

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

such placement does not substantially interfere with reunification effort.

This amendment was not adopted.

Enacted Law Summary

Public Law 2015, chapter 501 amends the Child and Family Services and Child Protection Act in the following ways.

It creates a new administrative hearing process to give parents, custodians and legal guardians an opportunity to seek a review of the discretionary denial of access to information in child protection records. The hearing must be conducted by the Department of Health and Human Services under the Maine Administrative Procedure Act. The parents, custodians and legal guardians can appeal the decision of the hearing officer as a final agency action.

It clarifies that unsubstantiated records or information that are expunged or should have been expunged may not be used for any purpose including as evidence in any administrative or judicial proceeding.

It clarifies that, when the department gives notice that it will be seeking a preliminary protection order, the notice does not include the time and place when the petition will be presented to a judge, but must include the court in which the counsel for the parents, legal guardian or custodians may file motions, including motions to modify or vacate any preliminary protection order that is issued. It also requires that the information provided to the court explaining why notice is not required must include a sworn statement detailing a sufficient factual basis either that the child would suffer serious harm during the time needed to notify the parents, legal guardian or custodians or that prior notice would increase the risk of serious harm to the child or the petitioner. It clarifies that failure to provide the required notice, after a good faith attempt to do so, does not constitute grounds for denial of a preliminary protection order.

It allows the summary preliminary hearing to be expedited upon request by the parent's counsel. Upon counsel's request, the court may conduct the summary preliminary hearing, the first hearing opportunity available after the preliminary protection order is issued, as expeditiously as the court determines the interests of justice require.

Public Law 2015, chapter 501 clarifies that when notice is required to be given to a legal guardian of a child, the department is required to provide notice to all of the child's legal guardians that are known to the department.

LD 1241 An Act To Increase Government Efficiency

PUBLIC 449

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R HARLOW D	OTP	S-479 KATZ R

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

This bill authorizes the Maine Governmental Facilities Authority, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority and the Maine Municipal Bond Bank to conduct public proceedings with one or more members of the board or commission participating via remote access technology in certain circumstances.

Committee Amendment "A" (S-276)

This amendment is the majority report of the Joint Standing Committee on Judiciary and amends the bill to bar remote participation in executive sessions of the board and authorities subject to the bill and lists specific and limited situations when a member may participate remotely in the public proceedings.

Joint Standing Committee on Judiciary

This amendment was not adopted.

Senate Amendment "A" (S-479)

This amendment provides that when the Maine Governmental Facilities Authority, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority and the Maine Municipal Bond Bank conduct public proceedings with one or more members of the board or commission participating via remote access technology, each member, to the extent reasonably practicable, must be able to see all other members by videoconferencing or other similar means of communication and members of the public attending the public proceeding at the location identified in the required notice are able, to the extent reasonably practicable, to see all members participating from other locations by videoconferencing or other similar means of communication.

Enacted Law Summary

Public Law 2015, chapter 449 authorizes the Maine Governmental Facilities Authority, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority and the Maine Municipal Bond Bank to conduct public proceedings with one or more members of the board or commission participating via remote access technology in certain circumstances. Each member, to the extent reasonably practicable, must be able to see all other members by videoconferencing or other similar means of communication and members of the public attending the public proceeding at the location identified in the required notice are able, to the extent reasonably practicable, to see all members participating from other locations by videoconferencing or other similar means of communication.

LD 1311 An Act To Establish the Patient Compensation System Act

**Died On
Adjournment**

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

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

This bill establishes within the Department of Professional and Financial Regulation the Patient Compensation System, which allows a person who has suffered a medical injury to receive compensation outside of the court system. The Patient Compensation System is governed by a board of medical, legal, patient and business representatives. The bill establishes three offices within the system to provide medical review of claims, compensation allocations and quality review, as well as two committees to provide guidance in the selection of medical review panelists and the design of compensation schedules. The bill also creates the Patient Compensation System Fund, which is funded by fees paid by physicians participating in the system.

LD 1311 was received by the Clerk of the House pursuant to Joint Rule 309 without a committee report.

LD 1322 Resolve, To Direct Legislative Staff To Recodify and Revise the Maine Probate Code and To Direct the Probate and Trust Law Advisory Commission and the Family Law Advisory Commission To Study and Make Recommendations on Related Issues

RESOLVE 73

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS B	OTP-AM	H-539