

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

May 2016

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# STATE OF MAINE

127<sup>TH</sup> 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 Second Regular Session of the 127<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. 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.

*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 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 127<sup>th</sup> Legislature is July 29, 2016. 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*

that a complaint for review of a municipal decision on a significant land use project may be filed with either the general docket of the Superior Court, as in current law, or directly with the Business and Consumer Docket in the Superior Court established by the Maine Supreme Judicial Court by Administrative Order JB-07-1 (A.11-08). It also provides that, if a complaint is filed with the general docket, any party to the appeal may request that the complaint be transferred to the Business and Consumer Docket and the Business and Consumer Docket is required to accept the transfer.

The amendment requires that a defendant municipality must file the record of the proceedings being reviewed as agreed upon by the parties within 35 days of the commencement of the action, as opposed to 40 days pursuant to current court rules, unless the court extends the time for cause. The plaintiff is required to reimburse the municipality for the cost of producing the record.

A party may appeal the Superior Court decision of a significant municipal land use decision, whether from the general docket or the Business and Consumer Docket, to the Supreme Judicial Court. Upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.

### **Committee Amendment "B" (H-603)**

This amendment is the minority report of the committee. It is identical to Committee Amendment "A" except that it does not require a plaintiff filing a complaint for review of a municipal decision on a significant land use project to reimburse the municipality for the cost of producing the record of the proceedings being reviewed.

This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2015, chapter 459 provides that a complaint for review of a municipal decision on a significant land use project may be filed with either the general docket of the Superior Court, as in current law, or directly with the Business and Consumer Docket in the Superior Court established by the Maine Supreme Judicial Court by Administrative Order JB-07-1 (A.11-08). It also provides that, if a complaint is filed with the general docket, any party to the appeal may request that the complaint be transferred to the Business and Consumer Docket and the Business and Consumer Docket is required to accept the transfer.

This law requires that a defendant municipality must file the record for review as agreed upon by the parties within 35 days of the commencement of the action, as opposed to 40 days pursuant to current court rules, unless the court extends the time for cause. The plaintiff is required to reimburse the municipality for the cost of producing the record.

A party may appeal the Superior Court decision of a significant municipal land use decision, whether from the general docket or the Business and Consumer Docket, to the Supreme Judicial Court. Upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.

**LD 778**

**Resolve, Regarding Legislative Review of Portions of Chapter 3:  
Eligibility Requirements for Specialized Case Types, a Late-filed Major  
Substantive Rule of the Maine Commission on Indigent Legal Services**

**RESOLVE 75  
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This resolve was carried over from the First Regular Session of the 127th Legislature.

This resolve provides for legislative review of portions of Chapter 3: Eligibility Requirements for Specialized Case Types, a major substantive rule of the Maine Commission on Indigent Legal Services that was filed outside the

## *Joint Standing Committee on Judiciary*

legislative rule acceptance period.

### **Enacted Law Summary**

Resolve 2015, chapter 75 authorizes final adoption of portions of Chapter 3: Eligibility Requirements for Specialized Case Types, a major substantive rule of the Maine Commission on Indigent Legal Services.

Resolve 2015, chapter 75 was finally passed as an emergency measure effective March 29, 2016.

### **LD 890      An Act To Ensure a Continuing Home Court for Cases Involving Children**

**PUBLIC 460**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MONAGHAN K	OTP-AM ONTP	H-522

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill extends the jurisdiction of the District Court to be concurrent with the courts of probate over matters concerning custody or other parental rights of a child under the Maine Revised Statutes, Title 18-A, including, but not limited to, adoption, termination of parental rights, change of name and guardianship of a minor. The District Court has exclusive, continuing jurisdiction over a matter concerning custody or other parental rights of a child if an interim or final order concerning the child was entered in the District Court and remains in effect, proceedings seeking such an order are pending in the District Court or a matter has been removed to the District Court from the Probate Court.

This bill provides that, in any matter concerning custody or other parental rights of a child, the judge of the District Court or the probate judge who is presiding must require all parties to disclose whether they have knowledge of any interim or final order then in effect concerning custody or other parental rights of the minor child, any proceeding seeking such an order or other related actions currently filed or pending before any court of this or another state. If the proceeding is in a Probate Court and the judge determines that the District Court has exclusive, continuing jurisdiction, the judge of probate must transfer the case to the District Court.

Upon petition by a party to a proceeding involving guardianship, adoption, change of name or other matters concerning custody or other parental rights of a minor child brought in probate court, the proceeding may be removed to the District Court under such procedures as the Supreme Judicial Court may by rule provide if any civil matter involving the minor child is pending or has been finally adjudicated in the District Court.

### **Committee Amendment "A" (H-522)**

This amendment is the majority report of the Joint Standing Committee on Judiciary. This amendment replaces the bill but retains the overall concept of establishing one court in which proceedings involving custody and other parental rights with respect to a child will take place.

### **Enacted Law Summary**

Public Law 2015, chapter 460 extends the jurisdiction of the District Court to include exclusive jurisdiction over matters involving custody or other parental rights of a child under the Maine Revised Statutes, Title 18-A, including, but not limited to, adoption, termination of parental rights, change of name and guardianship of a minor, if proceedings concerning the child are pending in the District Court.

Chapter 460 provides that, in any matter involving custody or other parental rights of a child, the judge of the District Court or the probate judge who is presiding must require all parties to disclose whether the parties have knowledge of any existing order or if any proceeding involving custody or other parental rights is currently filed or