

# MAINE STATE LEGISLATURE

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



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

June 2012

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# STATE OF MAINE

125<sup>TH</sup> LEGISLATURE  
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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 Second Regular Session of the 125<sup>th</sup> 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.

<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; legislation died</i>
<i>DIED BETWEEN HOUSES</i> .....	<i>House &amp; Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i> .....	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i> .....	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i> .....	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i> .....	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i> .....	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i> .....	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i> .....	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation 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>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 125<sup>th</sup> Legislature is Thursday, August 30, 2012. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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If the plaintiff claims the note is an electronic transferable record, as defined in the Uniform Electronic Transactions Act, the plaintiff's furnishing of a sworn affidavit setting forth the proof required pursuant to Title 10, section 9416, subsection 6 constitutes sufficient compliance with the production requirements. If the plaintiff claims it is not in possession of the original note in circumstances other than those to which Title 11, section 3-1309 applies, the plaintiff may satisfy the production requirements by providing a sworn affidavit setting forth the basis for the assertion that it is nonetheless entitled to enforce the note.

**Senate Amendment "A" To Committee Amendment "B" (S-426)**

This amendment permits a defendant in a foreclosure action to request to be allowed to inspect and copy the original note and related endorsements within 90 days of service of the foreclosure summons or complaint on the defendant.

**House Amendment "A" To Committee Amendment "B" (H-785)**

The amendment provides that the right of a defendant to obtain production of the original note under the Maine Rules of Civil Procedure is not altered.

This amendment was not adopted.

**LD 324      An Act To Authorize Parents with Power of Attorney To Make      ONTP**  
**Decisions Regarding the Education of Their Adult Children**

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill allows a parent who has power of attorney to make education decisions on behalf of an adult child with mental retardation, serious emotional disturbance or other developmental disabilities.

This bill was originally referred to the Joint Standing Committee on Education and Cultural Affairs. It was reported out of that committee with a suggested re-referral to the Judiciary Committee.

**LD 419      An Act To Ensure the Payment of Survivor Benefits to Certain Children      ONTP**

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill addresses the ability to inherit for purposes of intestate succession when a child is conceived using the gametes of a person after the person has died. This bill provides that the child has the same right to inherit from the decedent as if the child had been born prior to the decedent's death. This bill also clarifies that a parent-child relationship is established for the purposes of intestate succession between a child and a person if the child is conceived after the death of the person and the child is born to the person's surviving spouse using the gametes of the person. In each situation, the person must have consented in a record to be a parent in the given circumstances. The availability of Social Security survivor benefits is based on state intestate succession laws. This bill will

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facilitate the eligibility for survivor benefits to be paid to posthumously conceived children.

**LD 651 An Act To Improve Tribal-State Relations**

**ONTP**

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill allows the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to adopt ordinances, determined by the Secretary of State to be equivalent to the State's freedom of access laws, that will exempt them from the State's freedom of access laws. The authorization is subject to approval of the respective tribe, nation or band and is repealed July 1, 2016.

**LD 978 An Act To Provide for School Enrollment and an Appeal Process in Specific Cases in Which Students Do Not Reside with Parents**

**PUBLIC 502**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS ROSEN R	OTP-AM	H-720

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill contains recommendations of the Kinship Task Force. This bill:

1. Extends the duration of a guardianship under the Probate Code for a minor or incapacitated person from 6 months to 12 months (see also LD 170);
2. Authorizes the Probate Court in issuing, modifying or terminating a guardianship of a minor to enter an order providing transition arrangements that are in the best interests of the minor (see also LD 170);
3. Defines "kinship parent" as an adult who assumes responsibility for a child but is not a parent of that child. The kinship parent must hold power of attorney for the kinship family child or apply to the Probate Court for guardianship of the kinship family child in order to enroll the kinship family child in school and participate in educational decisions made for the kinship family child; and
4. Allows a superintendent to deny enrollment of a kinship family child in the superintendent's school administrative unit if the superintendent determines that enrollment is not in the best interest of the kinship family child and provides an appeal process for the kinship parent to appeal this denial.

**Committee Amendment "A" (H-720)**

This amendment adds a mandate preamble to and changes the title of the bill. It replaces the bill to provide that a student's safety in a parent's home is a basis for a superintendent to determine that it is in the best interest of the student to enroll in that school administrative unit when the student is residing in that unit with someone other than a parent or guardian. This amendment restructures the language to still require that the person with whom the child is