

MAINE STATE LEGISLATURE

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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

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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

termination of a parent's parental rights. It also provides that a delegation of powers by a power of attorney does not deprive the parent or guardian of any parental or legal authority regarding the care and custody of the minor or incapacitated person. It specifically provides that, without other evidence, the execution of the power of attorney by a parent or guardian does not constitute abandonment, abuse or neglect of the minor. The agent is prohibited from receiving any financial assistance from the State for the care of the minor, except for any assistance that the minor or the agent is entitled to receive pursuant to any state or federal program. It also provides that a minor subject to a power of attorney is not in foster care and is not considered a ward of the State. In addition, the agent named in the power of attorney is not considered a family foster home and is not required to be licensed as a family foster home. However, the agent is not prohibited from becoming a foster home and the minor may be placed with the agent if the State takes custody of the minor.

Public Law 2015, chapter 467 provides that an organization, other than an organization whose primary purpose is to provide free legal services, that is exempt from federal income taxation under Section 501(a) of the United States Internal Revenue Code of 1986 as an organization described by Section 501(c)(3) and that assists parents or guardians with the process of executing a power of attorney for the temporary care of a minor must ensure that a background check is completed for the agent and any adult members of the agent's household. The background check must include screening for child abuse cases and a federal criminal history record check.

The organization must keep records of training and transcripts of background checks and the organization must make those records available to a parent or guardian executing a power of attorney under these provisions and to the child welfare ombudsman and any local, state or federal authority performing an investigation involving the agent, the parent or guardian or the minor.

Public Law 2015, chapter 467 imposes penalties on an organization that does not act as required and on employees or volunteers of an organization that knowingly continue to assist parents, guardians or agents in completing a power of attorney for a minor after a background check returns disqualifying information.

LD 1163 An Act To Amend the Garnishment Laws of the State

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STETKIS J	ONTP	

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

This bill establishes a process for the garnishment of state income tax refunds for the satisfaction of money judgments.

LD 1177 An Act To Enact the Recommendations of the Probate and Trust Law Advisory Commission Regarding the Maine Uniform Fiduciary Access to Digital Assets Act

ONTP

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

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

This bill enacts the Uniform Fiduciary Access to Digital Assets Act as the Maine Uniform Fiduciary Access to Digital Assets Act as a new Article 10 in the Maine Revised Statutes, Title 18-A. The Probate and Trust Law Advisory Commission recommended enactment in the report submitted to the Joint Standing Committee on

Joint Standing Committee on Judiciary

Judiciary pursuant to Resolve 2013, chapter 27 as amended by Resolve 2013, chapter 81.

The Probate and Trust Law Advisory Commission submitted a new report with revised recommendations to the Judiciary Committee in November 2015.

LD 1181 *An Act To Limit Liability for Certain Successor Corporations under Specific Circumstances* **Died In Concurrence**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J HASKELL A	ONTP OTP-AM	

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

This bill limits the liability of successor corporations that, before the dangers of asbestos were known publicly in 1972, acquired or merged with a predecessor corporation that engaged in asbestos-related activities. Liability is capped at the value of the predecessor corporation at the time of merger adjusted for inflation, but only for successor corporations that did not continue in the business of mining, selling, distributing, manufacturing, removing or installing asbestos-containing products.

LD 1214 *An Act To Implement the Recommendations of the Mental Health Working Group* **ONTP**

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

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

This bill contains the recommendations of the mental health working group pursuant to Resolve 2013, chapter 106, which were also covered by LD 1145 enacted during the First Regular Session, Public Law 2015, chapter 309. This bill was carried over to continue work on Part B which expands the duties of the State Forensic Service within the Department of Health and Human Services to include performing the duties of an independent examiner at the direction of the District Court in response to applications for involuntary commitment and involuntary treatment.

LD 1224 *An Act To Amend the Child Protective Services Laws* **PUBLIC 501**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R DIAMOND G	OTP-AM	H-629

This bill amends the Child and Family Services and Child Protection Act in the following ways.

1. It makes clear that the prohibitions on the use of Department of Health and Human Services records and information do not apply to a child or parent, legal guardian or custodian of a child who is the subject of the records or information.
2. It allows upon request a child or parent, legal guardian or custodian of a child to receive Department of