

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

STAFF:

MARGARET J. REINSCH, SENIOR ANALYST
CURTIS C. BENTLEY, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

MEMBERS:

SEN. DAVID R. HASTINGS III, CHAIR
SEN. RICHARD G. WOODBURY
SEN. CYNTHIA A. DILL

REP. JOAN M. NASS, CHAIR
REP. G. PAUL WATERHOUSE
REP. MICHAEL G. BEAULIEU
REP. RALPH W. SARTY, JR.
REP. BRADLEY S. MOULTON
REP. KAREN D. FOSTER
REP. CHARLES R. PRIEST
REP. CHARLES B. KRUGER
REP. MAEGHAN MALONEY
REP. MEGAN M. ROCHELO

STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



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 1070 An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts

ONTP

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

This bill addresses forcible entry and detainer actions in which the landlord alleges that the tenant has not paid the rent. The bill requires the tenant, when answering the forcible entry and detainer complaint, to pay to the court clerk the amount stated in the complaint that the tenant owes in accrued rent. If the tenant disputes the amount, the court determines the appropriate amount to be paid to the court clerk. The court clerk deposits the funds received in an account and maintains records of the amounts paid. The court may require the tenant to pay rent as it accrues during the pendency of the action.

When the court enters the judgment in the action, the court determines who is to receive the funds that the tenant paid to the clerk.

If the tenant fails to pay as required by the court, the tenant is deemed to have waived all defenses and a judgment must be issued for the landlord.

The court may disburse money from the account to the landlord before the judgment if the landlord is in actual danger of loss of the premises or faces other hardship from the loss of rental income.

LD 1076 An Act To Protect Maine Laws under the United States Constitution and the Constitution of Maine

**MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE	ONTP MAJ OTP MIN	

This bill is based on Tennessee Public Acts, 2010, Public Chapter Number 983. The bill addresses the application of foreign law in this State.

The bill provides that the factor in considering whether to grant comity to a decision rendered under any foreign law, legal code or legal system against a natural person in this State is whether the constitutional rights under the United States Constitution and the Constitution of Maine of the person would be protected. Similarly, if a contract or other agreement provides for the choice of a foreign law, legal code or legal system, the primary factor in the interpretation, enforcement or application of the agreement is the preservation of the constitutional rights of the natural person in this State. The right of a natural person to voluntarily restrict or limit that person's own constitutional rights consistent with constitutional principles is not limited by the bill; however, a contract or specific waiver restricting or limiting rights must be strictly construed in favor of preserving the constitutional rights of the natural person.

The bill provides that the primary factor to be considered in interpreting or construing a choice of venue or forum provision is whether it can be interpreted or construed to preserve the constitutional rights of the natural person in this State against whom enforcement is sought. A claim for forum non conveniens or a related claim must be denied

Joint Standing Committee on Judiciary

if the court determines that granting the claim violates or would likely violate the constitutional rights of the nonclaimant in the foreign forum with respect to the matter in dispute.

The bill does not apply to a corporation, partnership or other legal business entity.

The bill applies only to actual or to foreseeable violations of the constitutional rights of a natural person in this State from a foreign law, legal code or legal system.

**LD 1082 An Act Concerning the Protection of Personal Information in
Communications with Elected Officials**

PUBLIC 264

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-361

This bill consists of the recommendations of the majority of the members of the legislative subcommittee of the Right to Know Advisory Committee in response to Resolve 2009, chapter 184.

This bill amends the definition of "public record" in the freedom of access laws to provide that certain information in communications between constituents and elected officials is not a public record. Specifically, information is not a public record if the information would be confidential if it were in the possession of another public agency or official or if the information is of a personal nature.

Committee Amendment "A" (H-361)

This amendment directs the Right To Know Advisory Committee to examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and recommendations must be included in its 2012 annual report pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 10.

Enacted Law Summary

Public Law 2011, chapter 264 consists of the recommendations of the majority of the members of the legislative subcommittee of the Right to Know Advisory Committee in response to Resolve 2009, chapter 184.

Chapter 264 amends the definition of "public record" in the freedom of access laws to provide that certain information in communications between constituents and elected officials is not a public record. Specifically, information is not a public record if the information would be confidential if it were in the possession of another public agency or official or if the information is of a personal nature.

Chapter 264 directs the Right To Know Advisory Committee to examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and recommendations must be included in its 2012 annual report pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 10.