

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

August 2017

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STATE OF MAINE

128TH LEGISLATURE
FIRST 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 First Regular Session of the 128th 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 date for non-emergency legislation enacted in the First Regular Session of the 128th Legislature is Wednesday, November 1, 2017. 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

Title 5, section 4582-A, subsection 3 provides that an individual with a physical or mental disability who uses an assistance animal is liable for any damage done to the premises or facilities by the assistance animal.

Under Title 7, section 3961, the owner or keeper of an animal is liable in a civil action to a person who is injured or whose property is damaged for the amount of damage done if the damage was not occasioned through the fault of the person injured.

Enacted Law Summary

Public Law 2017, chapter 61 provides that a landlord is not liable in a civil action for personal injury, death, property damage or other damages caused by an assistance animal on the landlord's property.

LD 218 **An Act To Reduce Criminal Justice System Costs by Allowing Arraignments and Hearings in the Unified Criminal Docket To Be Held by Means of Audiovisual Telecommunications** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAKEY E	ONTP	

This bill provides that in any criminal action in the Unified Criminal Docket, as determined by the court to be appropriate to the defendant and to make sound fiscal sense, an arraignment or hearing may be held by means of audiovisual telecommunications. The bill provides that when an arraignment or hearing is held by means of audiovisual telecommunications, the court is required to ensure that a recording of the arraignment or hearing is made and retained as part of the case file.

LD 224 **An Act Regarding Actions for Failure To Follow Condominium Association Requirements** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS R SHERMAN R	ONTP	

This bill provides that, following reasonable notice and an opportunity to be heard, a condominium association may bring an action against a unit owner or a group of unit owners for violating requirements imposed by association documents and that, following reasonable notice and an opportunity to be heard, a unit owner or a group of unit owners may bring an action against an association for violating requirements imposed by those same documents.

LD 280 **An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act** **Died Between Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R COLLINS R	ONTP OTP-AM	

This bill adds tax-exempt, nonprofit regional public transportation agencies to the Maine Tort Claims Act, which limits liability for governmental entities.

Committee Amendment "A" (H-464)

This amendment, which is the minority report, replaces the bill. The Maine Tort Claims Act currently includes

Joint Standing Committee on Judiciary

"transit districts," defined in Title 30-A, section 3501, subsection 1, within the definition of "political subdivision" and thus covered by the immunity and limited liability of the Act. This amendment amends the public transportation statutes to expressly treat the tax-exempt nonprofit agencies selected by the Department of Transportation as regional public transportation agencies as transit districts, but for the purposes of the Maine Tort Claims Act only.

This amendment was not adopted.

LD 281 An Act To Amend the Percentage of Votes Needed for Condominium Governance Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HYMANSON P HILL D	OTP-AM	H-430

This bill amends the Maine Condominium Act to change the number of votes, depending on the number of units in the association, needed by owners of units in the association in order to convey or use as collateral common elements of the condominium or to amend the declaration of the condominium. Under this bill, if an association consists of nine or fewer units, agreement by all of the owners is necessary; if an association consists of 10 or more units, agreement by the owners of at least 80% of the votes allocated to units, rounded up to the next whole number, in the association is necessary.

Committee Amendment "A" (H-430)

This amendment replaces the bill but addresses the same issue, which is to allow a vote that is less than unanimous to make changes to a condominium declaration. The amendment, modeled on a law in Washington, requires the approval of all of the owners of the units particularly affected, as well as the approval of 90% of the owners of the total number of units, rather than 100%.

LD 282 An Act To Support Caregivers When Children Have Been Abandoned by Their Parents ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP	

This bill addresses concerns of caretaker relatives and others who take on the care and custody of a child when the child's parents have essentially abandoned the child to the caregiver's care and custody. When the arrangement is without a formal guardianship appointment and without a power of attorney executed by the parent, the caregiver may be considered a de facto guardian after sufficient time has elapsed with a demonstrated lack of consistent participation by the parent. A de facto guardian may petition the court to be appointed as a guardian when the parent does not consent to the appointment if the court finds a demonstrated lack of consistent participation by the parent. Current law provides that the duties of a parent include, but are not limited to, providing the child with necessary food, clothing, shelter, health care and education and a nurturing and consistent relationship and other care and control necessary for the child's physical, mental and emotional health and development.

The bill amends the list of factors the court must consider to determine the best interest of the child when deciding whether to appoint a guardian for the child to add, if there has been a demonstrated lack of consistent participation by a parent, the current capacity and disposition of the parent to comply with the duties imposed upon a parent by the parent-child relationship.

The bill provides that, if the parent or legal custodian objects to the appointment of the de facto guardian as the