

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

5. Changes the laws of the Department of Health and Human Services regarding elder and adult services to remove references to the Director of the Bureau of Elder and Adult Services, a defunct position, and replaces them with references to the Commissioner of Health and Human Services;

6. Re-enacts language concerning Class A restaurant and off-premise retail licensee on same premises which was repealed by its own terms before the enactment of the law to eliminate the repeal took effect. Public Law 2015, chapter 162 amended Title 28-A, section 10, subsection 2-A to remove language repealing subsection 2-A on September 30, 2015. Public Law 2015, chapter 162 did not take effect until October 15, 2015, after the repeal took effect. Section D-9 enacts Title 28-A, section 10, subsection 2-B to reflect the intent of the Legislature to maintain the provisions of Title 28-A, section 10, subsection 2-A. Section D-10 makes that enactment apply retroactively to September 30, 2015; and

8. Corrects clerical errors in Public Law 2015, chapter 267, Part OOOO, section 7 concerning the application date of sales tax exemptions. This was included as Section 51 of the bill. Section D-12 makes the corrections apply retroactively to June 30, 2015, the effective date of Public Law 2015, chapter 267.

Public Law 2015, chapter 494 was enacted as an emergency measure effective April 27, 2016.

LD 1654 An Act To Strengthen Protection from Abuse Laws

ONTP

Sponsor(s)
HEAD F

Committee Report
ONTP

Amendments Adopted

This bill requires a court to sentence a person convicted of violating a protective order or court-approved consent agreement, currently a Class D crime, to a minimum term of imprisonment of 30 days. Subsequent convictions of violating a protective order or court-approved consent agreement are subject to enhanced minimum sentences.

This bill also requires a court to sentence a person convicted of violating a protective order through conduct that is reckless and that creates a substantial risk of death or serious bodily injury to the plaintiff named in the protective order or who assaults the plaintiff named in the protective order, currently a Class C crime, to a minimum term of imprisonment of two years; subsequent convictions are subject to enhanced minimum sentences.

This bill also creates the Class C crime of false claim, which occurs when a person during a proceeding for a protection from abuse petition makes a false claim of abuse or neglect or abandonment of a child or alleges sexual exploitation of a minor, sex trafficking, aggravated sex trafficking or patronizing prostitution of a minor or person with a mental disability and that claim or allegation is made for the purpose of gaining an advantage in a divorce proceeding.

LD 1689 An Act To Protect Children in the State from Possible Sexual, Physical and Emotional Abuse by Persons Who Have Been Convicted of Crimes

**PUBLIC 497
EMERGENCY**

Sponsor(s)
MAKER J
DIAMOND G

Committee Report
OTP-AM

Amendments Adopted
H-671

This bill requires that, beginning September 1, 2016, child care facilities licensed by the Department of Health and Human Services and family child care providers certified by the department submit fingerprints for criminal background checks for care providers and staff.

Committee Amendment "A" (H-671)

Joint Standing Committee on Judiciary

This amendment replaces the bill. It directs the Department of Health and Human Services to adopt rules to require criminal background checks for all family child care providers and staff members of child care facilities and family child care providers, to be effective September 1, 2017. The required criminal background checks must meet the requirements of 42 United States Code, Section 9858f(b) for all family child care providers, all child care staff members whose activities involve the care or supervision of children for a child care facility or a family child care provider and all adults who have unsupervised access to children who are cared for or supervised by a child care facility or family child care provider. The rules are major substantive rules and must be provisionally adopted and submitted for legislative review by the joint standing committee of the 128th Legislature having jurisdiction over judiciary matters by January 12, 2017.

The joint standing committee of the Legislature having jurisdiction over judiciary matters may submit to the 128th Legislature a bill necessary to implement the criminal background check requirements.

This amendment includes an emergency preamble and an emergency clause.

Enacted Law Summary

Public Law 2015, chapter 497 directs the Department of Health and Human Services to adopt rules to require criminal background checks for all family child care providers and staff members of child care facilities and family child care providers, to be effective September 1, 2017. The required criminal background checks must meet the requirements of 42 United States Code, Section 9858f(b) for all family child care providers, all child care staff members whose activities involve the care or supervision of children for a child care facility or a family child care provider and all adults who have unsupervised access to children who are cared for or supervised by a child care facility or family child care provider. The rules are major substantive rules and must be provisionally adopted and submitted for legislative review by the joint standing committee of the 128 th Legislature having jurisdiction over judiciary matters by January 12, 2017.

The joint standing committee of the Legislature having jurisdiction over judiciary matters may submit to the 128th Legislature a bill necessary to implement the criminal background check requirements. See also H.P. 1167, Joint Study Order To Establish a Working Group To Study Background Checks for Child Care Facilities and Providers.

Public Law 2015, chapter 497 was enacted as an emergency measure effective April 29, 2016.