

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

- 2. Allows a cause of action and the award of punitive damages against guardians ad litem who falsely accuse parties of abuse or neglect or who intentionally exclude relevant information from reports to the parties or the court;
- 3. Requires the court to impose limits on the extent of investigations to be undertaken by a guardian ad litem;
- 4. Requires all guardians ad litem to have a minimum amount of completed course work in social work; and
- 5. Requires the court to set expenditure limits on guardian ad litem fees and any other costs incurred in investigations or the completion of the duties of the appointment.

LD 351 An Act To Reinstate as a Nonprofit Corporation the Orchard Hills Umbrella Association ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KORNFIELD GRATWICK	ONTP	

This bill reinstates the Orchard Hills Umbrella Association, a nonprofit corporation with the purpose of maintaining the Orchard Hills Parkway in the City of Bangor that was administratively dissolved by the Secretary of State in 1989. See LD 1425, Public Law 2015, chapter 254.

LD 360 An Act To Clarify That the Information Gathered during Investigations of Attorneys by the Maine Commission on Indigent Legal Services Is Confidential PUBLIC 290

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

This bill clarifies that information obtained or gathered by the Maine Commission on Indigent Legal Services when the commission is performing an investigation of an attorney is confidential. The bill retains the provision of current law that provides that information obtained or gathered by the commission when performing an evaluation of an attorney is confidential.

Enacted Law Summary

Public Law 2015, chapter 290 clarifies that information obtained or gathered by the Maine Commission on Indigent Legal Services when the commission is performing an investigation of an attorney is confidential.

LD 401 An Act To Create Transparency in the Mortgage Foreclosure Process PUBLIC 229

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAVERS JOHNSON	OTP-AM	H-257

This bill requires a mortgage loan owner to conduct a foreclosure in the name of the mortgage loan owner, instead of a mortgage loan servicer, to ensure that courts and parties know that the foreclosing plaintiff is the mortgage loan owner and the entity whose loan modification programs affect the ability of homeowners to obtain loan modifications.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-257)

This amendment replaces the bill but still requires proof of the owner of the mortgage note to be included in the foreclosure complaint.

The Maine Rules of Civil Procedure, Rule 12(b)(6) provides that a complaint must be dismissed if it fails to state a claim upon which relief can be granted. This amendment makes a foreclosure case subject to dismissal if it does not include a certification of proof of the owner of the mortgage note. The purpose of this amendment is to remove the ambiguity left by the Law Court in *Bank of America v. Cloutier*, 2013 ME 17, 61 A.3d. 1242, in which it held that the plaintiffs must identify the owner of a loan but did not say when and how that identification must occur. This amendment requires the identification at the beginning of the lawsuit when the parties most need that information as they engage in mediation and loan modification efforts.

Enacted Law Summary

Public Law 2013, chapter 229 makes a foreclosure case subject to dismissal if it does not include a certification of proof of the owner of the mortgage note. Chapter 229 removes the ambiguity left by the Maine Law Court in *Bank of America v. Cloutier*, 2013 ME 17, 61 A.3d. 1242, in which the Law Court held that the plaintiffs must identify the owner of a loan but did not say when and how that identification must occur. The identification must be made at the beginning of the lawsuit when the parties most need that information as they engage in mediation and loan modification efforts.

LD 416 An Act To Provide for Direct Appeals under the Maine Juvenile Code to the Supreme Judicial Court PUBLIC 100

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION	OTP-AM	H-92

The purpose of this bill is to eliminate duplicative appeals from the juvenile court. Under current law, all appeals from adjudications in juvenile court go first to the Superior Court, with a second appeal available at the Supreme Judicial Court. This bill provides instead that appeals are brought directly to the Supreme Judicial Court.

Committee Amendment "A" (H-92)

This amendment lengthens the amount of time for an appeal from the juvenile court from 7 days to 21 days from the date of the entry of an order of disposition or other appealed order. The Supreme Judicial Court retains its authority to expand the time limit pursuant to a rule of the court.

Enacted Law Summary

Public Law 2015, chapter 100 provides that all appeals from adjudications in juvenile court go directly to the Supreme Judicial Court. The appeal must be filed within 21 days from the date of the entry of an order of disposition or other appealed order. The Supreme Judicial Court retains its authority to expand the time limit pursuant to a rule of the court.

LD 434 An Act To Promote Equity in the Joint and Several Liability Law in Maine Accepted Majority (ONTP) Report

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