

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

April 2010

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STATE OF MAINE

124TH LEGISLATURE
SECOND 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 Second 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:

<i>CARRIED OVER</i>	<i>Carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 124th Legislature is Monday, July 12, 2010. 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

annual report due January 15, 2011.

Enacted Law Summary

Resolve 2009, chapter 171 directs the Right To Know Advisory Committee to examine and make recommendations on the following issues:

1. How the freedom of access laws can appropriately address the use of communication technologies, both existing and those to be developed in the future, to ensure that decisions are made in proceedings that are open and accessible to the public;
2. If penalties for violations of the freedom of access laws should be revised, including consideration of criminalizing violations and making the individual who violates the laws responsible for the penalty, rather than the governmental entity; and
3. If partisan party caucuses should be specifically excluded from the definition of "public proceedings."

The Right To Know Advisory Committee shall include its recommendations in its annual report due January 15, 2011.

LD 1574

An Act To Amend the Rights and Liabilities of the Supervising Physician of a Physician Assistant

PUBLIC 587

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAREY SULLIVAN	OTP-AM MAJ ONTP MIN	H-732 H-755 PRIEST

This bill amends the rights and liabilities of military force members to extend civil and criminal immunity to the supervisory physician of a physician assistant regardless of the duty status of the supervisory physician.

Committee Amendment "A" (H-732)

This amendment is the majority report of the committee.

This amendment replaces the bill, but retains the intent to immunize and provide for the defense of the physician who supervises a physician assistant who is on active state service in the performance of the physician assistant's duties. Current law applies to the supervising physician only if the supervising physician is on active state service. This amendment provides the same protection when the supervising physician is not on active state service, but the physician assistant is on active state service in the performance of the physician assistant's duty. This amendment applies to osteopathic and allopathic physicians who are the supervising physicians of physician assistants.

House Amendment "A" To Committee Amendment "A" (H-755)

Committee Amendment "A" provides protection from liability to the supervising physician of a physician assistant when the physician assistant is on active state service in the performance of the physician assistant's duty even when the supervising physician is not on active state service. This amendment limits this protection from liability provided a supervising physician in Committee Amendment "A" to acts of the physician assistant when the physician assistant is providing services to individuals not on active state service.

Enacted Law Summary

Public Law 2009, chapter 587 provides protection from liability to the supervising physician of a physician assistant

Joint Standing Committee on Judiciary

when the physician assistant is on active state service in the performance of the physician assistant's duty even when the supervising physician is not on active state service. The supervising physician is protected from liability based on acts of the physician assistant when the physician assistant is providing service to individuals not on active state service.

LD 1580 An Act To Replace the Maine Limited Liability Company Act

PUBLIC 629

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST HOBBINS	OTP-AM	H-819

This bill directs the Secretary of State to prepare draft legislation revising the laws governing limited liability companies. The draft must be submitted by January 15, 2011 to the joint standing committee of the Legislature having jurisdiction over judiciary matters, which may report out legislation based on the draft.

Committee Amendment "A" (H-819)

This amendment replaces the bill. It repeals the existing Maine Limited Liability Company Act, currently the Maine Revised Statutes, Title 31, chapter 13, and replaces it with a new Maine Limited Liability Company Act. The Committee Amendment Summary contains a detailed explanation of the new limited liability company act and how it differs from the provisions of the predecessor Act. Information contained in the summary is consistent with information that would be provided in comments that are part of a uniform act.

Part B of this amendment corrects cross-references.

This Act takes effect July 1, 2011.

Enacted Law Summary

Public Law 2009, chapter 629 repeals the existing Maine Limited Liability Company Act, currently the Maine Revised Statutes, Title 31, chapter 13, and replaces it with a new Maine Limited Liability Company Act. The Committee Amendment Summary contains a detailed explanation of the new limited liability company act and how it differs from the provisions of the predecessor Act. Information contained in the summary is consistent with information that would be provided in comments that are part of a uniform act.

Public Law 2009, chapter 629 takes effect July 1, 2011.

LD 1622 An Act To Make Technical Changes to the Laws Governing the Practice of Law

PUBLIC 480

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

The statute prohibiting the practice of law by persons not licensed in this State is currently in conflict with Rule 5.5 of the Maine Rules of Professional Conduct adopted by the Supreme Judicial Court in August 2009. This bill eliminates that conflict by providing that practice by an attorney licensed by another jurisdiction in the United States does not violate the unlicensed practice statute as long as that practice conforms to the requirements of Rule 5.5.