

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

STATE OF MAINE
127TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

May 2016

STAFF:

MARGARET J. REINSCH, SENIOR LEGISLATIVE ANALYST
HENRY D. FOUTS, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670
<http://legislature.maine.gov/legis/opla>

MEMBERS:

SEN. DAVID C. BURNS, CHAIR
SEN. AMY F. VOLK
SEN. CHRISTOPHER K. JOHNSON

REP. BARRY J. HOBBS, CHAIR
REP. KIMBERLY J. MONAGHAN
REP. MATTHEW W. MOONEN
REP. JOYCE MCCREIGHT
REP. CHARLOTTE WARREN
REP. STACEY K. GUERIN
REP. ROGER L. SHERMAN
REP. PHYLLIS A. GINZLER
REP. LLOYD C. HERRICK
REP. JEFFREY EVANGELOS
REP. THEODORE BEAR MITCHELL I

STATE OF MAINE

127TH LEGISLATURE

SECOND 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 Second 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.

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 127th 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

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

Joint Standing Committee on Judiciary

pending or if any other related action is pending before any court of this State or another state. If the proceeding is in a probate court in this State, the judge of probate must transfer the case to the District Court.

LD 951 An Act To Restore Judicial Discretion in the Administration of Fines ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M BRAKEY E	ONTP	

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

This bill:

1. Lowers the maximum amount of earnings that may be garnished to enforce payment of a judgment arising from a consumer credit transaction;
2. Makes some criminal fines discretionary rather than mandatory;
3. Prohibits revoking probation solely on the basis of failure to pay a fine;
4. Allows the court to reduce a fine in limited circumstances upon a showing of indigence;
5. Prohibits incarceration solely for failure to pay a fine;
6. Eliminates the failure to pay warrant; and
7. Limits suspensions under the Maine Revised Statutes, Title 29-A and contempt proceedings under Title 14 for indigent defendants.

The legislative recommendations of the Intergovernmental Pretrial Justice Reform Task Force are included in LD 1629.

LD 1065 An Act To Amend the Law Regarding Temporary Powers of Attorney over Minors and To Require Organizations To Screen Agents before Providing Care PUBLIC 467

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANDERSON D HAMPER J	OTP-AM	H-657

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

This bill amends current law allowing a parent or guardian to execute a temporary power of attorney for up to 12 months, delegating the powers regarding the care and custody of a child or incapacitated person, by doing the following:

1. Limiting the power of attorney to exclude the parent or guardian's powers regarding the performance of an abortion for the minor or the incapacitated person or the termination of parental rights to the minor;
2. Clarifying that executing this temporary power of attorney does not deprive the parent or guardian of any