

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
124<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

April 2010

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# STATE OF MAINE

124<sup>TH</sup> 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 124<sup>th</sup> 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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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 124<sup>th</sup> 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

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.

# Joint Standing Committee on Judiciary

## Enacted Law Summary

Public Law 2009, chapter 480 updates the statute governing the practice of law by persons not licensed in this State to be consistent with Rule 5.5 of the Maine Rules of Professional Conduct adopted by the Supreme Judicial Court in August 2009.

### LD 1623 An Act To Expand Options in Child Protection Proceedings for Children in Foster Care

PUBLIC 557

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M	OTP-AM MAJ ONTP MIN	H-706

This bill adopts federal law requirements to clarify that all in-state and out-of-state placements must be considered to provide a child with all possible permanency options and that the rights of the child must be respected through providing accommodations that will allow the child to state the child's wishes directly to the court.

#### Committee Amendment "A" (H-706)

This amendment is the majority report of the committee. This amendment changes and clarifies the title of the bill and strikes the bill language and amends the Maine Revised Statutes, Title 22, section 4005, subsection 3; section 4038-B, subsection 5; and section 4055, subsection 3 to ensure that the wishes of the child are considered by the court in a manner appropriate to the age of the child in child protection matters.

The bill is amended to comply with the federal Adoption and Safe Families Act of 1997, 42 United States Code, Section 675(5)(C); 45 Code of Federal Regulations, Section 1355.20; and the United States Social Security Act, Title IV-E to clarify that all in-state and out-of-state placements must be considered to provide children who are placed in foster care with all possible permanency options.

In addition, the law referring to the licensing of foster homes, Title 22, section 8101, subsection 1, is amended to clarify language defining the type of home that can be licensed as a foster home so that relatives are included among those families that may hold a license and receive the full benefits of licensure.

## Enacted Law Summary

Public Law 2009, chapter 557 amends the child protection laws to comply with the federal laws and regulations to clarify that all in-state and out-of-state placements must be considered to provide children who are placed in foster care with all possible permanency options. Chapter 557 ensures that the wishes of the child are considered by the court in a manner appropriate to the age of the child in child protection matters. In addition, the law referring to the licensing of foster homes is amended to clarify language defining the type of home that can be licensed as a foster home so that relatives are included among those families that may hold a license and receive the full benefits of licensure.