

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

potential appointees provided by the Chief Justice of the Supreme Judicial Court is increased from one, as in current law, to three. Chapter 430 requires one appointment from a list of qualified potential appointees submitted by the Maine State Bar Association and one appointed from a list provided by a statewide organization, other than the Maine State Bar Association, that represents criminal defense attorneys. These members must provide indigent legal services as a majority of their practices, and are nonvoting members of the Commission. Chapter 430 requires the Governor to appoint a member who has experience in administration and finance as well as a member who has experience providing representation in child protection proceedings. Chapter 430 provides that no more than seven members may be attorneys engaged in the active practice of law.

Chapter 430 also addresses issues regarding potential conflicts of interest. It provides that no voting members may receive compensation from the commission, other than the per diem and expenses authorized by statute, while a member of the commission. The limitation on compensation from the commission also applies to a member whose immediate family member living in the same household is receiving compensation from the commission. The limitation on compensation does not apply to any member serving on the commission on April 1, 2018 for the duration of that member's term. In addition, Chapter 430 makes ineligible for appointment a person who is a sitting judge, a prosecutor or a law enforcement official or an employee of any of these individuals.

Chapter 430 addresses the issue of how many members constitute a quorum. A quorum is defined as a majority of the current voting members, which will allow the commission to function as it transitions from five members to seven voting members. As four additional members will be appointed to the commission, chapter 430 directs the Governor to designate one of the new members to serve a full three-year term, two members to serve an initial two-year term and one member to serve an initial term of one year.

Public Law 2017, chapter 430 was enacted as an emergency measure effective July 1, 2018.

LD 1821 An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Freedom of Access Training for Public Officials Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM ONTP	H-680

Current law requires officials elected to certain positions to complete training on the requirements of the Freedom of Access Act but does not require officials appointed to those positions to complete that training. This bill implements the recommendation of the Right To Know Advisory Committee that appointed officials also be required to complete the training.

Committee Amendment "A" (H-680)

This amendment is the majority report of the committee. It adds a mandate preamble to the bill. The costs incurred by local governments to comply with the bill's provisions have been estimated to be insignificant.

LD 1827 An Act To Amend the Maine Uniform Trust Code Regarding Reporting by Trustees and the Duties of Trustees to Settlers PUBLIC 349

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B HILL D	OTP-AM	H-636

This bill amends the Maine Uniform Trust Code in two ways. First, it corrects a gap in the statute governing a trustee's duties with regard to reporting to a beneficiary or another person designated by the trust's settlor. The

Joint Standing Committee on Judiciary

correction allows the trustee to carry out the settlor's directions without violating the duty established by statute. Second, this bill corrects an ambiguity with regard to the duty the trustee owes to the settlor of a revocable trust during the settlor's lifetime, clarifying that the trustee has no duty to provide information and reports to distributees, permissible distributees or qualified beneficiaries while the settlor is alive.

Committee Amendment "A" (H-636)

This amendment clarifies that the settlor of a trust has authority to waive one or more of the trustee's duties that are listed in the Maine Revised Statutes, Title 18-B, section 813, subsections 1, 2 and 3 with regard to giving notice, information and reports to qualified beneficiaries.

Enacted Law Summary

Public Law 2017, chapter 349 amends the Maine Uniform Trust Code in two ways. First, it corrects a gap in the statute governing a trustee's duties with regard to reporting to a beneficiary or another person designated by the trust's settlor. The correction allows the trustee to carry out the settlor's directions without violating the duty established by statute; it clarifies that the settlor of a trust has authority to waive one or more of the trustee's duties that are listed in Title 18-B, section 813, subsections 1, 2 and 3 with regard to giving notice, information and reports to qualified beneficiaries. Second, this bill corrects an ambiguity with regard to the duty the trustee owes to the settlor of a revocable trust during the settlor's lifetime, clarifying that the trustee has no duty to provide information and reports to distributees, permissible distributees or qualified beneficiaries while the settlor is alive.

LD 1831 An Act Concerning Remote Participation in Public Proceedings

**Accepted Majority
(ONTP) Report**

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

This bill is in response to recommendations contained in the Right To Know Advisory Committee's 12th annual report concerning remote participation in public proceedings by members of public bodies that are subject to the Freedom of Access Act. The bill expressly prohibits a member of a body subject to the Freedom of Access Act from participating in the body's public proceedings if the member is not physically present.

Part A prohibits a member of a public body from participating in a public proceeding when that member is not physically present at the location of the public proceeding as indicated in the required public notice. The members of seven specific public bodies are currently statutorily authorized to participate remotely in the public proceedings of those bodies, and they may continue to do so as long as the statutes still authorize such participation. The seven bodies are the Finance Authority of Maine, the Commission on Governmental Ethics and Election Practices, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority, the Maine Municipal Bond Bank, the Emergency Medical Services' Board and the Workers' Compensation Board.

Part B amends the statutes enabling remote participation for the seven bodies to repeal the authorization for remote participation July 1, 2020.

Part C amends the Freedom of Access Act to require the joint standing committee of the Legislature having jurisdiction over judiciary matters to conduct a review of any proposed statutory authorization of remote participation or change in accessibility with respect to public proceedings.