

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

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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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amended the same sections of Title 28-A in different ways. Chapter 129 was enacted as an emergency, but chapter 184 was not, therefore this amendment provides that Part D takes effect 90 days after the adjournment of the First Regular Session of the 127th Legislature to be consistent with chapter 184's effective date.

This amendment adds Part E to correct a clerical error in the Maine Energy Cost Reduction Act concerning energy cost reduction contracts, enacted by Public Law 2013, chapter 369, by twice replacing the word "contact" with "contract." This is a technical correction.

Enacted Law Summary

Public Law 2015, chapter 329 corrects both technical and substantive errors and inconsistencies in the laws of Maine.

Public Law 2015, chapter 329 was enacted as an emergency measure effective July 12, 2015, except as otherwise provided.

LD 1391 An Act Regarding the Treatment of Forensic Patients

**PUBLIC 325
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY KATZ	OTP-AM	H-479 H-487 SANDERSON

This bill allows the Commissioner of Health and Human Services to administer medication to a defendant who has been found incompetent to proceed without the defendant's consent if a court finds that certain standards have been met. It allows the commissioner to authorize a hospital to administer medication to a defendant who has been found incompetent to proceed or to a person who has been committed to the custody of the commissioner following acceptance of a negotiated insanity plea or following a verdict or finding of insanity without that defendant's or person's consent if certain standards are met, subject to appeal to the court.

Committee Amendment "A" (H-479)

This amendment changes the references to "antipsychotic" medication to "psychiatric" medication to more accurately describe the type of medication that may be administered.

The amendment changes the terminology from competency "to stand trial" to competency "to proceed" to be consistent throughout the bill.

The amendment revises the definition of "Commissioner of Health and Human Services" to include the commissioner's designee.

The amendment deletes the definition of "gravely disabled" and replaces it with the standard that the patient poses a substantial risk of harm to self or others or there is a reasonable certainty that the patient will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the patient adequately from impairment or injury if not medicated.

The amendment revises the factors that the commissioner must consider in order to continue the extension of the order allowing treatment without the patient's consent. The commissioner must find by clear and convincing evidence that:

1. The patient has a mental illness or disorder;
2. As a result of that illness or disorder the patient poses a substantial risk of harm to self or others or there is a

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reasonable certainty that the patient will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the patient adequately from impairment or injury if not medicated;

3. There is no less intrusive alternative to involuntary medication; and
4. The need for treatment outweighs the risks and side effects.

The amendment clarifies that the patient or the patient's designated representative may request that the treatment authorization be terminated early by filing a request with the department that demonstrates that there is a significant change to the conditions that led to the original order or the patient's medical condition. If the hearing officer determines that a hearing on the request is warranted, then the patient must be provided counsel at the Department of Health and Human Services' expense at least seven days before the hearing. If the hearing officer recommends termination of the treatment authorization to the commissioner, the commissioner must either order the termination or deny the request for termination within 48 hours of the recommendation.

This amendment adds a new section that clarifies that the court may order an independent psychiatric or medical examination to make a determination under the bill. The Administrative Office of the Courts is directed to request that the Department of Health and Human Services reimburse the full amount of fees paid to the providers of the examinations. The Department of Health and Human Services is directed to reimburse the Judicial Department within 30 days after the request.

House Amendment "A" (H-487)

This amendment adds an emergency preamble and emergency clause to the bill.

Enacted Law Summary

Public Law 2015, chapter 325 allows the Commissioner of Health and Human Services to administer medication to a defendant who has been found incompetent to proceed without the defendant's consent if a court finds that certain standards have been met. It allows the commissioner to authorize a hospital to administer medication to a defendant who has been found incompetent to proceed or to a person who has been committed to the custody of the commissioner following acceptance of a negotiated insanity plea or following a verdict or finding of insanity without that defendant's or person's consent if certain standards are met, subject to appeal to the court.

Chapter 325 clarifies that the court may order an independent psychiatric or medical examination to make a required determination. The Administrative Office of the Courts is directed to request that the Department of Health and Human Services reimburse the full amount of fees paid to the providers of the examinations. The Department of Health and Human Services is directed to reimburse the Judicial Department within 30 days after the request.

Public Law 2015, chapter 325 was enacted as an emergency measure effective July 7, 2015.

LD 1425 An Act To Amend the Laws Relating to Corporations and Limited Partnerships

PUBLIC 254

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill allows nonprofit corporations, business corporations and domestic limited partnerships to apply for reinstatement more than six years after being administratively dissolved. It also establishes a maximum reinstatement fee for a nonprofit corporation, comparable to the maximum fees that are allowed for the other entities under current law.