

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2015

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STATE OF MAINE

127TH 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 127th 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. An appendix provides a summary of relevant session statistics.

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 & 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&S XXX</i>	<i>chapter # of enacted private & 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 First Regular Session of the 127th Legislature is October 15, 2015. 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 71 An Act To Amend the Laws Governing Service of Process in Eviction
Actions**

PUBLIC 22

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

This bill repeals language that was included when this section of law was amended in 2013 that required the law to be repealed September 1, 2016, at which time the original law would go back into effect. The section of law that continues in effect requires that a plaintiff in an eviction case mail and post the summons as well as the complaint after three good faith attempts to serve the defendant in hand have been unsuccessful. It requires the plaintiff to file an affidavit that the service has occurred, as is required under Rule 4 of the Maine Rules of Civil Procedure when the court orders service by the mailing and posting of the summons and complaint.

Enacted Law Summary

Public Law 2015, chapter 22 repeals language that was included when this section of law was amended in 2013 that required the law to be repealed September 1, 2016, at which time the original law would go back into effect. The section of law that continues in effect requires that a plaintiff in an eviction case mail and post the summons as well as the complaint after three good faith attempts to serve the defendant in hand have been unsuccessful. It requires the plaintiff to file an affidavit that the service has occurred, as is required under Rule 4 of the Maine Rules of Civil Procedure when the court orders service by the mailing and posting of the summons and complaint.

**LD 83 An Act To Strengthen the Consent Laws for Abortions Performed on
Minors and Incapacitated Persons**

**Accepted Majority
(ONTP) Report**

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

This bill repeals the current law concerning consent for a minor's abortion.

This bill requires the written consent of a parent or legal guardian before an abortion may be performed on a minor or an incapacitated person. Consent may be given in certain circumstances by a brother or sister who is at least 21 years of age or by a stepparent or a grandparent. Consent is not required in a medical emergency. The Probate Court or District Court may issue an order for the purpose of consenting to the abortion in two circumstances. First, the court may waive the need for third-party consent if it finds by clear and convincing evidence that the petitioner is both sufficiently mature and well-informed to decide whether to have an abortion. Second, the court may waive the need for third-party consent if the court finds by clear and convincing evidence that there is a pattern of physical or sexual abuse or neglect of the petitioner by one or both of her parents or her guardian or that notification of a parent or guardian is not in the best interests of the petitioner.

Committee Amendment "A" (S-197)

This amendment, which is the minority report of the committee, replaces the bill. The amendment deletes references to abortions performed on incapacitated persons.

The amendment retains current law concerning the consent necessary for a physician to perform an abortion on a pregnant minor, but the amendment provides that an abortion may not be performed unless, in addition to the minor's receiving information and counseling, at least one of the minor's parents or guardian or adult family member consents to the abortion. The amendment does not permit a minor or a counselor to consent to an abortion without a

Joint Standing Committee on Judiciary

parent's consenting, except that the amendment permits a physician to perform an abortion without the required consent if the physician determines that a medical emergency exists. The amendment retains the judicial bypass in current law that allows a minor or next friend of the minor to petition the Probate Court or District Court for consent rather than obtaining parental consent. This amendment limits who may act as the next friend of the minor to adult family members and counselors. If a pregnant minor files a petition in the Probate Court or District Court for consent to an abortion without parental consent, the court may appoint a guardian ad litem for the minor, and the guardian ad litem is directed to act to maintain the confidentiality of the proceedings.

LD 111 An Act To Ensure That Defendants Receive Proper Notification in Foreclosure Proceedings Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAUGHTRY MILLETT	OTP-AM	H-391

This bill requires that the notice of right to cure and all other notices and correspondence sent by a mortgagee to the mortgagor in a foreclosure action must be sent by certified mail.

Committee Amendment "A" (H-391)

This amendment replaces the bill. It requires the mortgagee to send the right to cure notice by both certified mail, return receipt requested, and ordinary mail.

The time the notice is given to the mortgagor or cosigner is the sooner of:

1. The date the mortgagor or cosigner signs the receipt or, if the notice is undeliverable, the date the post office last attempts to deliver it, under the Maine Revised Statutes, Title 14, section 6111, subsection 3, paragraph A; and
2. The date the mortgagor or cosigner receives the notice under Title 14, section 6111, subsection 3, paragraph B. A post office department certificate of mailing to the mortgagor or cosigner is conclusive proof of receipt on the 7th calendar day after mailing when notice is provided under Title 14, section 6111, subsection 3, paragraph B.

LD 136 An Act To Clarify That the Medical Records of Applicants for Disability Variances Submitted to Municipal Boards of Appeal Are Not Public Records PUBLIC 152

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MONAGHAN	OTP-AM	H-163

This bill provides that documents submitted to a municipal board of appeals or a municipal code enforcement officer that describe or verify the disability of a person who is seeking a variance from municipal zoning ordinances in order to accommodate the disability are not public records pursuant to the Freedom of Access Act.

Committee Amendment "A" (H-163)

This amendment clarifies that all medical records submitted to a municipal board of appeals or a code enforcement officer and any other documents submitted for the purpose of describing or verifying a person's disability are confidential. The amendment addresses a concern that under the language in the bill, medical records submitted to the board or code enforcement officer that do not actually describe or verify a person's disability but nonetheless contain private information would become public records.

Enacted Law Summary