

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
127<sup>TH</sup> 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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# 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 First 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.

<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 &amp; 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&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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 127<sup>th</sup> 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.

## Joint Standing Committee on Judiciary

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.

**Joint Standing Committee on Judiciary**

**Enacted Law Summary**

Public Law 2015, chapter 254 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.

**LD 1433     An Act To Create the Office of the Public Defender and Amend the Duties of the Commission on Indigent Legal Services**

**CARRIED OVER**

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

This bill establishes a statewide public defender system. The purposes of this bill are to:

1. Provide effective assistance of counsel to indigent criminal defendants, juvenile defendants and children and parents in child protective cases in courts of this State;
2. Ensure that the system is free from undue political interference and conflicts of interest;
3. Provide for the delivery of public defender services by qualified and competent counsel in a manner that is fair and consistent throughout the State;
4. Establish a system that uses state employees, contracted services and other methods of providing services in a manner that is responsive to and respectful of regional and community needs and interests;
5. Ensure that adequate public funding of the statewide public defender system is provided and the system is managed in a fiscally responsible manner; and
6. Ensure that a person using the services of a statewide public defender system pay reasonable costs for services provided by the system based on the person's financial ability to pay.

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

**LD 1434     An Act To Amend the Laws Governing Law Enforcement's Access to, and Access to Information about, Certain Persons in Hospitals and Mental Health Facilities**

**PUBLIC 218**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STETKIS	OTP-AM	H-409

This bill provides that:

1. If a law enforcement officer transports or causes to be transported to a hospital or mental health facility a person who is in the custody of that law enforcement officer, the hospital or mental health facility may not discharge that person from care unless the person leaves in the custody of a licensed law enforcement officer and the hospital or mental health facility must provide to that law enforcement officer or the relevant law enforcement agency a report that includes, if known, the name, residence, sex and age of the person and the date and time at which the person is scheduled to be discharged;