

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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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

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, Education of Children and Guardianship

Carried Over

Sponsor(s)

STEVENS
ROSEN R

Committee Report

Amendments Adopted

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

Joint Standing Committee on Judiciary

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.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.

LD 983 An Act To Amend the Maine Limited Liability Company Act

**PUBLIC 113
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST GERZOFSKY	OTP-AM	H-135

This bill makes several changes to the Maine Limited Liability Company Act, which takes effect July 1, 2011. Most of the changes are technical, but several are substantive.

Committee Amendment "A" (H-135)

This amendment makes two changes.

It clarifies the language concerning making false statements on documents executed and filed with the office of the Secretary of State to identify that such an act is the crime of unsworn falsification, which is consistent with the current limited liability company laws and the current limited liability partnership laws.

This amendment also requires the minimum disclosure on the annual report of one person who can accept service of process on the entity when the agent has resigned without providing a new service of process contact, or when the agent cannot be located. Providing the name and address of a member, manager or other authorized person to accept service of process is consistent with the Model Registered Agents Act.

Enacted Law Summary

Public Law 2011, chapter 113 makes several changes to the Maine Limited Liability Company Act, which takes effect July 1, 2011. The technical changes remove redundant language, correct cross-references, clarify definitions and make grammatical changes. Chapter 113 deletes the unnecessary inclusion of the word "domestic" when referring to limited liability companies formed in this State.

Chapter 113 makes the following substantive changes.

1. The bill amends the definition of "low-profit limited liability company" by striking all references to foreign limited liability companies. The change allows the laws of the state of organization to govern whether a foreign limited liability company is a low-profit limited liability company. The change conforms the statute to those of other states that have adopted low-profit limited liability company legislation.
2. Under the current law, the articles of organization require the organizer to designate whether the limited liability company will be a member-run limited liability company or a manager-run limited liability company. This designation establishes apparent authority for the limited liability company. If the limited liability company is a member-run entity, each of the members has authority to bind the limited liability company; if the limited liability company is manager-run, each manager has the authority to bind the limited liability company. The Maine Limited Liability Company Act, which takes effect July 1, 2011, abandons authority by designation. The certificate of