the evidence. Because the convicted person is not required to make such a showing, the standard required under new paragraph C is made up of the five prerequisites for obtaining a new trial based on newly discovered evidence set forth in Maine case law and consistently applied by the Law Court. The convicted person must show all five prerequisites by clear and convincing evidence. In the first and second standards listed as paragraphs A and B, because the convicted person is required to make such a showing, the five prerequisites for obtaining a new trial based on newly discovered evidence are truncated. Under the first standard, new paragraph A, the person must also establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, show that the person is actually innocent of the crime or crimes for which the person was convicted. Under the second standard, new paragraph B, the person need not show actual innocence, but instead must establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, would make it probable that a different verdict would result upon a new trial. This second standard is like that currently found in Title 15, section 2138, subsection 8, paragraph B.

Chapter 659 adds a definition for “all the other evidence in the case, old and new,” as used in new paragraphs A and B and new paragraph C, subparagraph (1). Further, although not expressly stated in paragraphs A and B and paragraph C, subparagraph (1), it is intended that the court, as in any hearing for a new trial based on newly discovered evidence, must determine both weight and credibility to be attached to the newly discovered evidence. It is intended that the Maine Rules of Evidence apply at any hearing conducted under the subsection.

Chapter 659 takes effect September 1, 2006.

### **LD 1920**                      **An Act To Enhance the Laws Prohibiting Profiteering on Fuel**                      **ONTP**

<u>Sponsor(s)</u> HOGAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1920 is a concept draft pursuant to Joint Rule 208. The bill proposed to enhance the penalties for profiteering on fuel, including, but not limited to, increasing the fine from \$1,000 to \$2,500 and revoking a person's license.

See LD 1892.

### **LD 1930**                      **An Act Regarding Working Waterfront Covenants**                      **PUBLIC 574**

<u>Sponsor(s)</u> DAMON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-556
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LD 1930 proposed to implement authority given to the Land for Maine's Future Board to be a party to working waterfront covenants. The bill proposed to provide the necessary definitions and provisions for creation, conveyance, acceptance and duration of working waterfront covenants, along with provisions for the scope and validity of such covenants, as well as applicability provisions.

**Committee Amendment “A” (S-556)** proposed to clarify many provisions in the bill for the creation, enforcement, modification and termination of working waterfront covenants.

## *Joint Standing Committee on Judiciary*

### *Enacted law summary*

Public Law 2005, chapter 574 implements authority given to the Land for Maine's Future Board to be a party to working waterfront covenants. It provides the necessary definitions and provisions for creation, conveyance, acceptance and duration of working waterfront covenants, along with provisions for the scope and validity of such covenants, as well as applicability provisions. An existing interest in property is not affected by a covenant unless the owner is a party to the covenant or consents to the covenant. A municipality may bring an action or intervene in an action affecting a working waterfront covenant. A court is required, when modifying, terminating or denying equitable enforcement of a working waterfront covenant, to find that, due to a change in circumstance, the covenant no longer serves the public interest in protecting or enhancing the commercial marine fisheries or related businesses in the State. The Attorney General must be made a party to an action to modify, terminate or enforce a covenant. Written notice of an action must be provided to the Commissioner of Marine Resources. Restrictions in the working waterfront covenant apply to uses of the subject real estate and do not limit the types of persons or businesses that may own, lease or use the real estate.

**LD 1932**

**An Act To Implement Model Time-share Foreclosure Procedures**

**PUBLIC 572**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS KOFFMAN	OTP-AM	S-557

LD 1932 proposed to provide for a nonjudicial process for the foreclosure of time-share estates pursuant to a power of sale granted in a mortgage instrument and for the foreclosure of a lien for assessments.

**Committee Amendment “A” (S-557)** proposed various changes to the bill, including covering tax liens, clarifying notice requirements, requiring sale in individual lots and forfeiture of rights to deficiencies.

### *Enacted law summary*

Public Law 2005, chapter 572 establishes a nonjudicial process for the foreclosure of time-share estates pursuant to a power of sale granted in a mortgage instrument and for the foreclosure of a lien for assessments. Chapter 572 specifies requirements for notice of the foreclosure of a time-share estate, and sale of the foreclosed units. Mortgages on time-share estates that do not contain a power of sale also may be foreclosed by a nonjudicial process if notice is given to the time-share owner and that owner fails to object to the process in a timely manner. A holder of a mortgage who conducts a nonjudicial foreclosure forfeits any right to pursue a claim for deficiency in payment of the time-share owner's obligations resulting from the application of the proceeds of the sale to those obligations. The right to a deficiency is also extinguished when the holder of a security interest in a time-share license conducts a nonjudicial foreclosure.

## Joint Standing Committee on Judiciary

**LD 1962**

**An Act To Ensure Foster Parents Have Access to the Appeal and Fair Hearing Process**

**ONTP**

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

LD 1962 proposed to provide current and former foster parents with the right to appeal any Department of Health and Human Services action or decision that affects licensure. The appeal would be requested in writing within 30 days of the action or decision. This bill proposed to allow a person who is aggrieved by an action or decision of the department concerning that person's license as a foster parent within the last 5 years to appeal that decision by submitting a written request for appeal within 30 days of the effective date of this Act.

The decision-maker in the fair hearing process would not be the same person or body that took the action or made the decision from which the person is appealing.

The decision made after the hearing would be a final agency action that would be subject to appeal under the Maine Administrative Procedure Act. This bill proposed to include routine technical rulemaking.

**LD 1996**

**An Act To Prevent Unauthorized Practice of Immigration and Nationality Law**

**PUBLIC 629  
EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
CUMMINGS		OTP-AM		H-977

LD 1996 proposed to expand the federal court exception to the statutory prohibition against the unauthorized practice of law by providing that the prohibition does not apply to practice before any federal administrative agency or tribunal as permitted by federal statutes or regulations. The bill proposed to prohibit the unauthorized practice of immigration or nationality law, defined as representation on any matter concerning immigration or nationality services where such representation is not authorized under 8 Code of Federal Regulation, Section 292.1 or 1292.1 or other federal law or regulation governing immigration or nationality matters. The bill also proposed to require a notary public who is not an attorney and who advertises notary services in any language other than English, to include in the advertisement a notice that includes fee information and a statement that the notary is not an attorney and cannot give legal advice or accept fees for legal advice. Finally, LD 1996 proposed to create a new statutory chapter and three new sections relating to immigration consultants in Part 3 (Regulation of Trade) of Title 10 (Commerce and Trade). The new chapter would establish the occupation of immigration consultant, in which capacity a person could offer nonlegal assistance or advice in an immigration or nationality matter, but only as provided by the chapter.

**Committee Amendment “A” (H-977)** proposed to replace the bill and insert new language to create the Immigration and Nationality Law Assistance Act that would authorize nonlegal immigration and nationality law assistance but limit it to certain services defined in the act that do not rise to the level of legal advice or representation. In addition, the amendment proposed to allow federally authorized immigration representatives who are not members of the Maine Bar to provide immigration and nationality law representation in immigration proceedings before federal agencies if authorized by federal law. Committee Amendment “A” proposed to prohibit certain activities in the course of providing immigration and nationality law assistance, including representations or advertisements that could cause a customer to believe that the provider of assistance either is

## *Joint Standing Committee on Judiciary*

authorized to practice law in Maine when the provider is not or possesses special skill or expertise in immigration and nationality law matters when the provider is not a member of the Maine Bar or a federally authorized immigration representative. The amendment also proposed to retain the bill language related to notaries that creates new requirements that a notary public who is not a member of the Maine Bar must follow when advertising notary services in a language other than English, the effect of which is to provide notice to potential customers that the notary is not an attorney and may not give legal advice about immigration or any other legal matter. Finally, the amendment proposed to add an emergency preamble and an emergency clause in order to create an emergency measure that would take effect when approved.

### ***Enacted law summary***

Public Law 2005, chapter 629 creates the Immigration and Nationality Law Assistance Act that authorizes nonlegal immigration and nationality law assistance but limits it to certain services defined in the act that do not rise to the level of legal advice or representation. In addition, the act allows federally authorized immigration representatives who are not members of the Maine Bar to provide immigration and nationality law representation in immigration proceedings before federal agencies if authorized by federal law. The act prohibits certain activities in the course of providing immigration and nationality law assistance, including representations or advertisements that could cause a customer to believe that the provider of assistance either is authorized to practice law in Maine when the provider is not or possesses special skill or expertise in immigration and nationality law matters when the provider is not a member of the Maine Bar or a federally authorized immigration representative. The law also creates new requirements that a notary public who is not a member of the Maine Bar must follow when advertising notary services in a language other than English, the effect of which is to provide notice to potential customers that the notary is not an attorney and may not give legal advice about immigration or any other legal matter.

Public Law 2005, chapter 629 was enacted as an emergency measure effective May 4, 2006.

**LD 2002**

**An Act To Give Superior Court Clerks and Deputy Clerks the Authority To Issue Process for the Arrest of Persons Charged with Crimes**

**PUBLIC 540  
EMERGENCY**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 2002 proposed to empower the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has heretofore been given to District Court clerks, in view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes.

### ***Enacted law summary***

Public Law 2005, chapter 540 empowers the Chief Justice of the Superior Court to grant to Superior Court clerks and deputy clerks the same statutory authority to issue process for the arrest of persons charged with crimes that has been given to District Court clerks, in view of the changes to the court's rules and procedures regarding the initiation in the Superior Court of trials of felony and related misdemeanor crimes.

Public Law 2005, chapter 504 was enacted as an emergency measure effective April 5, 2006.

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**LD 2034**

**An Act Relating to Mergers and Consolidations of Corporations  
without Capital Stock**

**PUBLIC 531  
EMERGENCY**

<u>Sponsor(s)</u> CUMMINGS		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 2034 proposed to clarify that a corporation without capital stock formed under the Maine Revised Statutes, Title 13 may merge or consolidate with or into a nonprofit corporation formed under Title 13-B.

### *Enacted law summary*

Public Law 2005, chapter 531 clarifies that a corporation without capital stock formed under the Maine Revised Statutes, Title 13 may merge or consolidate with or into a nonprofit corporation formed under Title 13-B.

Public Law 2005, chapter 531 was enacted as an emergency measure effective April 4, 2006.

**LD 2036**

**An Act To Facilitate the Hiring of Health Care Personnel during  
Emergency Circumstances**

**PUBLIC 630**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-615
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LD 2036 proposed to grant private institutions that hire or engage the services of licensed health care workers immunity from civil liability in the event of a declared health emergency, an extreme public health emergency or a disaster for any actions arising from allegations of inadequate investigation prior to their engagement, including, but not limited to, negligent hiring, credentialing or privileging, for services provided within the scope of such licensure.

**Committee Amendment “A” (S-615)** proposed several changes.

It proposed to delete from the extension of the immunity provided in the bill actions taken pursuant to the declaration of a health emergency declared by the Commissioner of Health and Human Services.

It proposed to require private institutions, such as hospitals, to first check for information about a health care worker with the appropriate licensing board within or affiliated with the Department of Professional and Financial Regulation. It also proposed to extend the immunity provided in the bill to private institutions that rely on the information provided by occupational and professional licensing boards that are within or affiliated with the Department of Professional and Financial Regulation.

It proposed to extend immunity provided in the bill to private institutions that rely on a registry that is operated or certified in accordance with federal requirements.

It proposed to delete from the bill the private institution's immunity when relying on an individual's own representation of status, preemployment screening or privileging review.

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It proposed to require that the licensing credentials confirmation process start within 48 hours of the end of the declared emergency or disaster.

It proposed to provide that a person licensed as a health care worker in the State is eligible for civil immunity and workers' compensation insurance coverage during the period the person engages in either an in-state or out-of-state emergency management response under the direction of the Maine Emergency Management Agency.

### *Enacted law summary*

Public Law 2005, chapter 630 grants private institutions that hire or engage the services of licensed health care workers immunity from civil liability in the event of an extreme public health emergency or a disaster for any actions arising from allegations of inadequate investigation prior to their engagement, including, but not limited to, negligent hiring, credentialing or privileging, for services provided within the scope of such licensure. The private institutions must follow certain procedures in obtaining information about the health care worker in order to receive the immunity. Chapter 630 provides that a person licensed as a health care worker in the State is eligible for civil immunity and workers' compensation insurance coverage during the period the person engages in either an in-state or out-of-state emergency management response under the direction of the Maine Emergency Management Agency.

**LD 2055**

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

**PUBLIC 683  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-1085 H-1101 SIMPSON H-1102 SIMPSON H-1103 SIMPSON H-1110 SIMPSON H-1111 SIMPSON H-1112 SIMPSON H-1118 SIMPSON H-1119 SIMPSON

LD 2055 proposed to correct technical errors and inconsistencies in Maine laws.

**Committee Amendment "A" (H-1085)** proposed to strike several sections from the bill, and add additional changes. Part B proposed technical corrections; Parts C, D and E proposed changes that are or could be considered substantive changes.

**House Amendment "A" to Committee Amendment "A" (H-1089)** proposed that a person may provide athletic training to an athlete as long as the person does not use the title "athletic trainer" alone or in connection with other words or the initials "AT" alone or in connection with other initials. (Not adopted)

**House Amendment "B" to Committee Amendment "A" (H-1101)** proposed to authorize school administrative units to expend state funds provided for new minimum teacher salaries and for salary supplements for national

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board-certified teachers without calling for a special meeting of the local legislative body. These provisions would apply to fiscal year 2006-07 only.

**House Amendment “C” to Committee Amendment “A” (H-1102)** proposed to correct two references in the formula for calculation of county and municipal spending growth limitations by specifying that adjustments for changes in state funding are calculated by multiplying the prior year's funding by one plus the growth limitation factor.

**House Amendment “D” to Committee Amendment “A” (H-1103)** Public Law 2005, chapter 595 provided that rules adopted by the State Board of Education pertaining to the approval of major capital secondary school construction projects be designated as major substantive rules effective January 1, 2007. This amendment proposed to delete the reference to secondary schools in the enacted law because the intent of the Legislature was to amend the Chapter 61 State Board of Education rules that pertain to the approval of major capital construction projects for elementary and secondary schools.

**House Amendment “E” to Committee Amendment “A” (H-1110)** proposed to provide for the protection of proprietary information by the Department of Marine Resources under the Maine Working Waterfront Access Pilot Program.

**House Amendment “F” to Committee Amendment “A” (H-1111)** proposed to change the date for the new voting procedure for smoking in private clubs from August 1, 2006 to September 1, 2006 and make the same change in the transition section. It also proposed to change the duration of the vote's authority to September 1, 2008.

**House Amendment “G” to Committee Amendment “A” (H-1112)** proposed to designate the name of T11 R14 WELS as Clayton Lake as of January 1, 2007.

**House Amendment “H” to Committee Amendment “A” (H-1115)** proposed to clarify that the prohibition on networking of voting machines does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled, when the central server is operated or managed by the Secretary of State. (Not adopted)

**House Amendment “I” to Committee Amendment “A” (H-1118)** proposed to clarify that the prohibition on networking of voting machines does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State. This is to allow compliance with the federal Help America Vote Act of 2002, which requires the provision of voting systems equipped for individuals with disabilities. The amendment proposed to repeal the new language 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

**House Amendment “J” to Committee Amendment “A” (H-1119)** proposed to remove the language that exempts from the General Fund appropriation limitation the state costs of the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program (Public Law 2005, chapter 636).

### *Enacted law summary*

Public Law 2005, chapter 683, in Parts A and B, corrects technical errors and inconsistencies in the Laws of Maine. Parts C, D, E, F, G, H and I make changes that are or could be considered substantive.

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Part C makes the following changes:

1. Clarifies the capacity of the deputy treasurer of state to vote on boards when the Treasurer is absent;
2. Corrects inconsistencies that were created by Public Law 2005, chapter 343, which changed the composition of the Pharmaceutical Cost Management Council but did not change the number of members to coincide with the change in the composition of the council;
3. Amends the law creating a private right of action for damages for illegal wagering to cover all wagers for which a license is required. This covers all horse racing for which wagers may be accepted by a licensee in this State. The current law limits the illegal wagering to harness racing;
4. Corrects an error in the laws governing mandatory building standards for residential construction by changing references to the Department of Economic and Community Development to references to the Public Utilities Commission;
5. Corrects formatting errors to reflect the intent of the original law concerning Probate proceedings;
6. Corrects a cross-reference concerning the duties and powers of personal representatives;
7. Amends the Maine Uniform Trust Code to carry out the original intent concerning a trust settlor's options regarding the provision of information to beneficiaries;
8. Amends the fee schedule for copies of certain documents provided by municipal clerks;
9. Conforms language within the Emergency Medical Services laws to technical drafting standards and classifies a violation as a Class E crime;
10. Clarifies the appropriation in Public Law 2005, chapter 519, Part GGG, section 1, which appropriated funds to two newly built hospice facilities and identifies certain details of the plan grantees must submit to the Department of Health and Human Services. The Department of Health and Human Services is required to submit a report to certain joint standing committees of the Legislature identifying how the grant funds were utilized by the grantees;
11. Corrects an error in Public Law 2005, chapter 519, Part UUU, section 2, which deappropriated funds from the All Other line category in fiscal year 2005-06 concerning education in the Unorganized Territory. The funds should have been deappropriated from the Personal Services line category; and
12. Directs the Board of Environmental Protection to amend chapter 335: Significant Wildlife Habitat, a major substantive rule, by changing a date contained in one of the criteria for determining whether a shorebird feeding or staging site qualifies as significant shorebird habitat from 1989 to 1987.

Part D clarifies that the Consolidated Emergency Communications Fund created in Public Law 2005, chapter 519, Part OO applies to all municipal, county and state governmental units, not just Kennebec County and allows for the establishment of positions when any governmental unit voluntarily consolidates communications systems. Part D also corrects the name of the Consolidated Emergency Communications Bureau. This Part is retroactive to the effective date of the public law.

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Part E corrects a reference to the number of members of the Professional Standards Board and corrects a cross-reference by adding a subsection reference that was omitted.

Part F provides for the protection of proprietary information by the Department of Marine Resources under the Maine Working Waterfront Access Pilot Program.

Part G changes the date for the new voting procedure for smoking in private clubs from August 1, 2006 to September 1, 2006 and makes the same change in the transition section. It also changes the duration of the vote's authority to September 1, 2008.

Part H authorizes school administrative units to expend state funds provided for new minimum teacher salaries and for salary supplements for national board-certified teachers without calling for a special meeting of the local legislative body. These provisions apply to fiscal year 2006-07 only.

Part I corrects two references in the formula for calculation of county and municipal spending growth limitations by specifying that adjustments for changes in state funding are calculated by multiplying the prior year's funding by one plus the growth limitation factor.

Public Law 2005, chapter 595 provided that rules adopted by the State Board of Education pertaining to the approval of major capital secondary school construction projects be designated as major substantive rules effective January 1, 2007. Part J deletes the reference to secondary schools in the enacted law because the intent of the Legislature was to amend the Chapter 61 State Board of Education rules that pertain to the approval of major capital construction projects for elementary and secondary schools.

Part K designates the name of T11 R14 WELS as Clayton Lake as of January 1, 2007.

Part L clarifies that the prohibition on networking of voting machines does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State. This is to allow compliance with the federal Help America Vote Act of 2002, which requires the provision of voting systems equipped for individuals with disabilities. This new language is repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

Part M removes the language that exempts from the General Fund appropriation limitation the state costs of the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program (Public Law 2005, chapter 636).

Public Law 2005, chapter 683 was enacted as an emergency measure effective June 2, 2006.

**LD 2061**

**An Act To Issue Certificates of Title for Single-unit Mobile Homes**

**PUBLIC 678**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-1038

LD 2061 proposed to establish a system for the titling of certain single unit manufactured housing. It proposed an effective date of January 1, 2007.

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**Committee Amendment “A” (H-1038)** proposed to recognize manufactured housing as an important component of the housing industry in the State and as residential property whether it is considered personal property or real property. The amendment proposed to except from titling requirements manufactured housing that is permanently affixed to real property within 30 days of the date of sale. Such manufactured housing would be treated as real property. The amendment proposed to establish a procedure to cancel a certificate of title once the titled manufactured housing is permanently affixed to real property. The amendment proposed to change the effective date of the bill from January 1, 2007 to October 1, 2007.

### *Enacted law summary*

Public Law 2005, chapter 678 recognizes manufactured housing as an important component of the housing industry in the State and as residential property whether it is considered personal property or real property. It establishes a titling program for certain manufactured housing. Excepted from the titling requirements is manufactured housing that is permanently fixed to real property within 30 days of the date of sale. Chapter 678 establishes a procedure to cancel a certificate of title once the titled manufactured housing is permanently affixed to real property.

Public Law 2005, chapter 678 is effective October 1, 2007.

**LD 2087**

### **An Act To Implement Recommendations Concerning Temporary Guardian and Conservator Laws**

**PUBLIC 625**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-1023

LD 2087 proposed to enact the recommendations included in the report submitted by the Department of Health and Human Services prepared pursuant to Resolve 2005, chapter 91. The bill proposed to address notice and other issues involving the appointment of temporary guardians and conservators by the Probate Courts.

**Committee Amendment “A” (H-1023)** proposed to clarify that the Probate Court may appoint a temporary guardian or a temporary conservator by an order appropriate to the case, whether ex parte or otherwise.

### *Enacted law summary*

Public Law 2005, chapter 625 was submitted by the Joint Standing Committee on Judiciary pursuant to Resolve 2005, chapter 91. It is based on recommendations included in the report submitted by the Department of Health and Human Services prepared pursuant to the same resolve. Chapter 625 requires that before a person files a petition for a temporary guardianship or conservatorship, notice of the petition must be given to the allegedly incapacitated person or the person alleged to be in need of protection as well as specific family members or others involved in the life of that person. The specifics of the notice are listed. Notice is not required in certain circumstances. Chapter 625 provides guidance to the Probate Courts in the determination of whether an emergency exists that necessitates the appointment of a temporary guardian or conservator. The court may make such an appointment in order to prevent serious, immediate and irreparable harm to the health or financial interests of the person.

*Joint Standing Committee on Judiciary*

**LD 2111**

**An Act To Implement the Recommendations of the Freedom of Access Advisory Committee**

**PUBLIC 631**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 2111 proposed to enact certain recommendations of the Freedom of Access Advisory Committee, established by Resolve 2005, chapter 123, and recommendations of the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 432. The bill proposed to establish the Right To Know Advisory Committee, a permanent advisory council representing all levels and branches of government. It proposed to revise the public records exception review processes.

**Senate Amendment “A” (S-627)** proposed to repeal the authority for the Right to Know Advisory Committee 90 days after adjournment of the Second Regular Session of the 123rd Legislature. The amendment proposed to require that the first year funding come from the preexisting legislative study budget for fiscal year 2006-07 only. The amendment proposed to require that for the next fiscal year the advisory committee fully fund its activities through outside funding sources. (Not adopted)

***Enacted law summary***

Public Law 2005, chapter 631 includes recommendations of the Freedom of Access Advisory Committee, established by Resolve 2005, chapter 123, and recommendations of the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 432. Chapter 631 establishes the Right To Know Advisory Committee, a permanent advisory council representing all levels and branches of government as well as the media and the public. The advisory committee has oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying the freedom of access laws. The responsibility for reviewing existing public records exceptions, currently a task assigned to the Joint Standing Committee on Judiciary, is shifted to the advisory committee. Flexibility for review of exceptions outside of the listed schedule is provided. The advisory committee may make recommendations for changes in the statute to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations. This bill revises the schedule for review of existing public records exceptions and includes in the review the question of whether there is a publicly accountable entity with authority to review the activities of the agency or official that collects, maintains and uses confidential information.

**HP 1502**

**Commission To Study Access to Birth Certificates and Medical Records for Adult Adoptees**

**DIED BETWEEN BODIES**

Sponsor(s)

Committee Report

Amendments Adopted

HP 1502 proposed to create the Commission to Study Access to Birth Certificates and Medical Records for Adult Adoptees, made up of three members of the Senate and four members of the House of Representatives. See also LD 1805.

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