

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 939 An Act To Enhance Mandated Reporting and Prosecution of Elder Abuse, Neglect and Exploitation

PUBLIC 291

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS SHERMAN	OTP-AM	H-374

This bill modifies several provisions in the Adult Protective Services Act mandated reporting requirements to be consistent with the Child and Family Services and Child Protection Act mandated reporting requirements. Specifically, when a report must be made and by whom have been brought into alignment as appropriate. In addition, several provisions have been added to enhance prosecution of elder abuse, neglect and exploitation, including requirements that photographic evidence of abuse be secured when possible in relation to an incapacitated or dependent adult and that the Department of Health and Human Services notify the district attorney when it receives a report of suspected abuse, neglect or exploitation. The bill also clarifies that "dependent adults" includes adults who are not institutionalized but who are dependent upon others for their day-to-day care. Finally, the bill proposes to increase the penalty a court may impose for a person's failure to report elder abuse, neglect or exploitation as required under the Adult Protective Services Act.

Committee Amendment "A" (H-374)

This amendment deletes from the proposed list of mandated reporters municipal code enforcement officials and firefighters. The amendment also adds naturopathic doctors to the list of mandated reporters.

Enacted Law Summary

Public Law 2011, chapter 291 modifies several provisions in the Adult Protective Services Act mandated reporting requirements to be to expand who is a mandated reporter and when a report must be made. In addition, several provisions have been added to enhance prosecution of elder abuse, neglect and exploitation, including requirements that photographic evidence of abuse be secured when possible in relation to an incapacitated or dependent adult and that the Department of Health and Human Services notify the district attorney when it receives a report of suspected abuse, neglect or exploitation. Chapter 291 clarifies that "dependent adults" includes adults who are not institutionalized but who are dependent upon others for their day-to-day care. Chapter 291 increases the penalty a court may impose for a person's failure to report elder abuse, neglect or exploitation as required under the Adult Protective Services Act.

LD 951 Resolve, Establishing the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts

RESOLVE 104

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	H-678 NASS S-213 S-334 COURTNEY

This resolve establishes the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts. The commission is directed to study the priority and timing of judicial proceedings in state courts, including, but not limited to, judicial proceedings that require priority treatment pursuant to statute. No later than December 7, 2011, the commission shall submit a report that includes its findings and recommendations, including suggested

Joint Standing Committee on Judiciary

legislation, to the Joint Standing Committee on Judiciary. The Joint Standing Committee on Judiciary is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 125th Legislature.

Committee Amendment "A" (S-213)

This amendment reduces the size of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts and revises the membership to include 3 Senators, instead of 2 as proposed by the resolve. It deletes as required members representatives of the Maine State Bar Association, the Maine Prosecutors Association and Pine Tree Legal Assistance. Instead, this amendment requires the commission to seek the participation of these organizations as well as the Maine Commission on Indigent Legal Services and the Maine Association of Criminal Defense Lawyers. It also authorizes the commission to seek the participation of any other individuals or organizations.

Senate Amendment "A" To Committee Amendment "A" (S-334)

This amendment reduces the size of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts from eleven to nine and revises the membership to include two Senators instead of three and three members of the House of Representatives instead of four as proposed by Committee Amendment "A." It also eliminates authorization for reimbursement of expenses for public members and explicitly exempts that reimbursement provision from the requirements of Joint Rule 353.

House Amendment "A" (H-678)

This amendment removes the emergency preamble and emergency clause.

Enacted Law Summary

Resolve 2011, chapter 104 establishes the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts. The commission is directed to study the priority and timing of judicial proceedings in state courts, including, but not limited to, judicial proceedings that require priority treatment pursuant to statute. No later than December 7, 2011, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Judiciary. The Joint Standing Committee on Judiciary is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 125th Legislature.

LD 978 An Act To Amend the Probate Code Regarding Powers of Attorney, Carried Over
Education of Children and Guardianship

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

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

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