

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2013

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MARGARET J. REINSCH, SENIOR ANALYST
SUSAN Z. JOHANNESMAN, ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

STATE OF MAINE

126TH LEGISLATURE

FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th 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 126th Legislature is October 9, 2013. 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

Committee on Judiciary by December 1, 2013 on expanding financial screening by contracting for the screening services. This language was incorporated into the Biennial Budget, Public Law 2013, chapter 368 in Part RRR

This amendment also adds an emergency preamble and an emergency clause.

This bill was committed to the Joint Standing Committee on Appropriations and Financial Affairs and carried over to any special or regular session of the 126th Legislature by joint order, H.P. 1145, as amended by H-B (H-580) and H-C (H-582).

LD 415 **An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device** **PUBLIC 409**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	ONTP	S-106
KRUGER	OTP-AM	S-339 HILL

This bill prohibits a government entity from obtaining the location information of a cellular telephone or other electronic device without a valid warrant, except that a government entity may obtain such information with the consent of the owner or user of the electronic device, to respond to the user's call for emergency services or to respond to certain emergency situations when a warrant cannot be issued in time to avert death or serious physical injury. It also authorizes the Attorney General to designate a law enforcement officer to obtain location information without a warrant in cases where there is an imminent threat of serious physical injury or a threat to national security.

This bill requires a government entity to inform the owner or user of an electronic device that location information was obtained from that person's device within 3 days of obtaining the location information, unless the court determines there is good cause to delay this notification.

This bill also requires judges involved with granting warrants to obtain location information to report their activities regarding the warrants to the Administrative Office of the Courts annually. It directs the Administrative Office of the Courts to provide a summary of those reports to the Legislature.

Committee Amendment "A" (S-106)

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

This amendment clarifies that a government entity that obtains the location information of a cellular telephone or other electronic device without a valid warrant has an obligation to notify the owner or user about obtaining the location information only if the government entity is able to identify the owner or user. Once the government entity identifies the owner or user, the government entity must notify the owner or user within three days. The bill allows a government entity, when applying for a warrant, to request a delay of not more than 90 days in notifying the owner or user. This amendment extends the delay period to up to 180 days.

This amendment deletes from the bill the authorization for the Attorney General to designate an investigative or law enforcement officer to obtain location information without a warrant if there is an imminent threat of death or serious physical injury or a threat to national security. It also deletes from the bill the reporting requirements imposed on judges who issue or deny warrants.

This amendment deletes from the bill the prohibition on the use of evidence obtained in violation of the provisions of the bill, instead relying on Fourth Amendment jurisprudence as it develops through case law to provide for the exclusion of evidence that is improperly obtained.

Joint Standing Committee on Judiciary

This amendment also adds an appropriations and allocations section to the bill.

Senate Amendment "A" To Committee Amendment "A" (S-339)

This amendment replaces the language regarding notice of a search warrant to more closely track the language governing notice contained in L.D. 1377, "An Act To Protect Cellular Telephone Privacy." The change allows the government entity to request, when seeking a search warrant for electronic device location information, that the court waive the requirement that notice be given to the owner or user of the electronic device when a warrant is issued if the notice would result in an adverse result. In addition, this amendment specifies that a government entity must file a statement with the court within a reasonable period of time rather than 48 hours after seeking disclosure.

Enacted Law Summary

Public Law 2013, chapter 409 prohibits a government entity from obtaining the location information of a cellular telephone or other electronic device without a valid warrant, except that a government entity may obtain such information with the consent of the owner or user of the electronic device, to respond to the user's call for emergency services or to respond to certain emergency situations when a warrant cannot be issued in time to avert death or serious physical injury. A government entity that obtains the location information of a cellular telephone or other electronic device without a valid warrant has an obligation to notify the owner or user about obtaining the location information, but only if the government entity is able to identify the owner or user. Once the government entity identifies the owner or user, the government entity must notify the owner or user within 3 days. A government entity may request, when seeking a search warrant for electronic device location information, that the court waive the requirement that notice be given to the owner or user of the electronic device if the notice would result in an adverse result.

LD 419	Resolve, Directing the Family Law Advisory Commission To Study and Report on the Uniform Parentage Act and Other Similar Laws and Proposals	RESOLVE 12
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<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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This resolve directs the Family Law Advisory Commission to study current Maine law, the Uniform Parentage Act as recommended for enactment by the National Conference of Commissioners on Uniform State Laws and other similar laws and proposals and report to the Joint Standing Committee on Judiciary by December 1, 2013, including any necessary implementing legislation.

Enacted Law Summary

Resolve 2013, chapter 12 directs the Family Law Advisory Commission to study current Maine law, the Uniform Parentage Act as recommended for enactment by the National Conference of Commissioners on Uniform State Laws and other similar laws and proposals and report to the Joint Standing Committee on Judiciary by December 1, 2013, including any necessary implementing legislation.

LD 420	An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions	ONTP
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<u>Sponsor(s)</u>	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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This bill implements the recommendations of the Right To Know Advisory Committee relating to existing public records exceptions in the Maine Revised Statutes, Titles 22, 26, 29-A and 38. The bill does the following.