

# 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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125<sup>TH</sup> LEGISLATURE  
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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*

**LD 1256**

**An Act Concerning Tort Claims and Governmental Entities**

**DIED BETWEEN  
HOUSES**

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

This bill amends the Maine Tort Claims Act to clarify the liability of a governmental entity for its negligent acts and omissions in the use of equipment, vehicles and machinery. "Use" is defined as being employed by the governmental entity for its purposes or in connection with its activities.

The bill imposes liability for the governmental entity's negligent acts or omissions regardless of whether an employee of the governmental entity is operating the vehicle, machinery or equipment at the time of the occurrence causing property damage or bodily injury. The governmental entity is not, however, liable for the negligence of any nongovernmental person or entity in the connection with the use of the vehicle, machinery or equipment.

The bill provides that a governmental entity may be jointly and severally liable with a nongovernmental person or entity, but only if the negligent acts or omissions of the governmental entity were a cause of the property damage or bodily injury.

**Committee Amendment "A" (S-266)**

This amendment, which is the majority report of the committee, strikes and replaces the bill. It retains provisions from the bill regarding a governmental entity's liability for negligent acts or omissions and adds an application date of January 1, 2013 to provide sufficient time for governmental entities to obtain insurance or provide for self-insurance. This amendment adds a mandate preamble and an appropriations and allocations section.

This amendment was not adopted.

**LD 1272**

**An Act To Create a Family Ombudsman in the Judicial Branch and the Department of Corrections**

**MAJORITY  
(ONTP) REPORT**

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

This bill creates a family ombudsman in both the court system and the Department of Corrections. The bill:

1. Directs the State Court Administrator to appoint a member of court system personnel as the family ombudsman for the court system to act as an intermediary between the accused and their families and court officials; and
2. Directs the Commissioner of Corrections to appoint a member of the department as the family ombudsman for the corrections system to act as an intermediary among prisoners, their families and the Department of Corrections.

**Committee Amendment "A" (S-172)**

This amendment is the minority report of the Joint Standing Committee on Judiciary. It adds an appropriations and