

# 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*

temporarily absent from a minor's life, certain adults with whom a minor resides may assume a surrogate role. A surrogate may not be a parent, legal guardian or an adult to whom a parent has given a power of attorney authorizing health care treatment for the minor. Surrogates may include an adult related to a minor by blood, marriage or adoption and from whom the minor receives the ongoing care and support expected of a parent. If no such relatives exist, an adult with whom the minor resides and who has provided the minor with the ongoing care and support expected of a parent may act as a surrogate. The existence of a surrogate does not remove the ability of a minor to give consent under any other existing law.

If a minor needs health care, a surrogate must make a good faith attempt to notify the minor's parents or legal guardian of their right to make those decisions unless parental notification is not required by other provisions of law. Absent a response, the surrogate may make most health care decisions on behalf of the minor without parental consent. A surrogate may not make decisions withholding or withdrawing life-sustaining treatments or denying consent for treatments that are life-saving and medically necessary. A surrogate giving consent on behalf of the minor must attempt to make a good faith effort to notify the absent parents or legal guardian of any health care received by the minor unless parental notification is not required by other provisions of law.

Health care practitioners and providers may rely on the consent given by the surrogate. If they do so, they are immune from liability for providing treatment without receiving informed consent from the parents or legal guardian. Health care practitioners and providers must inform the surrogate of the surrogate's obligation to notify the minor's parents or legal guardian about the minor's treatment.

A surrogate may use the means of communication the surrogate believes is the most effective way to ensure actual notification of the parents or legal guardian. The means of communication may be regular mail, e-mail, texting, personal website posting or other written means of communication to the last known address or contacting by telephone using the last known telephone number of the absent parents or legal guardian.

A surrogate who makes health care decisions for the minor knowing that those specific decisions may not be made by the surrogate or without attempting to contact the parents or legal guardian about the need for the health care or the health care received commits a Class E crime. A person who makes health care decisions for a minor when not qualified as a surrogate is guilty of a Class E crime.

As long as the health care practitioner or provider acts with good faith reliance on the consent of the surrogate, there is no liability against the health care practitioner or provider on the grounds that the health care treatment was rendered without informed consent.

A minor may consent to health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault regardless of whether a surrogate exists.

### **LD 1528      An Act To Modernize and Consolidate Court Facilities**

**PUBLIC 468**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO L HOBBINS B	OTP-AM	S-437

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

This bill proposes to increase the maximum amount of securities that may be issued by the Maine Governmental Facilities Authority for specific allocation to the judicial branch. The increase would be used to fund projects for court facilities in Waldo, Oxford and York counties.

#### **Committee Amendment "A" (S-437)**

This amendment replaces the bill. It authorizes the Maine Governmental Facilities Authority to issue additional

## *Joint Standing Committee on Judiciary*

securities from time to time in an aggregate amount not to exceed \$95,600,000. The funds must be used for the acquisition, construction, equipping, capital repairs and improvements to new and existing facilities and judicial projects in the counties of Oxford, Waldo and York and planning for other court facilities, in order to increase court efficiency, reduce operating expenses and improve public service and safety.

This amendment also establishes the York County Courthouse Site Selection Commission to choose a site for the new York County Courthouse. The Judicial Branch is authorized to build the courthouse in the municipality selected by the commission.

### **Enacted Law Summary**

Public Law 2015, chapter 468 authorizes the Maine Governmental Facilities Authority to issue additional securities from time to time in an aggregate amount not to exceed \$95,600,000. The funds must be used for the acquisition, construction, equipping, capital repairs and improvements to new and existing facilities and judicial projects in the counties of Oxford, Waldo and York and planning for other court facilities, in order to increase court efficiency, reduce operating expenses and improve public service and safety.

Public Law 2015, chapter 468 also establishes the York County Courthouse Site Selection Commission to choose a site for the new York County Courthouse. The Judicial Branch is authorized to build the courthouse in the municipality selected by the commission.

### **LD 1531      An Act To Protect Victims of Human Trafficking**

**PUBLIC 443**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK A HOBBINS B	OTP-AM	S-457

This bill provides that victims of aggravated sex trafficking are eligible to file for protection from abuse orders and protection from harassment orders.

### **Committee Amendment "A" (S-457)**

This amendment replaces the bill but continues to provide that victims of aggravated sex trafficking and sex trafficking are eligible to file for protection from abuse orders and protection from harassment orders.

This amendment replaces the bill to capture all provisions of the protection from harassment and protection from abuse laws to include protections for victims of both aggravated sex trafficking and sex trafficking.

It amends the Maine Criminal Code to provide that sex trafficking is a crime for which probation may be included as part of a sentence.

### **Enacted Law Summary**

Public Law 2015, chapter 443 provides that victims of aggravated sex trafficking and sex trafficking are eligible to file for protection from abuse orders and protection from harassment orders.

Public Law 2015, chapter 443 captures all provisions of the protection from harassment and protection from abuse laws to include protections for victims of both aggravated sex trafficking and sex trafficking.

It amends the definition of "harassment" to include a single act or course of conduct that includes a violation of the Maine Revised Statutes, Title 17-A, section 852, aggravated sex trafficking, or section 853, sex trafficking. The definition is important because it determines who can request a protection from harassment order.