

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
125<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

June 2012

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# STATE OF MAINE

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 Second 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.

<i>CARRIED OVER</i> .....	<i>carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i> .....	<i>chapter # of constitutional resolution passed by both houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; legislation died</i>
<i>DIED BETWEEN HOUSES</i> .....	<i>House &amp; Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i> .....	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i> .....	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i> .....	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i> .....	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i> .....	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i> .....	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i> .....	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; special law</i>
<i>PUBLIC XXX</i> .....	<i>chapter # of enacted public Law</i>
<i>RESOLVE XXX</i> .....	<i>chapter # of finally passed resolve</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 125<sup>th</sup> Legislature is Thursday, August 30, 2012. 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*

superintendents.

**LD 1377**

**An Act To Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act**

**PUBLIC 564**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANBORN BRANNIGAN	OTP-AM	H-800

This bill was carried over from the First Regular Session of the 125th Legislature.

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.

**Committee Amendment "A" (H-800)**

This amendment contains changes to the bill recommended by the Probate and Trust Law Advisory Commission.

This amendment changes the effective date and application dates to July 1, 2013.

**Enacted Law Summary**

Public Law 2011, chapter 564 makes changes to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act recommended by the Probate and Trust Law Advisory Commission.

The revisions to the Maine Revised Statutes, Title 18-A, section 5-512 address inconsistencies between the definitions in the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and related definitions in the Probate Code.

The revisions to Title 18-A, section 5-521, subsection (a), paragraph (1); section 5-524, subsection (a); and section 5-526, subsections (b) and (c) eliminate ambiguous language and extend the emergency term of a guardian from 90 days to 6 months.

The change to Title 18-A, section 5-531, subsection (c) eliminates the court's obligation to hold a hearing if a hearing would serve no useful purpose.

The changes to Title 18-A, section 5-531, subsection (d), paragraph (2); section 5-531, subsection (e), paragraph (2); and section 5-532, subsection (d), paragraph (1) identify the evidentiary standard to be applied to proceedings involving the transfer of guardianship and protective proceedings.

The word "disposition" is added to Title 18-A, section 5-531, subsection (e), paragraph (3) because the term "management" may be too narrow to accurately describe the actions a conservator might need to take.

## *Joint Standing Committee on Judiciary*

Title 18-A, section 5-532, subsection (f) is deleted because it is unrealistic to require a Maine court to unilaterally evaluate a foreign order and identify modifications, as it is unclear from the Act exactly what process would be undertaken to modify a foreign order.

Title 18-A, sections 5-541 and 5-542 are modified to provide a safeguard that will enable the appointing court to intervene if foreign registration is for any reason inappropriate.

Public Law 2011, chapter 564 contains an effective date and an application date of July 1, 2013.

### **LD 1465     An Act To Amend the Laws Governing Freedom of Access**

**PUBLIC 662**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN R	OTP-AM MAJ ONTP MIN	S-514 S-599 ROSEN R

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill increases governmental transparency by enhancing the existing freedom of access laws to provide deadlines for responses to requests for public records, to ensure that requesters can access public records in the format requested and to require the designation of public access officers for every agency and political subdivision.

The bill provides funding for an Assistant Attorney General position located in the Office of the Attorney General to act as the public access ombudsman, which is a part-time position.

#### **Committee Amendment "A" (S-514)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill.

The amendment titles the Maine Revised Statutes, Title 1, chapter 13, subchapter 1 "the Freedom of Access Act."

The amendment adds software to the description of information technology elements that are excepted from the definition of "public records" to clarify that proprietary information, technology infrastructure, systems and software used by governmental entities are not public records.

The amendment repeals and replaces the current section of law that lays out the process and fees concerning inspecting and copying public records, although much of the current language is retained. It allows inspection and copying of public records during reasonable office hours. The reasonable office hours must be posted. It requires the agency or official, when acknowledging the receipt of a request for public records, to provide a good faith estimate of when the response to the request will be complete. Although the time estimate is not binding, the agency or official must make a good faith effort to meet that time target.

The agency or official may not charge for inspection unless the requested public record is such that it cannot be inspected without being compiled or converted. If the agency or official must compile the record for inspection, then the agency or official may charge \$15 per hour, after the first hour, for the time it takes to enable inspection. If the agency or official must convert a public record into a form susceptible of visual or aural comprehension or into a usable format, the agency or official may charge for the actual cost to perform the conversion. The amendment increases the per hour cost for compiling a record from \$10 to \$15, after the first hour.

The amendment clarifies that a request for a public record does not have to be made in writing or in person. The