

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.

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concerning the sharing and use of immigration and citizenship information or restricting the enforcement of federal immigration law.

The amendment also provides that if the Attorney General, upon investigation, determines that a government entity is violating the law, the Attorney General must issue an opinion stating that finding. The government entity has 30 days to appeal the finding to the Superior Court. If the Superior Court agrees with the Attorney General, the court must immediately enjoin the policy or practice. Each day the government entity continues the policy or practice results in a \$500 fine. If the Superior Court disagrees with the Attorney General, the Attorney General must immediately certify that the government entity is in compliance with the law.

This amendment was not adopted.

LD 410 An Act To Except from the Freedom of Access Act Certain Information in the Possession of the Maine Public Employees Retirement System

PUBLIC 46

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMPER J	OTP	

This bill excepts from the Freedom of Access Act specific private medical, personal and financial information of members, beneficiaries and participants in any of the programs of the Maine Public Employees Retirement System in the possession of the system.

Enacted Law Summary

Public Law 2017, chapter 46 excepts from the Freedom of Access Act specific private medical, personal and financial information of members, beneficiaries and participants in any of the programs of the Maine Public Employees Retirement System in the possession of the system.

LD 419 An Act To Clarify Damages for the Willful or Negligent Injury or Death of a Dog

Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	ONTP OTP-AM	

This bill allows damages for the willful or negligent injury or death of a dog to include, but not be limited to, actual damages, including veterinary fees and the value of the dog; damages for loss of companionship; damages for pain and suffering; and punitive damages. The prevailing party in any action may recover attorney's fees from the nonprevailing party.

Committee Amendment "A" (H-134)

This amendment is the minority report. It replaces the bill and changes the title. It creates a cause of action for noneconomic damages to be collected by a pet owner when another person or the person's animal kills the pet or injures the pet and the injuries lead to the death of the pet. The person must have been acting unlawfully and either intentionally or negligently. Damages are limited to \$5,000 for the loss of the reasonably expected companionship, love and affection of the pet. The \$5,000 limit does not apply to causes of action for intentional infliction of emotional distress or any other civil action other than the direct and sole loss of a pet.

The amendment does not apply to a nonprofit entity or governmental agency, or its employees, negligently causing the death of a pet while acting on the behalf of public health or animal welfare, and it does not authorize an award

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of noneconomic damages in an action for professional negligence against a licensed veterinarian. It also does not apply to the killing of a dog when the killing is authorized under the Maine Revised Statutes, Title 12, section 12404, subsection 6 concerning nuisance dogs chasing, killing, wounding, worrying or attacking moose, deer, other wild animals, domestic animals, livestock or poultry.

This amendment was not adopted.

LD 428 RESOLUTION, Proposing an Amendment to Article X of the Constitution of Maine Regarding the Publication of Maine Indian Treaty Obligations Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAR H CHIPMAN B	ONTP OTP-AM	

This resolution proposes an amendment to the Constitution of Maine to require that the text of Article X, Section 5 of the Constitution be included in any printed copies of the Constitution included with the laws of the State.

Committee Amendment "A" (H-432)

This amendment is the minority report of the committee. It amends the resolution to repeal all of Article X, Section 7, resulting in the inclusion of the omitted sections, Sections 1, 2 and 5 of Article X, when a printed copy of the Constitution of Maine is prefixed to the Laws of Maine.

This amendment was not adopted.

LD 429 An Act Concerning Guardians Ad Litem and Determinations Regarding the Best Interest of a Child in Custodial Relative Caregiver Cases Accepted Majority (ONTP) Report

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

This bill clarifies that, in proceedings in which the best interest of a child is considered, giving custody to a family member rather than a parent must be given consideration. Family members may petition for standing in a proceeding involving parental rights and responsibilities with respect to a child under certain circumstances. This bill also requires guardians ad litem in contested cases involving the best interest of a child to issue their written report on a standard form with check boxes for each mandatory and optional duty of the guardian ad litem and to describe the results with respect to the duties performed and to provide an explanation with respect to each duty that was not performed.

Committee Amendment "A" (H-412)

This amendment is the minority report of the committee. The amendment adds an appropriations and allocations section.

This amendment was not adopted.