

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

May 2016

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STATE OF MAINE

127TH LEGISLATURE

SECOND REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 127th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 127th Legislature is July 29, 2016. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Judiciary

judiciary matters. The committee may report out legislation to the First Regular Session of the 128th Legislature related to the subject of the report.

LD 1433 An Act To Create the Office of the Public Defender and Amend the Duties of the Commission on Indigent Legal Services Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS D HOBBINS B	ONTP OTP-AM	

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill reforms Maine’s system of providing State-funded legal services to indigent criminal defendants, juvenile defendants and children and parents in child protective cases in courts of this State, including the following changes:

1. Removing staff from the Maine Commission on Indigent Legal Service and establishing an Office of the Public Defender to be staffed by a Chief Public Defender, who is appointed by the Governor and confirmed by the Legislature, two Deputy Public Defenders and additional staff as necessary;
2. Changing the role of the Maine Commission on Indigent Legal Services from one of delivery of indigent legal services to one of oversight of the delivery of indigent legal services by the Office of the Public Defender;
3. Establishing a system administered by a Chief Public Defender that uses State employees, and contracts with attorneys to the maximum extent practicable, to deliver indigent legal services;
4. Instituting new measures to ensure that a person using indigent legal services pay reasonable costs for services provided by the system based on the person's financial ability to pay; and
5. Permitting Maine Revenue Services to share income tax return information with the Office of the Public Defender for purposes of determining an individual’s eligibility for indigent legal services.

Committee Amendment "A" (S-387)

This amendment, which is the minority report of the committee, corrects a lettering conflict and adds a fiscal note to the bill.

This amendment was not adopted.

LD 1460 Resolve, Regarding Legislative Review of Portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal Services RESOLVE 74 EMERGENCY

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

This resolve provides for legislative review of portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a major substantive rule of the Maine Commission on Indigent Legal Services.

Joint Standing Committee on Judiciary

Enacted Law Summary

Resolve 2015, chapter 74 authorizes final adoption of portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a major substantive rule of the Maine Commission on Indigent Legal Services.

Resolve 2015, chapter 71 was finally passed as an emergency measure effective March 29, 2016.

LD 1477 An Act To Protect Victims of Sexual Assault

PUBLIC 427

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND G CAMPBELL R	OTP-AM OTP	S-436

Current law allows a court to terminate the parental rights and responsibilities of a parent who was convicted of a crime involving sexual intercourse when the child for whom the parental rights and responsibilities are being terminated was conceived as a result of that crime. This bill expands that law by requiring a court to terminate the parental rights and responsibilities of a parent if it can be shown by clear and convincing evidence that the child was conceived as a result of an act of sexual assault by that parent.

This bill also establishes a presumption that a parent is unwilling or unable to protect a child from jeopardy if the child was conceived as a result of an act of sexual assault by the parent.

Committee Amendment "A" (S-436)

This is the majority report of the Joint Standing Committee on Judiciary.

This amendment allows a court, instead of requires as in the bill, to terminate the parental rights of a person if the court finds by clear and convincing evidence that the child was conceived as a result of an act of sexual assault by that person. The amendment applies the same standard in the child protection laws.

Enacted Law Summary

Public Law 2015, chapter 427 allows a court to terminate the parental rights of a person if the court finds by clear and convincing evidence that the child was conceived as a result of an act of sexual assault by that person. It applies the same standard in the child protection laws.

LD 1488 An Act To Support Substance Abuse Assistance Projects Provided by Municipalities and Counties

Died On Adjournment

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M GERZOFKY S	OTP-AM	H-611

This bill establishes the Law Enforcement Assisted Diversion Program to address drug crimes by diverting low-level offenders into community-based treatment and support services. The program includes, but is not limited to, the provision of case management services to program participants in order to secure appropriate treatment and support services such as housing, health care, job training and mental health services for program participants. The Attorney General, in consultation with the district attorneys, is directed to implement the program by establishing eight pilot projects in communities around the State.