

# 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*

The bill amends the definition of "harassment" in the protection from harassment laws to limit qualifying damage to property to damage to business property. This amendment removes that limitation and amends the definition to include damage to personal property only.

The bill requires that, except in a narrow category of situations, a person seeking a protection from harassment order must first seek a cease harassment notice under the Maine Revised Statutes, Title 17-A, section 506-A. This amendment expands that list of situations in which a notice under Title 17-A, section 506-A is not required to include cases related to allegations of domestic violence, violence against a dating partner, sexual assault and stalking. These are facts already identified by the court as important in hearing complaints seeking protection from harassment orders.

### **Enacted Law Summary**

Public Law 2011, chapter 559 is based on the recommendations of the Commission to Study Priorities and Timing of Judicial Proceedings in State Courts.

Part A replaces varied statutory language regarding the priority of cases in court dockets with uniform language in statutes dealing with issues including civil appeals to Superior Court, animal welfare, the Maine Labor Relations Board, administrative licenses and other miscellaneous civil provisions.

Part B eliminates a provision regarding speedy trials for those arrested for traffic infractions, as it is duplicative.

Part C amends the protection from harassment statutes. It adds the commission's proposed uniform language to the provision regarding dissolution or modification of protection from harassment orders. It amends the definition of "harassment" by limiting damage to property to only personal property and by repealing language describing harassment as 3 or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution. It repeals as unnecessary a provision regarding whether reasonable efforts have been made by the court to give written or oral notice to a defendant in a hearing regarding an allegation of harassment, which is a criterion as to whether the court may enter a temporary protection from harassment order. It also amends the process of seeking a protection from harassment order by requiring that if the alleged harassment does not meet the definition of "harassment" in the Maine Revised Statutes, Title 5, section 4651, subsection 2, paragraph C, the plaintiff must seek and file a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A or a statement of good cause why a notice was not sought or obtained. Notice under Title 17-A, section 506-A is not required in cases related to allegations of domestic violence, violence against a dating partner, sexual assault and stalking. These are facts already identified by the court as important in hearing complaints seeking protection from harassment orders.

**LD 1804**

### **An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions**

**PUBLIC 524**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

This bill incorporates recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions in the Maine Revised Statutes, Titles 22 to 25.

### **Enacted Law Summary**

***Joint Standing Committee on Judiciary***

Public Law 2011, chapter 524 implements recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions in the Maine Revised Statutes, Titles 22 to 25.

It repeals the provision that designates as confidential lists maintained by the Attorney General's office of known unlicensed tobacco retailers. The Attorney General no longer maintains such lists as a result of a United States Supreme Court decision that state law is preempted by federal law.

It gives the Department of the Attorney General, Office of Chief Medical Examiner the discretion to release confidential information and materials about a missing person if the Chief Medical Examiner determines that releasing the information or materials may assist in the search for the missing person.

It removes language related to confidentiality of data held by the former Maine Health Care Finance Commission. Chapter 524 retains language authorizing the Board of Directors of the Maine Health Data Organization to determine certain financial data submitted to the organization by health care providers to be confidential if disclosure of the data will place the provider at a competitive economic disadvantage.

It provides that engineering estimates are public after the execution of project contracts and applies the public records provisions to all Department of Transportation and Maine Turnpike Authority records.

It removes the confidentiality provisions in current law that apply to the records of the Northern New England Passenger Rail Authority. It places the confidentiality provisions applying to the records of the Northern New England Passenger Rail Authority in a new section and clarifies what records are not subject to public access. Chapter 524 provides that records and correspondence relating to negotiations of agreements are confidential, although the final agreements are not designated confidential by this language. It also clarifies that estimates of costs of goods or services to be procured by or at the expense of the authority are confidential if the estimates are prepared by the authority or at the direction of the authority. It also revises the employment application confidentiality to be consistent with that of state, county and municipal employee applicants. All documents relating to applicants are confidential, except for records pertaining to the applicant who is hired, most of which become public. Personal contact information of a public employee is not a public record. Chapter 524 also clarifies the language concerning the lawyer-client privilege; it allows the authority to claim the lawyer-client privilege in the same manner and circumstances as a corporation is authorized to do so.

It amends current law to clarify that the confidentiality provisions of the Maine Health Security Act govern the confidentiality of reports to appropriate medical licensing boards.

It amends current law to authorize medical licensing boards to share confidential information with state and federal agencies when the information contains evidence of possible violations of laws enforced by those agencies. It clarifies that information provided by self-insurers to the governing board of the Maine Workers' Compensation Residual Market Pool or the Superintendent of Insurance related to payment of workers' compensation residual market surcharges continues to be confidential until that information is destroyed.

**LD 1805      An Act To Implement Recommendations of the Right To Know  
Advisory Committee Concerning a Public Records Exception for  
Proposed Legislation, Reports and Working Papers of the Governor**

**DIED IN  
CONCURRENCE**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM A  
ONTP B  
OTP-AM C