

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during
the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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STATE OF MAINE

124TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124th Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

| | |
|---|---|
| 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; bill died |
| DIED BETWEEN BODIES..... | House & Senate disagree; bill died |
| DIED IN CONCURRENCE..... | One body accepts ONTP report; the other indefinitely postpones the bill |
| DIED ON ADJOURNMENT..... | Action incomplete when session ended; bill died |
| EMERGENCY..... | Enacted law takes effect sooner than 90 days |
| FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... | Emergency bill failed to get 2/3 vote |
| FAILED ENACTMENT/FINAL PASSAGE..... | Bill failed to get majority vote |
| FAILED MANDATE ENACTMENT..... | Bill imposing local mandate failed to get 2/3 vote |
| NOT PROPERLY BEFORE THE BODY..... | Ruled out of order by the presiding officers; bill died |
| INDEF PP..... | Bill Indefinitely Postponed; bill died |
| ONTP (or Accepted ONTP report)..... | Ought Not To Pass report accepted; bill died |
| P&S XXX..... | Chapter # of enacted Private & Special Law |
| PUBLIC XXX..... | Chapter # of enacted Public Law |
| RESOLVE XXX..... | Chapter # of finally passed Resolve |
| UNSIGNED..... | Bill held by Governor |
| VETO SUSTAINED..... | Legislature failed to override Governor's Veto |

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

LD 1118 An Act To Expand Rights for Maine Families

ONTP

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

This bill provides that registered domestic partners have the same rights, protections and benefits and are subject to the same responsibilities, obligations and duties under law, whether they derive from statute, administrative rule, court rule, government policy, common law or any other provision or source of law, as are granted to and imposed upon spouses. The delayed effective date of January 1, 2010 is included to provide time for preparations for the change in the law.

LD 1132 An Act To Establish the Maine Commission on Indigent Legal Services

**PUBLIC 419
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| HOBBS | OTP-AM | S-233 |

This bill establishes the Maine Commission on Indigent Legal Services, an independent and permanent statutory entity, to provide efficient high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. All attorneys providing indigent legal services will be paid through the commission. This bill also authorizes a one-time transfer of all necessary funds and positions from the judicial branch to the Maine Commission on Indigent Legal Services in order to create the commission at no additional cost to the General Fund.

Committee Amendment "A" (S-233)

This amendment clarifies language in the emergency preamble and elsewhere in the bill to correctly describe when the State is obligated to provide indigent legal services. This amendment revises language to maintain consistency throughout the bill with regard to quality indigent legal services. This amendment requires the Governor, the Chief Justice of the Supreme Judicial Court, the President of the Senate and the Speaker of the House of Representatives, when making recommendations and appointments to the commission, to consider input from persons and organizations with an interest in the delivery of indigent legal services. This amendment requires that the individuals appointed to the commission must have, in addition to the qualifications listed in the bill, the skills and knowledge required to ensure that quality representation is provided in each area of law. This amendment revises the qualifications for the executive director of the Maine Commission on Indigent Legal Services to provide that the executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services, but need not be an attorney licensed in this State. This amendment requires the commission to consider other programs necessary to provide quality and efficient indigent legal services and to recognize, when establishing minimum attorney qualifications, that quality representation in each of these types of cases requires counsel with experience and specialized training in that field. This amendment requires the commission to develop an administrative and review process for attorneys who are aggrieved by a decision of the executive director. This amendment provides that the commission's rules concerning standards governing experience, training and other qualifications for contract counsel and assigned counsel are major substantive rules and must be submitted to and reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters before they take effect. This amendment establishes the executive director as a major policy-influencing position and sets the

Joint Standing Committee on Judiciary

salary at range 52. This amendment authorizes payment of the legislative per diem to the commission members, in addition to expenses. This amendment also adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2009, chapter 419 establishes the Maine Commission on Indigent Legal Services, an independent and permanent statutory entity, to provide an indigent person who is facing incarceration in a criminal case, who is charged with a juvenile crime, who is a parent subject to a child protection action or who is facing involuntary commitment to a psychiatric hospital counsel at state expense consistent with federal and state constitutional and statutory obligations. The commission consists of five members appointed by the Governor and confirmed by the Legislature. The Governor, the Chief Justice of the Supreme Judicial Court, the President of the Senate and the Speaker of the House of Representatives, when making recommendations and appointments to the commission, must consider input from persons and organizations with an interest in the delivery of indigent legal services. The individuals appointed to the commission must have, in addition to the qualifications listed in the bill, the skills and knowledge required to ensure that quality representation is provided in each area of law. The commission will develop standards for the delivery of indigent legal services and will establish and maintain a system that uses appointed private attorneys, contracts with individual attorneys or groups of attorneys and consider any other program necessary to provide quality and efficient indigent legal services. The commission shall appoint an executive director to carry out the day-to-day activities of the commission. All attorneys providing indigent legal services will be paid through the commission. Chapter 419 authorizes a one-time transfer of all necessary funds and positions from the Judicial Branch to the Maine Commission on Indigent Legal Services in order to create the commission at no additional cost to the General Fund. The commission shall develop an administrative and review process for attorneys who are aggrieved by a decision of the executive director. The commission's rules concerning standards governing experience, training and other qualifications for contract counsel and assigned counsel are major substantive rules and must be submitted to and reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters before they take effect.

Public Law 2009, chapter 419 was enacted as an emergency measure effective June 17, 2009.

LD 1143 *Resolve, Directing a Study of Domestic Violence and Parental Rights and Responsibilities*

RESOLVE 120

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MORRISON BLISS | OTP-AM | H-472 |

This bill creates a rebuttable presumption in the awarding of sole and joint parental rights and responsibilities in cases of domestic abuse in a family. It is presumed that a parent who has a history of perpetrating domestic abuse will not be awarded primary residence or shared residence with children. This bill is modeled on law enacted in Louisiana and many other states, as well as on the National Council of Juvenile and Family Court Judges' model code.

Committee Amendment "A" (H-472)

This amendment deletes the bill, changes the title and replaces it with a resolve directing the Maine Commission on Domestic and Sexual Abuse to undertake a study on domestic violence, parental rights and responsibilities and the protection from abuse process. The commission shall invite interested parties to participate and shall report to the Joint Standing Committee on Judiciary by February 1, 2010. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The committee may report out legislation to the 124th Legislature in 2010.

Enacted Law Summary