

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

Enacted Law Summary

Public Law 2015, chapter 433 makes the following changes to the laws concerning sport shooting ranges.

1. It expands sport shooting range immunity from nuisance lawsuits filed against the shooting range from nuisance lawsuits based on noise to any nuisance lawsuit.
2. It prohibits municipal ordinances from being applied to limit or eliminate shooting activities that have occurred on a regular basis at a sport shooting range prior to the enactment date of the ordinance. Current law exempts the applicability of ordinances only with regard to noise control.
3. It requires a sport shooting range to meet general gun safety and shooting range operation practices or be constructed in a manner not reasonably expected to allow a projectile to cross the boundary of the range in order to be exempted from municipal ordinances applied to limit or eliminate its current shooting activities.
4. It provides that a municipality may not restrict a sport shooting range established prior to September 1, 2016 from performing maintenance or making improvements to enhance public safety and shot containment, provide access for persons with disabilities and provide rest room facilities. Other maintenance or improvements must be done in compliance with generally applicable municipal building codes and zoning ordinances. Repairing or rebuilding a building or structure damaged by fire, collapse, explosion or an act of God must be done in compliance with generally applicable municipal building codes and be completed within two years.

LD 1518

An Act To Ensure Children in the Care of Caretaker Relatives and Other Surrogates Can Access Health Care

PUBLIC 444

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J CYRWAY S	OTP-AM	H-627

This bill, which is based on Montana law, allows the caretaker relative, including a grandparent, aunt, uncle, brother, sister or cousin, of a minor voluntarily left by the minor's parent with the caretaker relative to exercise limited authority to make medical and educational decisions for the minor in place of the parent. It provides for authorization of the caretaker relative by a notarized affidavit and sets out the content and form of the affidavit. It provides immunity from criminal and civil liability and professional discipline for persons, including health care providers and school officials, relying on the affidavit in the absence of the person's knowing facts contrary to the affidavit or knowing that the parent has made a decision that supersedes the caretaker relative's decision.

Committee Amendment "A" (H-627)

This amendment replaces the bill. Unlike the bill, which authorizes a "caretaker relative" to make medical and educational decisions for a minor, this amendment addresses only the issues related to health care for minors.

This amendment makes changes to the laws governing minors' authority to consent to health care by identifying situations in which adults who voluntarily and without specific legal authority through a power of attorney or appointment as a legal guardian provide care that a parent normally would. This amendment recognizes that when parents are temporarily absent from a minor's life, certain adults with whom a minor resides may assume a surrogate role.

Enacted Law Summary

Public Law 2015, chapter 444 makes changes to the laws governing minors' authority to consent to health care by identifying situations in which adults who voluntarily and without specific legal authority through a power of attorney or appointment as a legal guardian provide care that a parent normally would. When parents are

Joint Standing Committee on Judiciary

temporarily absent from a minor's life, certain adults with whom a minor resides may assume a surrogate role. A surrogate may not be a parent, legal guardian or an adult to whom a parent has given a power of attorney authorizing health care treatment for the minor. Surrogates may include an adult related to a minor by blood, marriage or adoption and from whom the minor receives the ongoing care and support expected of a parent. If no such relatives exist, an adult with whom the minor resides and who has provided the minor with the ongoing care and support expected of a parent may act as a surrogate. The existence of a surrogate does not remove the ability of a minor to give consent under any other existing law.

If a minor needs health care, a surrogate must make a good faith attempt to notify the minor's parents or legal guardian of their right to make those decisions unless parental notification is not required by other provisions of law. Absent a response, the surrogate may make most health care decisions on behalf of the minor without parental consent. A surrogate may not make decisions withholding or withdrawing life-sustaining treatments or denying consent for treatments that are life-saving and medically necessary. A surrogate giving consent on behalf of the minor must attempt to make a good faith effort to notify the absent parents or legal guardian of any health care received by the minor unless parental notification is not required by other provisions of law.

Health care practitioners and providers may rely on the consent given by the surrogate. If they do so, they are immune from liability for providing treatment without receiving informed consent from the parents or legal guardian. Health care practitioners and providers must inform the surrogate of the surrogate's obligation to notify the minor's parents or legal guardian about the minor's treatment.

A surrogate may use the means of communication the surrogate believes is the most effective way to ensure actual notification of the parents or legal guardian. The means of communication may be regular mail, e-mail, texting, personal website posting or other written means of communication to the last known address or contacting by telephone using the last known telephone number of the absent parents or legal guardian.

A surrogate who makes health care decisions for the minor knowing that those specific decisions may not be made by the surrogate or without attempting to contact the parents or legal guardian about the need for the health care or the health care received commits a Class E crime. A person who makes health care decisions for a minor when not qualified as a surrogate is guilty of a Class E crime.

As long as the health care practitioner or provider acts with good faith reliance on the consent of the surrogate, there is no liability against the health care practitioner or provider on the grounds that the health care treatment was rendered without informed consent.

A minor may consent to health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault regardless of whether a surrogate exists.

LD 1528 An Act To Modernize and Consolidate Court Facilities

PUBLIC 468

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO L HOBBINS B	OTP-AM	S-437

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

This bill proposes to increase the maximum amount of securities that may be issued by the Maine Governmental Facilities Authority for specific allocation to the judicial branch. The increase would be used to fund projects for court facilities in Waldo, Oxford and York counties.

Committee Amendment "A" (S-437)

This amendment replaces the bill. It authorizes the Maine Governmental Facilities Authority to issue additional