

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

guardian for the child, the court may appoint the de facto guardian as the guardian if the court finds that the parent or legal custodian is currently unwilling or unable to comply with the duties imposed upon a parent by the parent-child relationship.

The bill provides that, after the de facto guardian is appointed the guardian and the parent petitions the court to terminate the guardianship, a party opposing the termination has the burden of proving by a preponderance of the evidence that the parent seeking to terminate the guardianship is currently unfit to regain custody of the child. In determining whether a parent is unfit to regain custody, if the guardian was appointed because of a demonstrated lack of consistent participation by the parent, the court shall require the parent to show by a preponderance of the evidence that the parent is willing and able to comply with the duties imposed upon a parent by the parent-child relationship.

LD 283 **An Act To Increase the Jurisdictional Limits for Small Claims** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SPEAR J MIRAMANT D		

This bill increases the jurisdictional limits for small claims from \$6,000 to \$15,000.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 309 **Resolve, To Establish the Working Group To Restore Judicial Discretion** **Died On
Adjournment**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK A RECKITT L	OTP-AM ONTP	S-191 H-449 MOONEN M

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

This bill proposes to establish a working group that will include representatives of the judicial branch to review mandatory minimum sentences that are currently required under state law and to assess whether any of those mandatory minimum sentence requirements should be amended or repealed.

Committee Amendment "A" (S-191)

This amendment establishes the Working Group To Restore Judicial Discretion to review and assess mandatory minimum sentences in state law. The working group consists of two members of the Senate and three members of the House of Representatives and must invite comments and recommendations from interested parties, including but not limited to prosecutors; criminal defense attorneys; the courts; providers of pretrial services; mental health organizations; providers of services, religious or otherwise, in correctional facilities; law enforcement; administrators of jails and other correctional facilities or programs; the Maine Commission on Indigent Legal Services; and the Criminal Law Advisory Commission. The working group is required to submit a report to the Second Regular Session of the 128th Legislature that includes recommendations to repeal or amend specific mandatory minimum sentence requirements.

House Amendment "A" To Committee Amendment "A" (H-449)

This amendment removes the emergency preamble and emergency clause from committee amendment "A."