

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
128<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

October 2018

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# STATE OF MAINE

128<sup>TH</sup> LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions of the 128<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 FINAL 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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128<sup>th</sup> Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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*

**LD 111      An Act To Establish an Additional Veterans Treatment Court**

**Died On  
Adjournment**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHEATS B LIBBY N	OTP-AM OTP-AM	H-331 H-488 GUERIN S

This bill was reported out of committee in the First Regular Session of the 128th Legislature and then carried over to the Second Regular Session on the Special Appropriations Table by joint order S.P. 601. This bill was again carried over, still on the Special Appropriations Table, from the Second Regular Session to the Second Special Session by joint order S.P. 748.

This bill directs the Chief Justice of the Supreme Judicial Court to establish a veterans treatment court in Androscoggin County.

**Committee Amendment "A" (H-331)**

This amendment is the majority report of the committee. This amendment replaces the bill, which requires the establishment of a veterans treatment court in Androscoggin County. Instead, this amendment relies on the enabling language already in statute for the Chief Justice of the Supreme Judicial Court to establish veterans treatment courts where appropriate and provides the funding for the courts as well as for the services to be provided.

**Committee Amendment "B" (H-332)**

This amendment is the minority report of the committee. This amendment replaces the bill, which requires the establishment of a veterans treatment court in Androscoggin County. Instead, this amendment relies on the enabling language already in statute for the Chief Justice of the Supreme Judicial Court to establish veterans treatment courts where appropriate and provides the funding for the courts as well as for the services to be provided for the 2018-2019 biennium only.

**House Amendment "B" To Committee Amendment "A" (H-488)**

This amendment strikes the ongoing funding for a veterans treatment court and instead provides funding for the next two biennia only.

**House Amendment "A" To Committee Amendment "A" (H-470)**

This amendment strikes the proposed ongoing funding for a veterans treatment court and instead provides funding for the next two biennia only.

This amendment was not adopted.

**LD 123      An Act To Recodify and Revise the Maine Probate Code**

**PUBLIC 402**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-762

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

## *Joint Standing Committee on Judiciary*

This bill, which was submitted pursuant to Resolve 2015, chapter 73, section 1, recodifies and revises the Maine Revised Statutes, Title 18-A and amends other laws affected by this recodification and revision accordingly.

Resolve 2013, chapters 5 and 82 directed the Probate and Trust Law Advisory Commission to review the existing Probate Code and the latest version of the Uniform Probate Code and develop legislative recommendations based on the review. The Probate and Trust Law Advisory Commission submitted legislative recommendations in a report to the Joint Standing Committee on Judiciary of the 127th Legislature on December 6, 2014 and included revisions to the recommendations in a subsequent report submitted November 20, 2015. The purpose of this bill is to adopt the Uniform Probate Code as the Maine Uniform Probate Code, incorporating the changes recommended by the Probate and Trust Law Advisory Commission, and to reorganize the Probate Code to be more logical, while bringing the language into conformity with current drafting standards, clarifying current law and eliminating inconsistencies within Title 18-A.

The bill was carried over to the Second Regular Session to give the Probate and Trust Law Advisory Commission and the Family Law Advisory Commission an opportunity to review the Uniform Law Commission's new Uniform Guardianship, Conservatorship and Other Protective Arrangements Act and make recommendations for including provisions as part of Article 5 in the Committee Amendment.

### **Committee Amendment "A" (H-762)**

This amendment is the product of extensive work of a subcommittee of the Judiciary Committee, as well as PATLAC, FLAC and many interested parties, incorporating the recommendations of the Probate and Trust Law Advisory Commission as well as the Family Law Advisory Commission.

This amendment updates many cross-references and makes many technical corrections, as well as making significant changes to the inheritance changes in Article 2 to be consistent with the Maine Parentage Act in Title 19-A, and including the majority of the new Uniform Guardianship, Conservatorship and Other Protective Arrangements Act as it pertains to adult guardianships and all conservatorships. Minor guardianships are based on the 2010 Uniform Probate Code as amended by the Family Law Advisory Commission. This amendment also makes changes to the adoption laws, as recommended by the Family Law Advisory Commission, to be consistent with constitutional requirements protecting fundamental parental rights, and to limit the annulment of adoptions after one year.

This amendment also incorporates the Uniform Real Property Transfer on Death Act, originally proposed as part of LD 969.

This amendment provides that the new Maine Uniform Probate Code takes effect July 1, 2019.

Part G of the amendment directs the Probate and Trust Law Advisory Commission, in consultation with the Family Law Advisory Commission, to develop Maine Uniform Probate Code Comments to accompany the statutory provisions of this legislation. The recommended comments must be submitted to the joint standing committee of the 129th Legislature having jurisdiction over judiciary matters no later than January 15, 2019. That committee is given authority to report out legislation to fix any errors and inconsistencies created by recent legislation and this legislation and to address other issues related to the recodification and revision of the Maine Probate Code. Part G takes effect 90 days after the Second Regular Session of the 128th Legislature adjourns.

### **Enacted Law Summary**

Public Law 2017, chapter 402 recodifies and revises the Maine Probate Code, repealing the Maine Revised Statutes, Title 18-A and replacing it with the Maine Uniform Probate Code, Title 18-C, effective July 1, 2019. The new Maine Uniform Probate Code is based on recommendations of the Probate and Trust Law Advisory Commission (PATLAC), which started with the 2010 Uniform Probate Code as its base. The Family Law Advisory Commission

## *Joint Standing Committee on Judiciary*

(FLAC) made recommendations with regard to parental rights and responsibilities throughout the Probate Code, including in laws governing minor guardianship and adoption.

Chapter 402 includes the changes recommended by PATLAC and FLAC, incorporating many of the provisions of the new Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGCOPAA) with regard to adult guardianships and all conservatorships and other protective arrangements; the FLAC recommendations concerning minor guardianships, rather than the UGCOPAA proposals, are included. Chapter 402 also updates the adoption laws as recommended by FLAC.

Chapter 402 includes the Uniform Real Property Transfer on Death Act, as Part 4 of Article 6 governing nonprobate transfers.

The new Maine Uniform Probate Code takes effect July 1, 2019.

Part G of Chapter 402 directs the Probate and Trust Law Advisory Commission, in consultation with the Family Law Advisory Commission, to develop Maine Uniform Probate Code Comments to accompany the statutory provisions of this legislation. The recommended comments must be submitted to the joint standing committee of the 129th Legislature having jurisdiction over judiciary matters no later than January 15, 2019. That committee is given authority to report out legislation to fix any errors and inconsistencies created by recent legislation and this legislation and to address other issues related to the recodification and revision of the Maine Probate Code. Part G takes effect 90 days after the Second Regular Session of the 128th Legislature adjourns.

**LD 170      An Act To Allow and Recognize a Legal Name Change upon Marriage      Veto Sustained**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D CHENETTE J	OTP-AM	H-274

This bill was reported out of committee in the First Regular Session of the 128th Legislature and then carried over to the Second Regular Session on the Special Appropriations Table by joint order S.P. 601. This bill was again carried over, still on the Special Appropriations Table, from the Second Regular Session to the Second Special Session by joint order S.P. 748.

The bill allows a person who is getting married to change that person's name by indicating the new name on the application for recording notice of intent to marry, which becomes effective upon the completion of the marriage license.

### **Committee Amendment "A" (H-274)**

This amendment provides funds to the Department of Health and Human Services for technology updates made necessary by the bill.

**LD 197      RESOLUTION, Proposing an Amendment to the Constitution of Maine      Died On  
To Explicitly Protect against Sex Discrimination      Adjournment**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECKITT L VITELLI E	OTP-AM ONTP	H-133