

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2011

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STATE OF MAINE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th 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. 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 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 date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. 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

**LD 325 Resolve, To Examine the Representation of Families by Nonattorney
Advocates at Special Education Due Process Hearings**

**VETO
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KENT ALFOND	OTP-AM	H-376

This bill permits persons who are not attorneys to represent parents and other parties in proceedings before the Department of Education relating to children with disabilities.

Committee Amendment "A" (H-376)

This amendment replaces the bill with a resolve directing the Maine Developmental Disabilities Council to convene a working group to study the issue of nonattorney advocates representing families at special education due process hearings. The working group will report to the Joint Standing Committee on Judiciary by January 31, 2012. The committee may report out a bill to implement matters relating to the report.

**LD 335 An Act To Allow Foresters, Soil Scientists and Geologists To Use
Mechanics Liens**

ONTP

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

This bill adds foresters, soil scientists and geologists to the list of people who can place a lien on the property of another for nonpayment of services.

**LD 373 An Act To Provide for Equal Rights of Appeal for the State and
Defendants Concerning Post-judgment DNA Analysis**

PUBLIC 230

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J JACKSON	OTP-AM	H-269

This bill allows the defendant as well as the State to appeal a court decision to grant or deny the defendant a new trial pursuant to a post-judgment conviction motion for DNA analysis.

Committee Amendment "A" (H-269)

This amendment replaces the bill. It adds a new section to provide a discretionary appeal opportunity for the State when the court grants a motion to order DNA analysis. Currently, the State has no right to appeal that decision.

This amendment replaces the language in the bill to clarify that both the State and an aggrieved person have an appeal as a matter of right from a court decision to grant or deny a new trial based on the DNA analysis results.

Enacted Law Summary

Joint Standing Committee on Judiciary

Public Law 2011, chapter 230 provides that both the State and an aggrieved person have an appeal as a matter of right from a court decision to grant or deny a new trial based on DNA analysis results. Chapter 230 also provides a discretionary appeal opportunity for the State when the court grants a motion to order DNA analysis. Currently, the State has no right to appeal that decision.

LD 374 An Act To Change the Method of Calculation of Child Support ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J JACKSON	ONTP	

This bill excludes from gross income for the purpose of calculating child support amounts withheld or paid for social security or Medicare taxes.

LD 380 An Act To Enhance Enforcement of Civil Orders of Arrest PUBLIC 177

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOULTON SHERMAN	OTP-AM	H-241

This bill provides that a court may issue a bench warrant when an individual fails to appear for a disclosure or contempt hearing concerning the enforcement of a money judgment after having given a personal recognizance bond to do so.

This bill also clarifies that a bench warrant may issue even if the individual is separately charged with a Class E crime for failing to appear in court after having given a personal recognizance bond to do so.

Committee Amendment "A" (H-241)

This amendment replaces the bill, removing the provisions permitting the court to issue a bench warrant and instead providing alternative relief.

This amendment provides alternative relief if a debtor fails to appear for a hearing after having given a personal recognizance bond to do so. The alternative relief consists of an order to the Department of Labor to provide the judgment creditor with the name and address of the debtor's employer, or a further civil order of arrest that does not permit the sheriff to obtain a personal recognizance bond from the debtor, or both. The Department of Labor may charge a reasonable fee for providing the information pursuant to the court order. The amendment also specifies how an order to the Department of Labor is served and the information required in the personal recognizance bond that a debtor may sign.

Enacted Law Summary

Public Law 2011, chapter 177 provides alternative relief if a debtor fails to appear for a disclosure hearing after having given a personal recognizance bond to do so. The alternative relief consists of an order to the Department of Labor to provide the judgment creditor with the name and address of the debtor's employer, or a further civil order of arrest that does not permit the sheriff to obtain a personal recognizance bond from the debtor, or both. The Department of Labor may charge a reasonable fee for providing the information pursuant to the court order. Chapter