

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 1365 An Act Regarding Protection Orders

PUBLIC 265

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK SHERMAN	OTP-AM	H-362

This bill amends the laws pertaining to domestic violence as follows.

1. It creates an exception to the hearsay rule to allow an out-of-court statement to be admitted as evidence in a court proceeding even if the person who made the statement is available if the statement meets certain criteria. The statement must purport to narrate, describe, report or explain an incident of domestic violence assault as defined in the Maine Revised Statutes, Title 17-A, section 207-A and must have been made by a victim of the domestic violence assault within 24 hours after the incident occurred. The statement must have been recorded, either electronically or in writing, or made to a law enforcement officer, provider of emergency medical services or firefighter. The statement must have sufficient indicia of reliability. The court may use specific criteria to determine reliability of the statement. The fact that the declarant withdrew the statement cannot be used to deny admission if the statement is otherwise reliable. This hearsay exception is modeled on a recently enacted Oregon statute.
2. It allows the offering into evidence at a hearing for a protection from abuse order the defendant's prior convictions for domestic violence assault.
3. It requires the Board of Trustees of the Maine Criminal Justice Academy to adopt a model policy for the serving of protection from abuse orders as quickly as possible. It also requires law enforcement agencies to adopt such policies.

Committee Amendment "A" (H-362)

This amendment removes from the bill the provisions creating a hearsay exception and that allow a defendant's prior conviction of domestic violence assault to be offered into evidence at a hearing for a protection from abuse order. It retains the sections of the bill that require the Maine Criminal Justice Academy and law enforcement agencies to adopt policies to ensure that the service of a protection from abuse order is done as quickly as possible.

Enacted Law Summary

Public Law 2011, chapter 265 requires the Board of Trustees of the Maine Criminal Justice Academy to adopt a model policy for the serving of protection from abuse orders as quickly as possible. It also requires law enforcement agencies to adopt such policies.

LD 1374 An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse

PUBLIC 201

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS RAYE	OTP	

This bill allows an adult who is 60 years of age or older or an incapacitated or dependent adult to seek a protection from abuse order if that adult is a victim of abuse by an extended family member or an unpaid care provider.

Joint Standing Committee on Judiciary

Currently, an adult can only secure relief under the protection from abuse laws if the abuse is perpetrated by a family or household member or a dating partner and that definition does not include spouses of adult children, grandchildren, other relatives and caregivers.

Enacted Law Summary

Public Law 2011, chapter 201 allows an adult who is 60 years of age or older or an incapacitated or dependent adult to seek a protection from abuse order if that adult is a victim of abuse by an extended family member or an unpaid care provider.

LD 1377	An Act To Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act	Carried Over
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANBORN BRANNIGAN		

This bill enacts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act as a new Part of Article 5 of the Probate Code. The uniform comments adopted by the National Conference of Commissioners on Uniform State Laws are included.

The bill addresses the issue of jurisdiction over adult guardianships, conservatorships and other protective proceedings, providing an effective mechanism for resolving multistate jurisdictional disputes. It contains specific guidelines to specify which court has jurisdiction to appoint a guardian or conservator for an incapacitated adult. The objective is that only one state will have jurisdiction at any one time.

The bill takes effect January 1, 2012, but applies to all guardianships and conservatorships, including those created prior to that date.

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

LD 1415	An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions	PUBLIC 203 EMERGENCY
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE	OTP	

This bill amends Maine's bankruptcy laws to conform with the United States Code as it pertains to bankruptcy exemptions.

Enacted Law Summary

Public Law 2011, chapter 203 amends Maine's bankruptcy laws to conform with the United States Code as it pertains to bankruptcy exemptions.

Public Law 2011, chapter 203 was enacted as an emergency measure effective June 2, 2011.