

# 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**

**LD 1523 An Act To Strengthen the Laws Governing Mandatory Reporting of Child Abuse or Neglect**

**PUBLIC 268**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY	OTP-AM	H-388

This bill adds specific categories of injury for which mandatory reporting of child abuse or neglect is required for children who are under six months of age or otherwise nonambulatory. The bill makes any failure to report by a mandated reporter a Class E crime. The bill requires a person in the professional categories required to report suspected child abuse or neglect to have completed mandated reporter training within the previous five years before a professional license or certification may be issued or renewed. The bill also permits the Commissioner of Health and Human Services to revoke the license of a youth camp if an officer or agent of the camp fails to make a required report.

**Committee Amendment "A" (H-388)**

This amendment removes from the bill the training requirement for mandated reporters. It removes "failure to thrive" from the list of required reportable circumstances. It removes the provision that makes failure to report a Class E crime and the provision that permits the Commissioner of Health and Human Services to revoke a youth camp license for failure to report suspected child abuse or neglect.

**Enacted Law Summary**

Public Law 2013, chapter 268 adds specific categories of injury for which mandatory reporting of child abuse or neglect is required for children who are under six months of age or otherwise non-ambulatory.

**LD 1536 An Act To Correct Errors and Inconsistencies in the Laws of Maine**

**PUBLIC 424  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-566 H-576 PRIEST H-569 PRIEST H-570 PRIEST H-571 PRIEST H-572 PRIEST H-573 PRIEST H-574 PRIEST H-577 PRIEST H-578 PRIEST S-369 VALENTINO

PART A corrects technical errors and omissions throughout the laws of Maine.

Part B, Part C and Part D correct conflicts, cross-references and other technical errors related to the reorganization of the Departments of Agriculture and Conservation.

**Committee Amendment "A" (H-566)**

This amendment strikes out 15 sections from Part A of the bill. This amendment strikes Parts B, C and D from the bill because the corrections are correctly addressed in Legislative Document 837, "An Act To Clarify the Laws

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Establishing the Department of Agriculture, Conservation and Forestry," of this Legislature. This amendment adds new Parts B and C as follows.

Part B of the amendment does the following.

Section 1 removes a comma to reflect the intent of the provision of law concerning cost-of-living adjustments to retirement benefits.

Section 2 repeals a provision of law that states that consumer cooperative associations are subject to Title 32, chapter 13, which was repealed in 1985. Title 32, chapter 135, the successor to chapter 13, exempts securities issued by associations such as consumer cooperatives.

Section 3 amends Title 15, section 103, 2nd paragraph to provide consistency with changes made in Public Law 2011, chapter 542, which implemented the recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council regarding respectful language developed pursuant to Public Law 2011, chapter 186, Part B.

Section 4 amends the Maine Juvenile Code to correct a cross-reference concerning the decision whether to release or further detain a juvenile arrested for a crime under Title 12 or Title 29-A.

Section 5 corrects a conflict created by Initiated Bill 2011, chapter 1, section 3 and Public Law 2011, chapter 511, section 1, which affected the same provision of law, by incorporating the changes made by both laws concerning applications for recording notice of intention of marriage.

Sections 6 and 7 correct cross-references to the Uniform Child Custody Jurisdiction and Enforcement Act. Public Law 1999, chapter 486 repealed the Uniform Child Custody Jurisdiction Act and replaced it with the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 8 amends the protection from abuse statutes concerning batterers' intervention programs. Resolve 2013, chapter 3 provides for immediate changes to the rules governing batterers' intervention programs in response to a court decision that identified an unconstitutional regulatory scheme. The rules are designated as major substantive rules in Title 19-A, section 4014, subsection 1. Resolve 2013, chapter 3 provided that, notwithstanding Title 19-A, section 4014, subsection 1, all rules or amendments to rules on the subject of the certification of batterers' intervention programs are considered routine technical rules. Section 8 amends Title 19-A, section 4014, subsection 1 to be consistent with Resolve 2013, chapter 3.

Section 9 replaces Part A, section 15 of the bill. It clarifies that elements of the record of the certificate of need application process include the actuarial analysis undertaken by the Superintendent of Insurance when the analysis is required by the Commissioner of Health and Human Services.

Section 10 corrects a conflict created by Public Law 2011, chapters 542 and 655, which affected the same provision of law, by incorporating the changes made by both laws concerning growth management programs and capital investments.

Section 11 corrects a clerical error in Title 32, section 4693, subsection 2, which provides 2 options for the notice that must be included in the disclosure statement that is required to be made to a consumer purchasing a business opportunity in this State. The first option applies when the seller has secured a surety bond from a surety company, and the 2nd option applies when the seller has established an escrow account at a licensed bank or savings institute. The current law regarding the 2nd option erroneously contains a reference to a surety company. This section corrects that reference so that it refers to a licensed bank or savings institute.

Section 12 corrects a statutory reference to the definition of "public member" in the law governing the State Board

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of Social Worker Licensure.

Section 13 corrects a conflict created by Public Law 2011, chapters 515 and 662, which amended Title 34-A, section 1216, subsection 1 in 2 different ways by incorporating the changes made by both public laws concerning limited disclosure of records of persons receiving services from the Department of Corrections.

Section 14 corrects a conflict created by Public Law 2011, chapters 637 and 655, which affected the same provision of law, by incorporating the changes made by both laws concerning the membership of the Efficiency Maine Trust Board.

Part C of the amendment does the following.

Section 1 amends Resolve 2013, chapter 22 to delete the required membership of a specific private corporation in a working group on applied learning opportunities in elementary schools and middle schools.

Section 2 provides authority for the Secretary of State to accept a filing to change the assumed name of a limited liability company without fee if the limited liability company had filed a statement between July 1, 2011 and May 3, 2013 for use of an assumed name containing certain required terms or abbreviations. A fee will not be charged if the new assumed name is the same as filed but without the required term or abbreviation. The new filing for change of name must be made on or before October 1, 2013 to avoid the fee.

### **House Amendment "G" To Committee Amendment "A" (H-576)**

This amendment corrects a reference in the list of divisions and programs within the Department of Agriculture, Conservation and Forestry, Bureau of Resource Information and Land Use Planning to the Land for Maine's Future Program.

### **House Amendment "A" To Committee Amendment "A" (H-569)**

This amendment corrects a numbering problem created by Public Law 2013, chapters 246 and 311, which enacted 2 substantially different sections of law using the same section number. Section 1 repeals the version of Title 10, section 8010 enacted by chapter 311 and section 2 enacts the language as Title 10, section 8011, but without a sentence that was inadvertently not deleted from Legislative Document 1137, "An Act To Facilitate Veterans' and Their Spouses' Access to Employment, Education and Training," by the committee amendment to that legislative document.

### **House Amendment "B" To Committee Amendment "A" (H-570)**

This amendment amends changes made by Public Law 2013, chapter 256 concerning appointments to the Maine Land Use Planning Commission.

Section 1 clarifies the law to reflect the Joint Standing Committee on Agriculture, Conservation and Forestry's intent that the terms of the members of the commission appointed and confirmed under the existing appointment process would not be affected by the provisions of the new law that prohibit a county commissioner from serving simultaneously as a member of the commission.

Public Law 2013, chapter 256, section 17 establishes a system of staggered terms for commission members. Appointments have been made under the current law, which provides for 4-year terms, setting up an inconsistency with the proposed staggered terms. Section 2 repeals Public Law 2013, chapter 256, section 17, eliminating the inconsistency between the staggered terms language in that section and the length of terms that are currently in place for appointees to the commission who have been or are likely to be confirmed for appointment to the board this calendar year.

### **House Amendment "C" To Committee Amendment "A" (H-571)**

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This amendment deletes a provision of Committee Amendment "A" striking a section of the bill correcting a conflict. The committee amendment struck the section because the conflict was being corrected by another bill; however, the other bill was vetoed and the veto was sustained.

### **House Amendment "D" To Committee Amendment "A" (H-572)**

This amendment adds a section that changes a reference to a chapter to a reference to a subchapter to correct an apparent clerical error concerning membership camping.

### **House Amendment "E" To Committee Amendment "A" (H-573)**

This amendment repeals a word in the law on medical use of marijuana that was erroneously included in the enacted law. The amendment deletes the word "medical" from the phrase "emergency medical services personnel" to achieve the intended result of access to legitimate marijuana cultivation sites for all emergency services personnel.

### **House Amendment "F" To Committee Amendment "A" (H-574)**

This amendment establishes an effective date of July 1, 2013 for Public Law 2013, chapter 368, Pt. EE, which increases assessments for the Victims' Compensation Fund.

### **House Amendment "H" To Committee Amendment "A" (H-577)**

This amendment corrects a reporting date for the Education Coordinating Committee in Public Law 2013, chapter 368. The amendment requires the Education Coordinating Committee to report to the Joint Select Committee on Maine's Workforce and Economic Future the findings and recommendations of its study of adult remedial education by December 16, 2013.

### **House Amendment "I" To Committee Amendment "A" (H-578)**

This amendment corrects a conflict created when Public Law 2013, chapters 337 and 356 amended the law concerning the review of requests for students to transfer from one school administrative district to another.

The amendment repeals and replaces the Maine Revised Statutes, Title 20-A, section 5205, subsection 6, paragraph B with the version included in Public Law 2013, chapter 337. The change made in chapter 356 was a grammatical correction that is no longer needed.

### **Senate Amendment "A" (S-369)**

This amendment clarifies that the Act takes effect when approved, except as otherwise indicated.

### **Enacted Law Summary**

Public Law 2013, chapter 424, Part A corrects technical errors and inconsistencies throughout the Laws of Maine.

Part B and Part C, added by Committee Amendment "A," correct additional errors and inconsistencies, some of which are substantive.

Part D, added by House Amendment "A" to Committee Amendment "A," corrects a numbering problem created by Public Law 2013, chapters 246 and 311, which enacted 2 substantially different sections of law using the same section number. Section D-1 repeals the version of Title 10, section 8010 enacted by chapter 311 and section D-2 enacts the language as Title 10, section 8011, but without a sentence that was inadvertently not deleted from Legislative Document 1137, "An Act To Facilitate Veterans' and Their Spouses' Access to Employment, Education and Training," by the committee amendment to that legislative document.

Part E, added by House Amendment "B" to Committee Amendment "A," amends changes made by Public Law 2013, chapter 256 concerning appointments to the Maine Land Use Planning Commission.

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Part F, added by House Amendment "D" to Committee Amendment "A," adds a section that changes a reference to a chapter to a reference to a subchapter to correct an apparent clerical error concerning membership camping.

Part G, added by House Amendment "E" to Committee Amendment "A," repeals a word in the law on medical use of marijuana that was erroneously included in the enacted law. Section G-1 deletes the word "medical" from the phrase "emergency medical services personnel" to achieve the intended result of access to legitimate marijuana cultivation sites for all emergency services personnel.

Part H, added by House Amendment "F" to Committee Amendment "A," establishes an effective date of July 1, 2013 for Public Law 2013, chapter 368, Pt. EE, which increases assessments for the Victims' Compensation Fund.

Part I, added by House Amendment "H" to Committee Amendment "A," corrects a reporting date for the Education Coordinating Committee in Public Law 2013, chapter 368.

Part J, added by House Amendment "I" to Committee Amendment "A," corrects a conflict created when Public Law 2013, chapters 337 and 356 amended the law concerning the review of requests for students to transfer from one school administrative district to another.

Part K, added by House Amendment "G" to Committee Amendment "A," corrects a reference in the list of divisions and programs within the Department of Agriculture, Conservation and Forestry, Bureau of Resource Information and Land Use Planning to the Land for Maine's Future Program.

Public Law 2013, chapter 424, was enacted as an emergency measure effective July 16, 2013.

**LD 1564      Resolve, Approving the 2013 Draft and Arrangement of the  
Constitution of Maine Made by the Chief Justice of the Supreme  
Judicial Court and Providing for Its Publication and Distribution**

**RESOLVE 75  
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

This resolve was acted upon without reference to committee.

Passage of this resolve by the Legislature constitutes approval of the Constitution of Maine as arranged by the Chief Justice of the Supreme Judicial Court pursuant to the Constitution of Maine, Article X, Section 6. The text of the Constitution of Maine as recodified by the Chief Justice is appended to the resolve as Appendix "A."

**Enacted Law Summary**

Resolve 2013, chapter 75 provides the Legislature's approval of the 2013 draft and arrangement of the Constitution of Maine by the Chief Justice of the Supreme Judicial Court pursuant to the Constitution of Maine, Article X, Section 6.

Resolve 2013, chapter 75 was finally passed as an emergency measure effective June 18, 2013 and deposited in the Office of the Secretary of State pursuant to the Constitution of Maine, Article X, Section 6. (Governor's signature not required.)