

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
126<sup>TH</sup> 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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# STATE OF MAINE

126<sup>TH</sup> 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 126<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.

*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 126<sup>th</sup> 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*

H-C (H-582).

**LD 1428 An Act To Protect Religious Freedom**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS TIMBERLAKE		

This bill creates the Preservation of Religious Freedom Act, which allows a person whose right to exercise the person's religion is burdened by a government law or exercise of authority to bring an action in court seeking equitable or monetary damages unless the government remedies the burden or shows that the law or exercise of authority is the least restrictive means of furthering a compelling governmental interest.

This bill was 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 1445 An Act To Facilitate Children's Testimony**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TYLER BURNS	OTP-AM ONTP	

This bill allows a court, by motion from the State, to allow the testimony of a child who is 10 years of age or younger and the alleged victim of a sexual assault or sexual exploitation outside of the presence of the defendant if the court finds by clear and convincing evidence that the protection of the judicial process or the well-being of the child outweighs the constitutional rights of the defendant to confront the defendant's accuser. This bill requires that testimony by a child victim outside the presence of the defendant must be televised by live, two-way closed-circuit television with adequate provisions including that the court, jury and defendant can hear and observe the child. This bill does not allow testimony of a child outside of the presence of the defendant if the defendant is an attorney pro se or if a positive identification of the defendant by the child is required.

**Committee Amendment "A" (H-385)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. It removes from the bill the provision providing that the court, before allowing special procedures for a child's testimony, must find that the constitutional rights of the defendant are outweighed. The amendment also adds an appropriations and allocations section.

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 1450 An Act To Connect the Citizens of the State to the State's Natural Resources by Establishing Standards for Relief from Regulatory Burdens**

**ACCEPTED MAJORITY (ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS CHASE	ONTP OTP-AM	

## *Joint Standing Committee on Judiciary*

This bill establishes standards for relief when state regulation imposes an inordinate burden on an individual property owner, as well as efficient mechanisms for pursuit of such relief.

The bill provides that, if a property owner's right to use, divide, sell, occupy or possess real property is reduced by the enactment or application of a government regulation, the property owner may seek and obtain relief.

Under the provisions of the bill, prior to filing an action, the property owner must pursue relief under a land use mediation program.

### **Committee Amendment "A" (S-280)**

This amendment is the minority report of the Joint Standing Committee on Judiciary. It deletes from the bill the chapter on regulatory fairness review and removes provisions related to that chapter.

This amendment was not adopted.

### **LD 1469     An Act To Ensure Ethical Standards for Court Reporters**

**PUBLIC 298**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODALL BERRY	OTP-AM	S-176

This bill establishes ethical standards and requirements for the provision of court reporting services, including prohibitions against providers of court reporting services:

1. Providing services if the court reporter is a party to or has a financial interest in the proceeding;
2. Entering into contracts for more than one case, action or legal proceeding with an attorney, party to an action, insurance company, third-party administrator or any other person or entity that has a financial interest in the case, action or legal proceeding; and
3. Providing additional advocacy or litigation support services, including, but not limited to, trial preparation assistance, deposition summaries and nonpublished transcript databases.

### **Committee Amendment "A" (S-176)**

This amendment:

1. Clarifies that the legislation does not apply to the Judicial Branch;
2. Allows contracts for more than one case;
3. Deletes restrictions on preferred provider lists;
4. Provides that only a party may file a motion in a pending action;
5. Clarifies that this legislation does not limit authority of courts;
6. Eliminates the requirement of periodic reports; and
7. Eliminates the private cause of action.