

*Joint Standing Committee on Judiciary*

**LD 274**

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

**PUBLIC 510  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-593 H-596 NORBERT

LD 274 proposed to correct technical errors and inconsistencies in Maine laws.

**Committee Amendment "A" (H-593)** proposed to make technical changes in Part A, Part B and Part E. The amendment proposed changes that would or could be interpreted as substantive changes in Part C and Part F. Part D proposed technical corrections of conflicts in the retirement benefit laws.

**House Amendment "A" to Committee Amendment "A" (H-596)** proposed to provide that a residential care facility with 4 beds whose residents have prompt evacuation capability must comply with the one-family and 2-family dwellings chapter of the Life Safety Code if the facility is licensed after September 30, 2002.

**Senate Amendment "A" to Committee Amendment "A" (S-342)** proposed to authorize the Commissioner of Inland Fisheries and Wildlife to restrict moose hunting to a particular section or sections within any moose hunting area. (Proposed in the Second Regular Session; not adopted.)

**Senate Amendment "B" to Committee Amendment "A" (S-343)** proposed to correct an erroneous repeal of the law prohibiting the buying and selling of moose. (Proposed in the Second Regular Session; not adopted.)

LD 274, as amended, was presented to the Governor for his signature on June 14, 2003, but was not signed. It became effective January 11, 2004 pursuant to the Maine Constitution, Article IV, Part Third, Sec. 2.

***Enacted Law Summary***

Public Law 2003, chapter 510, became law without the Governor's signature on January 11, 2004. It corrected technical errors and inconsistencies, and made several substantive corrections. See also LD 1897 for corrections to chapter 510.

**LD 787**

**An Act To Clarify the Landowner Liability Law with Regard to Construction and Maintenance of Snowmobile and Other Trails for Recreational Use**

**PUBLIC 509  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P CARR	OTP-AM	S-356

LD 787 proposed to limit the liability of a snowmobile club to \$100,000 for damages resulting from an accident incident to the club's trail-grooming activities.

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**Committee Amendment "A" (S-356)** proposed to replace the bill and amend the title. It proposed to add the definition of "occupant" to the current law that provides limited liability for recreational or harvesting activities.

The amendment proposed to define "occupant" to include an individual, corporation, partnership, association or other legal entity that constructs or maintains trails or other improvements for public recreational use.

The amendment proposed to add an emergency preamble and an emergency clause to make the bill take effect immediately to ensure that the clarification of the law applies to the current snowmobiling season.

### ***Enacted Law Summary***

Public Law 2003, chapter 509 amends the landowner liability law to provide protection to any legal entity that constructs or maintains trails or other improvements for public recreational use. The language is not limited to snowmobile trails and covers any type of recreational trail.

Public Law 2003, chapter 509 was enacted as an emergency measure effective January 9, 2004.

**LD 921**

**An Act To Enact the Uniform Trust Code**

**PUBLIC 618**

Sponsor(s)  
MILLS P

Committee Report  
OTP-AM

Amendments Adopted  
H-795

LD 921 was a concept draft pursuant to Joint Rule 208.

**Committee Amendment "A" (H-795)** proposed to replace the bill.

Part A proposed to enact the Maine Uniform Trust Code, effective July 1, 2005.

Part B proposed to repeal superseded sections of the Probate Code and update cross-references, effective July 1, 2005.

Part C proposed to amend 3 sections of the Probate Code concerning different forms of health care powers of attorney to ensure that health care providers are not limited in the medical information they provide to the agent by the federal Health Insurance Portability and Accountability Act of 1996.

### ***Enacted Law Summary***

Public Law 2003, chapter 618 amends the State's trust laws adopting a slightly revised version of the Uniform Trust Code. Uniform Comments and Maine Comments are included.

The Maine Uniform Trust Code is effective July 1, 2005.

Chapter 618 also amends the Probate Code concerning different forms of health care powers of attorney to ensure that health care providers are not limited in the medical information they provide to the agent by the federal Health Insurance Portability and Accountability Act of 1996.

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**LD 999**                      **An Act To Ensure Fairness in Payment of Superior Court Witness Fees by Counties**                      **ONTP**

<u>Sponsor(s)</u> SAVAGE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 999 proposed to require the Law Enforcement Agency Reimbursement Fund to reimburse the employer of a law enforcement officer a flat fee of \$50 per day or part of a day for an officer who testifies at a pretrial hearing in Superior Court for a Class D or Class E crime. See also LD 1070.

**LD 1039**                      **An Act Concerning Passamaquoddy Indian Territory in Washington County**                      **ONTP**

<u>Sponsor(s)</u> MOORE F	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1039 proposed to extend the date from January 1, 2001 to January 1, 2020, by which the Secretary of the Interior of the United States may acquire land in Washington County for the benefit of the Passamaquoddy Tribe.

**LD 1070**                      **An Act To Increase Traffic Fines and Apportion a Part of the Increase to the Issuing Jurisdiction**                      **ONTP**

<u>Sponsor(s)</u> SUSLOVIC STRIMLING	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1070 proposed to increase traffic fines by 5% every 2 years from January 1, 2004 through January 1, 2012. The bill also proposed to remit a percentage of the fines collected for traffic infractions to the law enforcement agency that issued the summons and complaint. Beginning January 1, 2004, the percentage remitted to the law enforcement agency would increase by 10% every 2 years with the last increase on January 1, 2012.

**Committee Amendment "A" (H-646)** was the minority report of the Joint Standing Committee on Transportation.

This amendment proposed to rename and replace the bill and increase the amount reimbursed to a municipality from the Law Enforcement Agency Reimbursement Fund from \$50 to \$75 per day or part of a day for any officer employed by that municipality who is physically present for a scheduled trial in District Court. The amendment also proposed to require the Law Enforcement Agency Reimbursement Fund to be used to reimburse a municipality a flat fee of \$75 per day or part of a day for any officer employed by that municipality who is physically present for a scheduled pretrial hearing for a Class D or Class E crime in Superior Court.

LD 1070 was carried over by the Transportation Committee from the First Regular Session. It was then re-referred to the Judiciary Committee. See also LD 999.

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**LD 1295**                      **An Act To Enact the Uniform Mediation Act**                      **ONTP**

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

LD 1295 proposed to enact the Uniform Mediation Act, effective January 1, 2004.

**LD 1473**                      **An Act To Amend the Laws Governing Public Easements**                      **ONTP**

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

LD 1473 proposed to allow a person who is directly benefited by a public easement to collect funds to maintain that easement and proposed that a municipality may only retain a public easement in a discontinued road by stating in the discontinuance order that a public easement is retained.

**LD 1525**                      **An Act To Clarify the Freedom of Access Laws as They Pertain to the Penobscot Nation**                      **ONTP**

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

LD 1525 proposed to provide that the Freedom of Access laws concerning public proceedings and public records do not apply to the Penobscot Nation.

**Committee Amendment "A" (H-626)** was the minority report and proposed to amend the bill to provide that the freedom of access laws concerning public records do not apply to the Passamaquoddy Tribe. (Not adopted)

**LD 1579**                      **An Act To Promote the Financial Security of Maine's Families and Children**                      **PUBLIC 672**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY DAGGETT	OTP-AM    A ONTP      B OTP-AM    C	H-774 H-871    MILLS P

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LD 1579 proposed to provide for domestic partners in certain provisions of the Probate Code and in the laws governing the custody of remains of deceased persons.

**Committee Amendment "A" (H-774)** proposed to replace the bill to amend certain provisions of the Probate Code and laws governing the custody of remains of deceased persons, governing conservators and guardians and governing domestic violence to extend to domestic partners provisions that currently apply to spouses.

This amendment proposed to create a separate account to provide funds for the registers of probate to pay for the reprinting of probate forms necessitated by this amendment. The amendment proposed to authorize the State Court Administrator to accept gifts and donations to the account to offset the costs of funding the local mandate created by this amendment.

**Committee Amendment "B" (H-775)** proposed to strike and replace the bill, removing the part of the bill that authorizes a statewide domestic partnership registry and the part that affects intestate succession. At the same time, the amendment proposed to clarify that a long-standing domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.

This amendment proposed to create a separate account to provide funds for the registers of probate to pay for the reprinting of probate forms necessitated by this amendment. The amendment proposed to authorize the State Court Administrator to accept gifts and donations to the account to offset the costs of funding the local mandate created by this amendment. (Not adopted)

**House Amendment "A" to Committee Amendment "A" (H-782)** proposed to add the definition of "domestic partner" to the statutes governing protective orders between family members. It also proposed to add the definition to the Probate Code and to the statutes governing death certificates and the responsibility for the remains of the deceased. The definition proposed to clarify that the 2 partners must have been legally domiciled together for the immediately preceding 12 months and that joint financial arrangements and joint property ownership must have existed for the same period. It proposed to delete amendments to laws for protection from abuse.

This amendment proposed to delete cross-references to the "domestic partner" provisions in the Maine Revised Statutes, Title 24. (Not adopted)

**House Amendment "B" to Committee Amendment "A" (H-871)** proposed to incorporate the substance of Senate Amendment "B" to Committee Amendment "A," except that this amendment proposed to provide a new definition of domestic partner and establish a domestic partner registry in the Department of Human Services, including a termination process.

**Senate Amendment "A" to Committee Amendment "A" (S-472)** proposed to establish a domestic partnership registry in the Office of Health Data and Program Management in the Department of Human Services, Bureau of Health. Domestic partners who meet the criteria may register as a domestic partnership by filing a notarized form with the registry. A fee that covers the cost of processing may be charged.

This amendment proposed to provide for a process of registering the termination of a domestic partnership.

This amendment proposed to make all references to "domestic partner" consistent with the Maine Revised Statutes, Title 22, section 2710.

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**Senate Amendment "B" to Committee Amendment "A" (S-476)** proposed to establish a domestic partnership registry in the Office of Health Data and Program Management in the Department of Human Services, Bureau of Health. Domestic partners who meet the criteria may register as a domestic partnership by filing a notarized form with the registry. A fee that covers the cost of processing may be charged.

This amendment proposed to provide for a process of registering the termination of a domestic partnership.

This amendment proposed to make all references to "domestic partner" consistent with the Maine Revised Statutes, Title 22, section 2710. (Not adopted)

**Senate Amendment "C" to Committee Amendment "A" (S-501)** was the same as House Amendment "B" to Committee Amendment "A." (Not adopted)

### ***Enacted Law Summary***

Public Law 2003, chapter 672 provides for domestic partners in certain provisions of the Probate Code governing intestate succession, conservators and guardians, to extend to domestic partners provisions that currently apply to spouses in the laws governing protective orders and in the laws governing the custody of remains of deceased persons.

Chapter 672 does the following.

1. It defines "domestic partners" as 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.
2. It allows domestic partners to register with the Department of Human Services, Office of Health Data and Program Management, becoming "registered domestic partners."
3. It includes as a requirement that a registered domestic partnership can not be terminated unless both partners consent to the termination or a partner wishing to terminate the partnership provides a written notice, in hand, to the other partner.
4. It requires that the declaration of domestic partnership form must contain a warning in bold type explaining that the declaration may have a significant effect on property or inheritance rights and that registration is not a substitute for a will or a formal partnership agreement.
5. It clarifies that a domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.
6. It clarifies that a registered domestic partner is entitled to priority in case of intestacy of the other registered domestic partner.

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**LD 1652**

**An Act Regarding the Number of Jurors Required To Render a Verdict in a Civil Trial**

**PUBLIC 525  
EMERGENCY**

Sponsor(s)  
MILLS P

Committee Report  
OTP-AM

Amendments Adopted  
H-673

LD 1652 proposed to require that at least 2/3 of the jurors participating must unanimously agree in the verdict.

**Committee Amendment "A" (H-673)** proposed to add an emergency preamble and emergency clause to make the bill take effect immediately.

***Enacted Law Summary***

Public Law 2003, chapter 525 requires that at least 2/3 of the jurors participating must unanimously agree in the verdict in a civil trial. Only in the event that the jury is reduced to 7 members would a verdict be decided by the unanimous votes of fewer than 6 jurors.

Public Law 2003, chapter 525 was enacted as an emergency measure effective March 3, 2004.

**LD 1669**

**An Act To Abrogate the Hearsay Rule in Cases Involving Custody or Protection of Children**

**ONTP**

Sponsor(s)  
GOODWIN  
SHOREY

Committee Report  
ONTP MAJ  
OTP-AM MIN

Amendments Adopted

LD 1669 proposed to allow the admission into evidence in certain civil actions of out-of-court statements by minors that would otherwise be excluded on the basis of hearsay. The cases in which the hearsay rule would be abrogated are those involving the custody or protection of children in any parental rights and responsibilities matter, protection from abuse and protection from harassment actions on behalf of the minor and guardianship actions under the Probate Code.

**Committee Amendment "A" (H-688)** is the minority report of the Joint Standing Committee on Judiciary. It proposed to add an appropriations and allocations section. (Not adopted.)

**LD 1712**

**An Act To Promote Equity in Property Ownership**

**ONTP**

Sponsor(s)  
STANLEY

Committee Report  
ONTP

Amendments Adopted

LD 1712 proposed to require a lease between a person who owns land in territory under the jurisdiction of the Maine Land Use Regulation Commission and a person who owns one or more buildings on that land to include

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certain specific terms and conditions. The bill proposed that such a lease must contain, in clear and understandable language, agreed-to terms regarding the lease and other fees, road and maintenance responsibilities and the designated contact person for the lessor.

**LD 1727**                      **An Act To Amend the "Freedom of Access Laws" To Exclude**                      **ONTP**  
**Public Employees' Home Addresses**

<u>Sponsor(s)</u> STRIMLING		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1727 proposed to exempt from the definition of public records subject to the so-called "freedom of access laws" the home addresses of employees of the State or a political subdivision, such as a town, city or county. The concept was incorporated in the extension of the Freedom of Access Study as included in the Committee Amendment to LD 1957.

**LD 1737**                      **Resolve, Directing the Secretary of State To Review Model**                      **ONTP**  
**Legislation To Prevent Fraudulent Filings under the Uniform**  
**Commercial Code**

<u>Sponsor(s)</u> MILLS J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1737 proposed to direct the Secretary of State to review model legislation designed to prevent fraudulent filings under the Uniform Commercial Code and submit recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

**LD 1754**                      **An Act To Permit Background Checks on Prospective Adoptive**                      **PUBLIC 575**  
**Parents**

<u>Sponsor(s)</u> CURLEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-728
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LD 1754 proposed to authorize the Department of Human Services to conduct background checks for each prospective adoptive parent at any time before the filing of a petition for adoption.

**Committee Amendment "A" (H-728)** proposed to replace the bill and give DHS the authority to request background checks, including a fingerprint-based national criminal history record check, earlier in the adoption process.

### *Enacted Law Summary*

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Public Law 2003, chapter 575 gives the Department of Human Services the authority to use the same basic procedure available to the Probate Court to conduct background checks earlier in the adoption process.

**LD 1756**

**An Act To Amend the Uniform Federal Lien Registration Act**

**PUBLIC 518**

Sponsor(s)  
SIMPSON

Committee Report  
OTP

Amendments Adopted  
S-375 PENDLETON

LD 1756 proposed to make the necessary changes to the Uniform Federal Lien Registration Act as requested by the Internal Revenue Service to update and clarify outdated language and to allow the Internal Revenue Service to file notices of federal tax liens electronically with the Secretary of State.

**Senate Amendment "A" (S-375)** proposed to incorporate a fiscal note.

### *Enacted Law Summary*

Public Law 2003, chapter 518 makes the necessary changes to the Uniform Federal Lien Registration Act as requested by the Internal Revenue Service to update and clarify outdated language and to allow the Internal Revenue Service to file notices of federal tax liens electronically with the Secretary of State.

**LD 1761**

**An Act To Amend the Laws Relating to Nonprofit Corporations**

**PUBLIC 523**

Sponsor(s)  
BULL

Committee Report  
OTP

Amendments Adopted

LD 1761 proposed to eliminate duplicate filings with the Registry of Deeds for documents filed by nonprofit corporations formed under the Maine Revised Statutes, Title 13, chapters 81 and 93. This bill also proposed to streamline the filing requirements with the Secretary of State to be consistent with the filing requirements for other nonprofit corporations formed under Title 13-B.

### *Enacted Law Summary*

Public Law 2003, chapter 523 eliminates duplicate filings with the Registry of Deeds for documents filed by nonprofit corporations formed under the Maine Revised Statutes, Title 13, chapters 81 and 93. Public Law 2003, chapter 523 also streamlines the filing requirements with the Secretary of State to be consistent with the filing requirements for other nonprofit corporations formed under Title 13-B.

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**LD 1765**

**An Act To Clarify the Responsibilities under the Adult Protective Services Act**

**PUBLIC 653**

<u>Sponsor(s)</u> NORBERT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-887
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LD 1765 proposed to clarify the reporting requirements under the Adult Protective Services Act by making the reporting requirements individual to the reporter, similar to the requirements that currently exist for the reporting of abuse, neglect and exploitation in facilities. It also proposed to clarify the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and specify the types of information the department may receive as part of an investigation or protective proceeding. It also proposed to revise definitions to better reflect the population served by the Adult Protective Services Act.

**Committee Amendment "A" (H-887)** proposed to add language to the adult protective services program policy and legislative intent provisions to make it clear that federal confidentiality protections supersede conflicting state requirements to report abuse, neglect or exploitation of incapacitated or dependent adults.

The amendment proposed to extend a professional's discretion to report in situations in which the individual being treated is the known or suspected victim of the abuse, neglect or exploitation, and the individual is not incapacitated.

The amendment proposed to abrogate certain confidentiality requirements to the extent authorized under federal law in relation to required reporting or cooperating with the department in an investigative or other protective activity.

***Enacted Law Summary***

Public Law 2003, chapter 653 amends the Adult Protective Services Act regarding reporting requirements, the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and the types of information the department may receive as part of an investigation or protective proceeding.

Chapter 653 clarifies that federal confidentiality protections supersede conflicting state requirements to report abuse, neglect or exploitation of incapacitated or dependent adults. It abrogates the confidential quality of communications provided by statute with regard to hospitals, health maintenance organizations, dentists and social workers to the extent authorized under federal law in relation to required reporting or cooperating with the department in an investigative or other protective activity.

**LD 1767**

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

**PUBLIC 631  
EMERGENCY**

<u>Sponsor(s)</u> NORTON		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> H-771 H-819 NORBERT
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LD 1767 proposed to make changes to the laws relating to nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships that are consistent with recent changes made to the business corporation laws in the Maine Revised Statutes, Title 13-C. Additionally, certain fees in the limited entities laws would be increased to be the same as the fees in Title 13-C.

**Committee Amendment "A" (H-771)** proposed to make additional clarifications and corrections in the laws governing nonprofit corporations, limited partnerships, limited liability companies, limited liability partnerships and business corporations.

**House Amendment "A" (H-819)** proposed to delete fee increases proposed in the bill for certain filings for limited partnerships, limited liability companies and limited liability partnerships.

This amendment proposed to reduce the proposed fee for the new filing of an amended annual report for nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships.

This amendment proposed to repeal the law authorizing a \$5 fee for an information request concerning limited liability partnerships, consistent with changes to the laws applicable to other entities.

### *Enacted Law Summary*

Public Law 2003, chapter 631 makes changes to the laws relating to nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships that are consistent with recent changes made to the business corporation laws in the Maine Revised Statutes, Title 13-C.

Public Law 2003, chapter 631 was enacted as an emergency measure effective April 14, 2004.

**LD 1771**

**An Act Regarding Child Support Collection Practices**

**PUBLIC 562**

Sponsor(s)  
SIMPSON  
HATCH PH

Committee Report  
OTP-AM

Amendments Adopted  
H-721

LD 1771 proposed to place limitations on a person who enters into an agreement with another to collect child support from charging a fee based upon future child support.

**Committee Amendment "A" (H-721)** proposed to replace the bill. The amendment proposed to clarify the restrictions on contracts to collect child support.

### *Enacted Law Summary*

Public Law 2003, chapter 562 prohibits a person who enters into an agreement with another to collect child support from charging a fee based upon current or future child support payments. Under a contract for the collection of child support that provides for a contingent fee, the fee may be based only upon unpaid past child support arrearages that are unpaid at the time when the contract is signed. It also provides that a person who enters into an agreement with another to collect child support is subject to the provisions of the Maine Fair Debt Collection Practices Act. It requires a detailed written contract between a support obligee and a private collector and prohibits

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penalties if the support obligee terminates the contract. It provides that a person who enters into an agreement with another to collect child support can not collect a fee for payments collected primarily through the efforts of a governmental agency.

**LD 1775**                      **An Act To Require Written Notice of Revocation of Durable Powers of Attorney**                      **ONTP**

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

LD 1775 proposed to require that if a person who has signed a durable power of attorney wants to revoke it, that person must provide notice in writing to the attorney-in-fact designated in the power of attorney. If the attorney-in-fact questions the competency of the person to revoke the power of attorney, the attorney-in-fact may petition the court for an opportunity to produce evidence bearing on the person's competency.

**LD 1778**                      **An Act To Prohibit Female Genital Mutilation**                      **ONTP**

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

LD 1778 proposed to prohibit the practice of female genital mutilation. The bill also proposed to direct the Department of Human Services to establish and implement education and outreach activities focusing on new immigrant populations that traditionally practice female genital mutilation.

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**LD 1781**                      **An Act To Amend the Laws Governing Mechanics' Liens**                      **ONTP**

<u>Sponsor(s)</u> PELLON STANLEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1781 proposed to amend the laws governing mechanics' liens regarding when such a lien dissolves and when such a lien may be preserved and enforced by action against the debtor and owner of the property affected.

**LD 1786**                      **An Act Making Amendments to the Uniform Commercial Code  
Covering Provisions Dealing with Negotiable Instruments and Bank  
Deposits and Collections**                      **PUBLIC 594**

<u>Sponsor(s)</u> O'NEIL MAYO		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-772
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LD 1786 proposed to amend Articles 3-A and 4 of the Maine Uniform Commercial Code to include warranties concerning the responsibility for unauthorized telephone-generated checks. The warranties would be limited to items that are drawn on a consumer account and would not bear a manual signature. The language has been adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL).

**Committee Amendment "A" (H-772)** proposed to replace the bill by defining a new class of payment instrument, drawn on a bank customer's account without an authorized signature, and shifting the risk of loss for processing this instrument to the depository-collecting bank, which is in the best position to prevent its introduction into the check collection system.

***Enacted Law Summary***

Public Law 2003, chapter 594 amends Articles 3-A and 4 of the Maine Uniform Commercial Code to include warranties concerning "telephonic" and other checks that do not bear the consumer's signature. Chapter 594 shifts the risk of loss for processing this instrument to the depository-collecting bank, which is in the best position to prevent introduction into the check collection system.

**LD 1797**                      **An Act To Clarify the Standards for Granting a Name Change**                      **PUBLIC 538**

<u>Sponsor(s)</u> MILLS J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-682
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LD 1797 proposed to allow a judge to require a criminal history record check, motor vehicle record check or credit check for any person who seeks a name change and to assess the cost of any such check against the person. The bill also proposed to prohibit a name change if the judge has reason to believe the change is for fraudulent purposes or against the public interest.

**Committee Amendment "A" (H-682)** proposed to clarify that the Probate Court judge has authority to require certain background checks of any person seeking a name change.

### *Enacted Law Summary*

Public Law 2003, chapter 538 allows a probate judge to require a criminal history record check, motor vehicle record check or credit check for any person who seeks a name change and to assess the cost of any such check against the person. It also prohibits a name change if the judge has reason to believe the change is for fraudulent purposes or against the public interest.

Chapter 538 is consistent with In re Reben, 342 A.2d 688 (Me. 1975) and is not intended to restrict the authority of the Probate Court.

**LD 1800**                      **An Act To Discourage Misuse of Protection-from-abuse Proceedings**                      **ONTP**

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

LD 1800 proposed to remove the requirement that evidence of a parent's prior willful misuse of the protection-from-abuse process may only be considered if the willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate with the other parent in their shared responsibility for their child.

**LD 1822**                      **An Act To Increase Access of Domestic Violence Victim Support Agencies to Certain Information**                      **ONTP**

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

LD 1822 proposed to permit a criminal justice agency to disclose criminal history record information to an agency that provides services to victims of domestic violence in order to assist that agency in providing those services.

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**LD 1851**                      **An Act To Implement the Recommendations of the Family Law  
Advisory Commission with Regard to the Uniform Parentage Act**                      **ONTP**

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

LD 1851 proposed to enact the Uniform Parentage Act with changes recommended by the Family Law Advisory Commission.

**LD 1897**                      **An Act To Make Emergency Changes to Recent Law**                      **PUBLIC 599  
EMERGENCY**

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

LD 1897 proposed to make corrections to recent Maine laws in the nature of an Errors Bill.

**Senate Amendment "A" (S-416)** proposed to amend the new pharmacy benefits management law concerning confidentiality of PBM information and the application of the law. (Not adopted) See LD 1916, Committee Amendment.

***Enacted law summary***

Public Law 2003, chapter 599 corrects errors and inconsistencies in the laws of Maine, some of which were created by the delayed effective date of the First Regular Session Errors Bill, LD 274, now Public Law 2003, Chapter 510. Although the bill was not referred to a committee, the Judiciary Committee reviewed it's content.

Non-technical changes include amendments to the CNA laws.

Public Law 2003, chapter 599 was enacted as an emergency measure effective April 6, 2004.

**LD 1906**                      **An Act To Amend the Protection from Harassment Laws**                      **PUBLIC 658**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
MILLS J PENDLETON		OTP-AM    MAJ ONTP      MIN		H-840 H-889    MILLS J

LD 1906 proposed to amend the Protection from Harassment laws to rename the petition a "complaint", require the plaintiff to file a report with the appropriate law enforcement agency and to present evidence of that report when filing a complaint for protection from harassment, and to remove the requirement that the hearing on the complaint

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for protection from harassment be held within 21 days of the filing of the complaint. It proposed to allow the judge to require the parties to engage in alternative dispute resolution.

Finally, the bill proposed to allow a court to require a plaintiff to pay court costs and attorney's fees if the complaint is dismissed.

**Committee Amendment "A" (H-840)** proposed to delete from the bill the requirement that a plaintiff first report the harassment to a law enforcement agency before seeking a protection from harassment order, language concerning case management conferences and alternative dispute resolution and the authorization to charge the plaintiff for court costs and attorney's fees.

**House Amendment "A" (H-889)** proposed to remove the emergency preamble and the emergency clause.

### *Enacted Law Summary*

Public Law 2003, chapter 658 amends the Protection From Harassment laws to remove the requirement that the hearing on the complaint be held within 21 days.

**LD 1916**

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

**PUBLIC 688  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-907 H-923 NORBERT H-946 NORBERT H-947 NORBERT H-950 NORBERT H-952 NORBERT H-953 NORBERT S-552 PENDLETON S-555 PENDLETON S-559 PENDLETON

LD 1916 proposed to correct technical errors and inconsistencies in the laws of Maine.

**Committee Amendment "A" (H-907)** proposed to label the sections of the bill as Part A, and add Part B, consisting of technical changes, Part C, consisting of changes that are or may be considered substantive, Part D, correcting a conflict involving the Pine Tree Development Zones, Part E amending the bottle redemption law to refer to vintners, and Part F, amending the law governing prosecution of civil and criminal inland fisheries and wildlife violations.

**House Amendment "A" to Committee Amendment "A" (H-923)** proposed to require the Department of Human Services to start the rule-making process for the Community Health Access Program no later than January 1, 2007.

**House Amendment "B" to Committee Amendment "A" (H-946)** proposed to correct cross-references to the laws governing Pine Tree Development Zones.

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**House Amendment "C" to Committee Amendment "A" (H-947)** proposed to change the definition of "net operating revenue" in the laws governing the hospital tax to provide that bad debts may not be deducted from gross charges in the calculation of net operating revenue.

**House Amendment "D" to Committee Amendment "A" (H-950)** proposed to remove language from the optional form for power of attorney for health care that provides the agent the authority to serve as personal representative for all purposes of the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA."

**House Amendment "E" to Committee Amendment "A" (H-952)** proposed to make corrections in the language to reflect the intent of the Joint Standing Committee on Education and Cultural Affairs concerning educational technicians in private schools.

**House Amendment "F" to Committee Amendment "A" (H-953)** proposed to change the statute pertaining to the challenge of voter qualifications to reflect the change in age for persons voting in primary elections made by Public Law 2003, chapter 577.

**Senate Amendment "A" to Committee Amendment "A" (S-552)** proposed to correct an erroneous repeal in the utility laws.

**Senate Amendment "B" to Committee Amendment "A" (S-555)** proposed to repeal a cross-reference and remove the conflicting and inconsistent compulsory attendance provision.

**Senate Amendment "C" to Committee Amendment "A" (S-559)** proposed to provide that benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.

### *Enacted Law Summary*

Public Law 2003, chapter 688 makes technical and substantive corrections to the laws of Maine. Parts A and B make technical corrections.

Part C makes corrections that are or may be considered substantive concerning the following:

1. The authority of family case management officers;
2. Assessments to be paid by certain towns and plantations to the General Fund to support the work of the Maine Land Use Regulation Commission;
3. Changes to Title 12 that Public Law 2003, chapter 614 made to the recodified inland fisheries and wildlife laws;
4. The number of civil jurors;
5. Temporary interim non-administrative space in schools;

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6. Enforcement of Medicaid laws;
7. The reporting period and the reporting date for the reporting of prescription drug marketing costs;
8. Pharmacy benefit managers;
9. The definition of "assisted living services";
10. Violations of motor vehicle inspection standards;
11. The Lincoln and Sagadahoc multicounty jail authority;
12. Adult entertainment ordinances;
13. Certified public accountants; and
14. The name of the Northern Maine General Hospital.

PART D corrects conflicts concerning Pine Tree Development Zones.

PART E includes vintners within the exemption to commingling requirements and handling fee increases.

PART F provides flexibility to the District Court to handle civil and criminal prosecutions of inland fisheries and wildlife violations by authorizing prosecutions in the District Court division nearest the location of the alleged violation.

Part K requires the Department of Human Services to start the rule-making process for the Community Health Access Program no later than January 1, 2007.

Part L changes the definition of "net operating revenue" in the laws governing the hospital tax to provide that bad debts may not be deducted from gross charges in the calculation of net operating revenue.

Part M removes language from the optional form for power of attorney for health care that provides the agent the authority to serve as personal representative for all purposes of the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA."

Part J makes corrections concerning educational technicians in private schools.

Part G corrects an erroneous repeal in the utility laws.

Part H repeals a cross-reference and removes a conflict and inconsistent compulsory attendance provision.

Part I provides that benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.

Public Law 2003, chapter 688 was enacted as an emergency measure effective May 6, 2004, except as otherwise specifically provided.

## Joint Standing Committee on Judiciary

LD 1957

### An Act To Implement the Recommendations of the Committee to Study Compliance with Maine's Freedom of Access Laws

PUBLIC 709

Sponsor(s)

Committee Report

Amendments Adopted

OTP

H-866 RINES

S-502 PENDLETON

LD 1957 is the report of the Joint Standing Committee on Judiciary pursuant to Resolve 2003, chapter 83, which established the Committee to Study Compliance with Maine's Freedom of Access Laws. LD 1957 proposed to make changes in Maine's Freedom of Access laws concerning the following:

1. Motions to go into executive session;
2. Charges associated with providing copies of requests for public records; and
3. Exceptions from the definition of "public record".

It also proposed to extend the Committee to Study Compliance with Maine's Freedom of Access Laws and add to its duties.

**House Amendment "A" (H-866)** proposed to correct the enactment and amendment of unallocated law.

**Senate amendment "A" (S-502)** proposed to clarify that all the elements of completing a request for a public record must be considered in estimating the cost and determining whether to require payment in advance.

**Senate Amendment "B" (S-573)** proposed to add an emergency preamble, an emergency clause and an effective date section to the bill to allow the Committee to Study Compliance with Maine's Freedom of Access Laws to resume its work immediately. The other sections of the bill amending the Maine Revised Statutes were proposed to take effect 90 days after adjournment of the Second Special Session of the 121st Legislature. (Not adopted)

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

Public Law 2003, chapter 709 is the report of the Joint Standing Committee on Judiciary pursuant to Resolve 2003, chapter 83, which established the Committee to Study Compliance with Maine's Freedom of Access Laws. The study committee submitted its report and presented recommended legislation.

Chapter 709 amends Maine's Freedom of Access laws concerning executive sessions, charges for responding to request for public records and the management and review of exceptions to the definition of "public record." It also extends the work of the Committee to Study Compliance with Maine's Freedom of Access Laws, requiring a report in November 2004.

Chapter 709 amends the executive session law to require that the motion to enter executive session must include a citation of one or more sources of statutory or other authority permitting the executive session for the nature of the business stated in the motion.

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The current law on the public's right to inspect and copy public records at the location of the records or the record custodian is repealed and replaced to clarify certain provisions and to ensure reasonable costs for copies of public records. New language is added to clarify that the agency or official must provide the public record requested within a reasonable period of time after the request. Inspection, copying and translation into usable form may be scheduled to occur when the regular activities of the agency or official will not be delayed or inconvenienced. The law is clarified to provide that only a reasonable fee may be charged for copies of public records. New to the law are provisions governing the recoupment of costs of searching for, retrieving and compiling records to satisfy a request. After the first hour of staff time to search for, retrieve and compile records, the agency or official may charge up to \$10 per hour for such staff services for each request. Compiling a public record includes reviewing the record and redacting confidential information.

Chapter 709 requires the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to produce a bill that lists in the freedom of access laws all the public records exceptions that exist in the Maine Revised Statutes. Chapter 709 also requires that provisions excepting records from the definition of "public records" be reviewed to determine if the exceptions should be continued, modified or repealed. A cyclical review process is established for a legislative review committee, the joint standing committee of the Legislature having jurisdiction over judiciary matters, to review and evaluate all the identified exceptions at least once every 10 years. Criteria are established for the review and evaluation. The legislative committees of jurisdiction will have an opportunity to participate in the review and evaluation process. The review committee is authorized to report out legislation that carries out the review committee's recommendations to continue, modify or repeal each exception reviewed and evaluated.

Chapter 709 amends Resolve 2003, chapter 83 to extend the reporting date of the Committee to Study Compliance with Maine's Freedom of Access Laws to November 3, 2004. Four additional meetings are authorized. The unexpended balance of the money originally appropriated for the study committee will be used to fund the completion of the study. The duties of the study committee are expanded to include several issues identified by the study committee. The issue of whether public employees' home contact information should be kept confidential, as proposed by Legislative Document 1727, is added as an issue for the study committee to review.



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