

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



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

JOINT STANDING COMMITTEE ON JUDICIARY

October 2018

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STATE OF MAINE

128TH LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions of the 128th 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 FINAL 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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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

and national agencies and organizations to determine how to conduct the data collection. The organization must submit the plan as well as any recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by April 1, 2019. That committee may report out legislation to the First or Second Regular Session of the 129th Legislature.

LD 1541 An Act To Protect Certain Administrative Licensing Files

ONTP

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

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

This bill makes polygraph examiner and professional investigator administrative licensing files confidential by law, except the final written decision of whether a license is issued or denied, or of whether, in response to a complaint, adverse action is taken against a licensee's license, is publicly accessible and records may be disclosed for criminal justice purposes or to a government licensing agency of this State or another state. In the case of the issuance or denial of a license, the final written decision must state the basis for which a license is issued or denied, and, in the case of a complaint against a licensee's license, the final written decision must state the basis for which adverse action was or was not taken against the license. The Private Security Guards Act also is amended to ensure consistency with the changes made to the Polygraph Examiners Act and Professional Investigators Act.

LD 1658 An Act To Make Criminal History Record Information Maintained in a Database Confidential

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COREY P DIAMOND B	ONTP	

This bill makes criminal history record information contained in a database maintained or caused to be maintained by the Department of Public Safety, State Bureau of Identification confidential.

LD 1670 An Act To Revise the Grandparents Visitation Act

PUBLIC 328

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B	OTP-AM	H-597

This bill amends the Grandparents Visitation Act to alleviate the constitutional concerns raised by the Law Court in *Dorr v. Woodard*, 2016 ME 79, 140 A.3d 467. Specifically, the bill:

1. Requires that a grandparent seeking access to or visitation with a child under the Grandparents Visitation Act demonstrate standing to proceed at the outset of the case through a procedure that more closely tracks the procedure for demonstrating standing to obtain de facto parentage of a child under the Maine Parentage Act;
2. Amends the substantive test for a grandparent's standing by eliminating the automatic standing granted under current law to a grandparent when one of the child's parents or legal guardians has died. Under the bill, a grandparent has standing if the grandparent can demonstrate that the grandparent has a "sufficient existing relationship" with the child as that term is newly defined in the bill, that the absence of contact between the

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grandparent and the child will substantially and negatively affect the child or that any other compelling state interest justifies the court's interference with the parent's fundamental right to deny the grandparent access to the child;

3. Prohibits a court from ordering the parties to engage in mediation prior to a court determination that a grandparent has made a prima facie showing of standing; and

4. Clarifies that a grandparent's ability to file an action for de facto parentage or for guardianship of a child is not limited by the Grandparents Visitation Act.

Committee Amendment "A" (H-597)

This amendment changes the substantive test set forth in the bill for a grandparent's standing to seek access to or visitation with a child under the Grandparents Visitation Act for purposes of clarity. To establish standing under the amendment, the grandparent must show either that the grandparent has a "sufficient existing relationship" with the child as that term is defined in the amendment or that any other compelling state interest justifies the court's interference with the parent's fundamental right to deny the grandparent access to the child.

Under the amendment, "sufficient existing relationship" is defined as a relationship involving extraordinary contact between the grandparent and the child, including but not limited to circumstances where the grandparent has been a primary caregiver and custodian of the child for a significant period of time. This definition of "sufficient existing relationship" is intended to codify the Law Court's decisions in *Rideout v. Riendeau*, 2000 ME 198, 761 A.2d 291, and *Robichaud v. Pariseau*, 2003 ME 54, 820 A.2d 1212.

The amendment also clarifies that a grandparent's ability to join with two or more other persons and file a child protection petition is not limited by the Grandparents Visitation Act.

Enacted Law Summary

Public Law 2017, chapter 328 amends the Grandparents Visitation Act to alleviate the constitutional concerns raised by the Law Court in *Dorr v. Woodard*, 2016 ME 79, 140 A.3d 467. Specifically, it:

1. Requires that a grandparent seeking access to or visitation with a child under the Grandparents Visitation Act demonstrate standing to proceed at the outset of the case through a procedure that closely tracks the procedure for demonstrating standing to obtain de facto parentage of a child under the Maine Parentage Act;
2. Eliminates the automatic standing granted under prior law to a grandparent when one of the child's parents or legal guardians has died. Under chapter 328, to establish standing under the Grandparents Visitation Act the grandparent must demonstrate either that the grandparent has a sufficient existing relationship with the child or that any other compelling state interest justifies the court's interference with the parent's fundamental right to deny the grandparent access to the child. In accordance with the Law Court's decisions in *Rideout v. Riendeau*, 2000 ME 198, 761 A.2d 291, and *Robichaud v. Pariseau*, 2003 ME 54, 820 A.2d 1212, a "sufficient existing relationship" is defined as a relationship involving extraordinary contact between the grandparent and the child, including but not limited to circumstances where the grandparent has been a primary caregiver and custodian of the child for a significant period of time;
3. Prohibits a court from ordering the parties to engage in mediation prior to a court determination that a grandparent has made a prima facie showing of standing; and
4. Clarifies that a grandparent's ability to file an action for de facto parentage of a child, to file an action for guardianship of a child or to join with two or more other persons and file a child protection petition is not limited by the Grandparents Visitation Act.