

# 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*

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>
HOBBS B	OTP-AM	H-539

## *Joint Standing Committee on Judiciary*

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

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to implement the recommendations of the Probate and Trust Law Advisory Commission concerning the Probate Code pursuant to Resolve 2013, chapter 5 and chapter 82.

### **Committee Amendment "A" (H-539)**

This amendment replaces the bill, which was a concept draft, with a resolve.

The amendment directs the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to prepare a bill that recodifies and revises the Probate Code, currently the Maine Revised Statutes, Title 18-A. The recodification and revision must include the substantive changes recommended by the Probate and Trust Law Advisory Commission in 2014 and 2015. The bill must be submitted to the First Regular Session of the 128th Legislature.

The amendment directs the Probate and Trust Law Advisory Commission to study the concept of supported decision making, consult with interested parties and make recommendations concerning inclusion of supported decision making in the Probate Code, including any proposed legislation, in a report no later than January 15, 2017 to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The committee may report out legislation to the First Regular Session of the 128th Legislature related to the subject of the report.

The amendment directs the Family Law Advisory Commission to oversee a comprehensive review of the laws and procedures concerning minor guardianship and adoption and other provisions implicating parental rights throughout the Probate Code, including, but not limited to, an evaluation of the extent to which such laws, procedures and provisions are consistent with family law policy as set forth in other Maine statutes. The commission is required to ensure that interested parties are involved in the review and to make recommendations, including any proposed legislation, in a report no later than January 15, 2017 to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The committee may report out legislation to the First Regular Session of the 128th Legislature related to the subject of the report.

### **Enacted Law Summary**

Resolve 2015, chapter 73 does three things.

It directs the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to prepare a bill that recodifies and revises the Probate Code, currently the Maine Revised Statutes, Title 18-A. The recodification and revision must include the substantive changes recommended by the Probate and Trust Law Advisory Commission in 2014 and 2015. The bill must be submitted to the First Regular Session of the 128th Legislature.

It directs the Probate and Trust Law Advisory Commission to study the concept of supported decision making, consult with interested parties and make recommendations concerning inclusion of supported decision making in the Probate Code, including any proposed legislation, in a report no later than January 15, 2017 to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The committee may report out legislation to the First Regular Session of the 128th Legislature related to the subject of the report.

It directs the Family Law Advisory Commission to oversee a comprehensive review of the laws and procedures concerning minor guardianship and adoption and other provisions implicating parental rights throughout the Probate Code, including, but not limited to, an evaluation of the extent to which such laws, procedures and provisions are consistent with family law policy as set forth in other Maine statutes. The commission is required to ensure that interested parties are involved in the review and to make recommendations, including any proposed legislation, in a report no later than January 15, 2017 to the joint standing committee of the Legislature having jurisdiction over

**Joint Standing Committee on Judiciary**

judiciary matters. The committee may report out legislation to the First Regular Session of the 128th Legislature related to the subject of the report.

**LD 1433      An Act To Create the Office of the Public Defender and Amend the Duties of the Commission on Indigent Legal Services      Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS D HOBBINS B	ONTP OTP-AM	

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

This bill reforms Maine’s system of providing State-funded legal services to indigent criminal defendants, juvenile defendants and children and parents in child protective cases in courts of this State, including the following changes:

1. Removing staff from the Maine Commission on Indigent Legal Service and establishing an Office of the Public Defender to be staffed by a Chief Public Defender, who is appointed by the Governor and confirmed by the Legislature, two Deputy Public Defenders and additional staff as necessary;
2. Changing the role of the Maine Commission on Indigent Legal Services from one of delivery of indigent legal services to one of oversight of the delivery of indigent legal services by the Office of the Public Defender;
3. Establishing a system administered by a Chief Public Defender that uses State employees, and contracts with attorneys to the maximum extent practicable, to deliver indigent legal services;
4. Instituting new measures to ensure that a person using indigent legal services pay reasonable costs for services provided by the system based on the person's financial ability to pay; and
5. Permitting Maine Revenue Services to share income tax return information with the Office of the Public Defender for purposes of determining an individual’s eligibility for indigent legal services.

**Committee Amendment "A" (S-387)**

This amendment, which is the minority report of the committee, corrects a lettering conflict and adds a fiscal note to the bill.

This amendment was not adopted.

**LD 1460      Resolve, Regarding Legislative Review of Portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a Major Substantive Rule of the Maine Commission on Indigent Legal Services      RESOLVE 74 EMERGENCY**

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

This resolve provides for legislative review of portions of Chapter 301: Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel, a major substantive rule of the Maine Commission on Indigent Legal Services.