

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

STAFF:

MARGARET J. REINSCH, SENIOR LEGISLATIVE ANALYST
HENRY FOUTS, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

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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.

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- 4. Providing that the agent with the power of attorney may not receive compensation; and
- 5. Clarifying that this power of attorney does not implicate the laws regarding foster care.

This bill was carried over to any special or regular session of the 127th Legislature by joint order, H.P. 992.

LD 1085

**An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Receipt of a Request for Public
Records**

PUBLIC 317

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-473

This bill amends the Freedom of Access Act to clarify that the date of receipt of a request to copy or inspect a public record is the date a sufficient description of the public record is received by the agency or official at the office responsible for maintaining the public record. An agency or official that receives a request for a public record that is not maintained by that office must forward the request to the appropriate office without willful delay.

Committee Amendment "A" (H-473)

This amendment requires the agency or official that forwards a public record request to the office that has custody of the records that are the subject of the request to notify the requester that the request has been forwarded to the appropriate office and that the five-day period within which the receipt of the request must be acknowledged begins to run when that receiving office receives the request.

This amendment clarifies that the responsibility to forward a request for public records to the office that maintains the records is limited to circumstances in which the request is made to an agency that consists of more than one office in different locations, and the request is made to an office that does not maintain the records. The bill requires that the request be forwarded to the office that does maintain the records. It does not require a municipality to forward the request to another municipality.

This amendment also amends the laws governing public access officers by specifically requiring that a request for public records be acknowledged within five working days of the receipt of the request by the office responsible for maintaining the public record requested. This is consistent with the acknowledgment deadline.

Enacted Law Summary

Public Law 2015, chapter 317 amends the Freedom of Access Act to clarify that the date of receipt of a request to copy or inspect a public record is the date a sufficient description of the public record is received by the agency or official at the office responsible for maintaining the public record. An agency or official that receives a request for a public record that is not maintained by that office must forward the request to the appropriate office without willful delay. The agency or official that forwards a public record request to the office that has custody of the records that are the subject of the request must notify the requester that the request has been forwarded to the appropriate office and that the five-day period within which the receipt of the request must be acknowledged begins to run when that receiving office receives the request.

Chapter 317 clarifies that the responsibility to forward a request for public records to the office that maintains the records is limited to circumstances in which the request is made to an agency that consists of more than one office in different locations, and the request is made to an office that does not maintain the records; it does not require a municipality to forward the request to another municipality.

Chapter 317 also amends the laws governing public access officers by specifically requiring that a request for public

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records be acknowledged within five working days of the receipt of the request by the office responsible for maintaining the public record requested. This is consistent with the acknowledgment deadline.

LD 1086 An Act To Implement the Recommendations of the Right To Know Advisory Committee To Create a Remedy for Unduly Burdensome and Oppressive Requests

PUBLIC 248

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-357

This bill amends the Freedom of Access Act to authorize a body, agency or official to deny a request for inspection or copying of public records, in whole or in part, on the basis that the request is unduly burdensome or oppressive. The bill requires that the body, agency or official seek protection from an unduly burdensome or oppressive request by filing an action in Superior Court within 30 days of receipt of the request. This bill adopts a good cause standard to be used by the court in determining whether the request may be limited or denied as unduly burdensome or oppressive.

Committee Amendment "A" (H-357)

This amendment adds a requirement that a public body, agency or official seeking a protection order from unduly burdensome and oppressive public records requests under the provision in the bill must provide to the court proof that the body, agency or official provided notice of the intent to file the action at least 10 days before the complaint is filed with the court.

Enacted Law Summary

Public Law 2015, chapter 248 amends the Freedom of Access Act to authorize a body, agency or official to deny a request for inspection or copying of public records, in whole or in part, on the basis that the request is unduly burdensome or oppressive. It requires that the body, agency or official seek protection from an unduly burdensome or oppressive request by filing an action in Superior Court within 30 days of receipt of the request. A public body, agency or official seeking a protection order from unduly burdensome and oppressive public records requests under the provision in the bill must provide to the court proof that the body, agency or official provided notice of the intent to file the action at least 10 days before the complaint is filed with the court. Chapter 248 adopts a good cause standard to be used by the court in determining whether the request may be limited or denied as unduly burdensome or oppressive.

LD 1087 An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Response Deadlines and Appeals

PUBLIC 249

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-360

This bill amends the Freedom of Access Act to make clear that an agency's or official's written notice of denial in response to a request to copy or inspect records may be a statement that the agency or official expects to deny the request in full or in part, but that decision can be made only after reviewing the records subject to the request. The agency or official is required to provide the written response within five days of the receipt of the request.

The bill clarifies the procedures for an appeal from a denial of a request to inspect or copy public records.

The bill also amends the laws governing public access officers by specifically requiring that a request for public records be acknowledged within five working days of the receipt of the request. This is consistent with the current