

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
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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

LD 871 An Act To Protect Victims of Domestic Violence by Waiving Their Filing Fees in Divorce Actions

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LACHOWICZ GATTINE	ONTP	

This bill waives the filing fee in a divorce action for a person who has a protection from abuse order in effect against the defendant when the complaint is filed.

LD 872 An Act To Improve the Quality of Guardian ad Litem Services for the Children and Families of Maine

PUBLIC 406

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUTREMBLE VILLA	OTP-AM	S-297 S-343 HILL

This bill is a concept draft pursuant to Joint Rule 208. This bill restructures the current guardian ad litem program in Maine for the greater benefit of children and their kinship supports involved in the crises of divorce and child protection complaints. It is based on the findings and recommendations of the 2006 report, "Performance Audit of Guardians ad litem for Children in Child Protection Cases" submitted to the Government Oversight Committee by the Office of Program Evaluation and Government Accountability. It proposes a comprehensive program governing guardians ad litem appointed under the Maine Revised Statutes, Titles 18-A, 19-A and 22.

Committee Amendment "A" (S-297)

This amendment replaces the bill. It enacts a new chapter on children's guardians ad litem. The chapter uses current requirements for guardians ad litem as a base, and includes some of the recommendations of the reports to the Supreme Judicial Court, "Recommendations for an Improved Process for Complaints Regarding Guardians Ad Litem," dated September 21, 2012, and "Recommendations for Amending the Maine Rules for Guardians Ad Litem," dated January 14, 2013, by the Guardian Ad Litem Stakeholders Group. Under the new chapter, guardians ad litem appointed under the Maine Revised Statutes, Title 18-A are subject to the general provisions and rules adopted by the Supreme Judicial Court, including the complaint process. Guardians ad litem appointed under Title 19-A and Title 22 are subject to the general provisions and the rules, as well as specific provisions for the different types of cases.

The amendment directs the family division within the judicial branch to assist the Chief Judge of the District Court to roster guardians ad litem and in the administration of guardians ad litem appointed under Title 19-A and Title 22. The amendment requires the family division to collect, maintain and report data about the appointment of guardians ad litem, reports, caseloads and other information.

The amendment clarifies the process of rostering guardians ad litem, although the details will be established by rules adopted by the Supreme Judicial Court. The rules must include criminal background checks.

The amendment establishes in statute the role of a guardian ad litem and requires compliance with standards of conduct, which will be adopted by rule by the Supreme Judicial Court.

The order of appointment must specify the duties of the guardian ad litem. A guardian ad litem has no authority to perform and will not be expected to perform any duties beyond those specified in the order, unless subsequently ordered to do so by the court.

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The order appointing a guardian ad litem in a case under Title 18-A and Title 19-A must also specify the hourly rate or flat fee for the guardian ad litem, the timing of the payments to be made and by whom and the maximum amount of fees that may be charged for the case without further order of the court.

The amendment requires the Supreme Judicial Court to provide by rule for a complaint process concerning guardians ad litem. The complaint process is in addition to the right of a party to file a motion to remove the guardian ad litem while the case is pending.

The entire chapter is repealed October 1, 2017.

The judicial branch is directed to include guardian ad litem elements in its request for proposals for the new case management system for the courts.

The Chief Judge of the District Court is directed to report to the Joint Standing Committee on Judiciary by February 15, 2014 on the adoption of rules to implement the new chapter, establishment of a complaint process, recommendations concerning evaluations by parties and the adoption of standards of conduct for guardians ad litem.

The amendment also adds an appropriations and allocations section.

Senate Amendment "A" To Committee Amendment "A" (S-343)

This amendment removes guardians ad litem appointed under the Maine Revised Statutes, Title 22 from the provisions covering data reporting, standardized billing and other administrative requirements. It establishes January 1, 2015 as the effective date for the provisions of the bill that address the administration of guardians ad litem, the post-judgment evaluation policy and the reporting requirement. It also replaces the appropriations and allocations section to provide funding for one full-time position and one part-time position for the Judicial Department.

Enacted Law Summary

Public Law 2013, chapter 406 enacts a new chapter on children's guardians ad litem. The chapter uses current requirements for guardians ad litem as a base, and includes some of the recommendations of the reports to the Supreme Judicial Court, "Recommendations for an Improved Process for Complaints Regarding Guardians Ad Litem," dated September 21, 2012, and "Recommendations for Amending the Maine Rules for Guardians Ad Litem," dated January 14, 2013, by the Guardian Ad Litem Stakeholders Group. Under the new chapter, guardians ad litem appointed under the Maine Revised Statutes, Title 18-A are subject to the general provisions and rules adopted by the Supreme Judicial Court, including the complaint process. Guardians ad litem appointed under Title 19-A and Title 22 are subject to the general provisions and the rules, as well as specific provisions for the different types of cases, although the provisions concerning the administration of guardians ad litem apply to only those appointed under Title 19-A.

The family division within the judicial branch will assist the Chief Judge of the District Court to roster guardians ad litem and in the administration of guardians ad litem appointed under Title 19-A. The family division will collect, maintain and report data about the appointment of guardians ad litem, reports, caseloads and other information, beginning January 1, 2015.

Public Law 2013, chapter 406 provides basic requirements for the rostering of guardians ad litem, although the details will be established by rules adopted by the Supreme Judicial Court. The rules must include criminal background checks.

Public Law 2013, chapter 406 establishes in statute the role of a guardian ad litem and requires compliance with standards of conduct, which will be adopted by rule by the Supreme Judicial Court.

The order of appointment must specify the duties of the guardian ad litem. A guardian ad litem has no authority to

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perform and will not be expected to perform any duties beyond those specified in the order, unless subsequently ordered to do so by the court.

The order appointing a guardian ad litem in a case under Title 18-A and Title 19-A must also specify the hourly rate or flat fee for the guardian ad litem, the timing of the payments to be made and by whom and the maximum amount of fees that may be charged for the case without further order of the court.

The Supreme Judicial Court shall provide by rule for a complaint process concerning guardians ad litem. The complaint process is in addition to the right of a party to file a motion to remove the guardian ad litem while the case is pending.

The entire chapter on children's guardians ad litem is repealed October 1, 2017.

The judicial branch is directed to include guardian ad litem elements in its request for proposals for the new case management system for the courts.

The Chief Judge of the District Court is directed to report to the Joint Standing Committee on Judiciary by February 15, 2017 on the adoption of rules to implement the new chapter, establishment of a complaint process, recommendations concerning evaluations by parties and the adoption of standards of conduct for guardians ad litem. Funding is provided for one full-time position and one part-time position for the Judicial Department beginning January 1, 2015.

LD 884 An Act To Improve Death Investigations

PUBLIC 113

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY GRAHAM	OTP	

This bill allows the Chief Medical Examiner to appoint qualifying persons who are not physicians as medicolegal death investigators with the authority to go to death scenes and conduct investigations and inquiries into the cause, manner and circumstances of death in medical examiner cases. Medicolegal death investigators may be employees of the Office of the Chief Medical Examiner or serve on a fee-for-service basis as determined by the Chief Medical Examiner.

Enacted Law Summary

Public Law 2013, chapter 113 allows the Chief Medical Examiner to appoint qualifying persons who are not physicians as medicolegal death investigators with the authority to go to death scenes and conduct investigations and inquiries into the cause, manner and circumstances of death in medical examiner cases. Medicolegal death investigators may be employees of the Office of the Chief Medical Examiner or serve on a fee-for-service basis as determined by the Chief Medical Examiner.

LD 900 An Act Regarding the Disclosure of Certain Records in Criminal Matters

PUBLIC 201

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION KATZ	OTP	

This bill allows state, county and municipal government employers to disclose otherwise confidential personnel records to prosecutors when it is necessary for the determination of whether or not a defendant has a constitutional