

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
125<sup>TH</sup> 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 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.

*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 125<sup>th</sup> 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*

The owner is due compensation 180 days after making a written demand for payment. If the public entity does not pay the compensation, the owner may file the claim in Superior Court and is entitled to attorney's fees and other costs. If compensation is not paid within 2 years, the owner may use the property as permitted at the time the owner acquired the property.

See also LD 1477.

### **Committee Amendment "A" (S-241)**

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment provides that compensation is due when land use regulations that are enacted after the effective date of this legislation reduce by at least 50% the fair market value of property or an interest in property.

This amendment was not adopted.

**LD 1152**

### **An Act To Amend the Child and Family Services and Child Protection Act**

**PUBLIC 402**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRAVEN	OTP-AM	S-294

This bill makes changes to the Child and Family Services and Child Protection Act concerning notification of relatives when a child is removed from the child's parents' home, youth in foster care, permanency guardianship subsidies, adoption by the permanency guardian and reinstatement of parental rights.

### **Committee Amendment "A" (S-294)**

This amendment replaces the bill but retains some of the sections with minor changes and continues to carry out the intent of the bill.

This amendment authorizes hospitals, medical personnel and law enforcement personnel to submit emergency reports of child abuse or neglect to the Department of Health and Human Services via an e-mail or a faxed report.

This amendment clarifies that the District Court has jurisdiction over petitions for adoption from permanency guardianship filed by the department.

This amendment revises the provisions on extended care for persons who are 18, 19 or 20 years of age who attained 18 years of age while in the care and custody of the State. In addition to reformatting the language, it provides additional details on the District Court's required review that must occur at least once every 12 months. The person or the department may terminate the agreement of extended care and support without approval by the court; the department must notify the court of the termination. Guardians ad litem and attorneys may not be appointed for persons who are at least 18 years of age.

This amendment provides specific elements that must be included in a petition for adoption from permanency guardianship. A background check of each prospective adoptive parent must be included, as well as the home study of the permanency guardian or an updated home study if the original home study was completed more than 2 years before the filing of the petition. This amendment requires a case management conference after a petition has been filed and requires the court to appoint a guardian ad litem and attorneys for indigent parents and custodians. This amendment also requires service of the petition for adoption and the notice of the case management conference on the child's parents. If the parents do not consent, the court must dismiss the adoption petition.

## *Joint Standing Committee on Judiciary*

This amendment revises the language on the reinstatement of parental rights. As provided in the bill, only the department may petition to have parental rights reinstated, and only in specific circumstances. This amendment includes specific elements of the petition for reinstatement and includes a specific process that the court must follow.

### **Enacted Law Summary**

Public Law 2011, chapter 402 makes the following changes to the Child and Family Services and Child Protection Act.

1. It requires that the Department of Health and Human Services, within 30 days of the removal of a child from the custody of the child's parents, exercise due diligence to identify and provide notice to all grandparents and other adult relatives of the child, except in cases of family or domestic violence. This legislation is required under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351.
2. It provides services for youth who are in foster care at 18 years of age and are at risk of leaving care without a permanent family or sufficient life skills and supports to manage independence. This legislation is consistent with provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 that allow states to draw federal funds to support older youth but require judicial oversight and support by a state agency.
3. It amends language in the statutes governing permanency guardianship. It removes the requirement that a child must be identified as a special needs child to receive a guardianship subsidy. It amends the law to allow permanency guardians the option of receiving nonrecurring reimbursement for expenses associated with becoming permanency guardians. It removes language that allows the guardianship subsidy to be transferred to a new permanency guardian upon death or disability of the original permanency guardian. It provides that a permanency guardian is subject to a fingerprint-based background check.
4. It establishes a new category of licensure in child welfare services, the resource family license. This license is for a person or persons who are foster parents, adoptive parents or members of a child's extended birth family who provide care to a child.
5. It provides for the adoption of a child who was previously in foster care and is the subject of a permanency guardianship order when the permanency guardian and the child determine adoption is in the best interest of the child. Chapter 402 provides that the District Court has jurisdiction over petitions for adoption from permanency guardianship filed by the department.
6. It allows for the reinstatement of parental rights for a parent after a period of 12 months after a termination of parental rights upon a finding that there has been a material change in circumstances that indicate the parent is now able to provide a safe home and is willing to care for the child. Chapter 402 allows the court to hold a hearing to determine reinstatement in accordance with the best interest of the child, whether the parent has remedied conditions and the child's wishes. Only the department may petition to reinstate parental rights.
7. It authorizes hospitals, medical personnel and law enforcement personnel to submit emergency reports of child abuse or neglect to the Department of Health and Human Services via an e-mail or a faxed report.