

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

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

Joint Standing Committee on Judiciary

Resolve 2009, chapter 120 directs 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.

LD 1179 An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings

PUBLIC 287

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| | OTP-AM | H-409 |

This bill is proposed by the Criminal Law Advisory Commission. It provides for a comprehensive post-judgment method of relief when a person's identity has been stolen and falsely used by another person in a criminal, civil violation or traffic infraction proceeding.

Committee Amendment "A" (H-409)

This amendment limits the right to appointed counsel for indigent petitioners to cases involving criminal convictions.

Enacted Law Summary

Public Law 2009, chapter 287 provides for a comprehensive post-judgment method of relief when a person's identity has been stolen and falsely used by another person in a criminal, civil violation or traffic infraction proceeding. The final outcome in that proceeding is immaterial. The relief offered is a court determination of factual innocence and the correction of the court records and related criminal justice agency records. This bill does not provide relief to a person who has stolen another person's identity and falsely used it in a criminal, civil violation or traffic infraction proceeding.

LD 1184 An Act To Improve the Process for Recovering Personal Property and for Filing Actions Involving Consumer Credit

PUBLIC 245

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| HASTINGS | OTP-AM | S-175 |

This bill creates a new equitable cause of action to resolve disputes over rights in, title to or possession of personal property and to eliminate the personal property forcible entry and detainer action. The new course of action includes summary process, prompt relief and streamlined procedural requirements.

Committee Amendment "A" (S-175)

This amendment amends the bill to clarify that, for venue purposes, consumer transactions include rental-purchase agreements in addition to consumer credit transactions. The amendment retains, with a few changes, the text for the new cause of action to resolve disputes over rights in, title to or possession of personal property and to eliminate the personal property forcible entry and detainer action, but establishes a new separate chapter for the new cause of action. This amendment provides that the court may issue a writ of possession seven days after the judgement is