

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

appeals, constitute final agency action for purposes of review under the Maine Administrative Procedure Act. In addition, the amendment clarifies that all decisions of the executive director or the executive director's designee, other than the 3 categories of decisions appealable to the commission, constitute final agency action.

Enacted Law Summary

Public Law 2011, chapter 141 amends current law relating to the Maine Commission on Indigent Legal Services to state specifically which decisions of the executive director must be subject to an appeal process for attorneys aggrieved by such decisions. Chapter 141 provides that three categories of decisions made by the executive director or the executive director's designee are appealable to the full commission. All commission decisions, including decisions on these appeals, constitute final agency action for purposes of review under the Maine Administrative Procedure Act. In addition, chapter 141 clarifies that all decisions of the executive director or the executive director's designee, other than the three categories of decisions appealable to the commission, constitute final agency action.

LD 609

An Act To Declare Certain Records of the Maine Commission on Indigent Legal Services Confidential

PUBLIC 260

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS	OTP-AM	S-179

This bill makes certain records in the possession of the Maine Commission on Indigent Legal Services confidential.

Committee Amendment "A" (S-179)

This amendment clarifies the bill in 3 ways.

1. It provides that although individual client information is confidential as proposed in the bill, the names of criminal defendants are not confidential for all adult defendants and for juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime.
2. It provides that requests for funds become public after a case is completed.
3. It also provides that information obtained or gathered by the Maine Commission on Indigent Legal Services when performing an evaluation of an attorney is confidential but may be shared with the attorney who is the subject of the evaluation.

Enacted Law Summary

Public Law 2011, chapter 260 makes certain records in the possession of the Maine Commission on Indigent Legal Services confidential. Specifically, the following are confidential:

1. Individual client information, except that the names of criminal defendants are not confidential for all adult defendants and for juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime;
2. Information that is subject to the attorney-client privilege or that is defined as confidential under the Maine Rules of Professional Conduct;
3. Personal contact information of commission-rostered attorneys, members of the commission and commission staff;

Joint Standing Committee on Judiciary

- 4. Requests for funds for expert or investigative assistance until the case is completed; and
- 5. Information obtained or gathered by the commission when performing an evaluation of an attorney, although the information may be shared with the attorney who is the subject of the evaluation.

LD 616 An Act To Clarify Landowner Liability for Environmental Damage ONTP
Caused by Others

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

This bill limits the responsibility for landowners for environmental violations caused by recreational or harvesting activities.

LD 621 An Act To Clarify Adverse Possession ONTP

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

This bill amends the adverse possession law to clarify in statute that certain actions taken near property lines do not support a claim for adverse possession. De minimus nonstructural encroachments and maintenance across boundary lines are deemed to be permissive and not adverse, therefore defeating a claim that the actions show possession and use of the property as actual, open, notorious, hostile, under claim of right, continuous and exclusive for a period of at least 20 years. Examples of de minimus nonstructural encroachments include but are not limited to fences, hedges, shrubbery, plantings, sheds and nonstructural walls.

This bill is modeled on New York Laws of 2008, chapter 269, codified as Real Property Actions and Proceedings Law, section 543.

LD 651 An Act To Improve Tribal-State Relations Carried Over

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

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.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P.