

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH 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

128TH 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 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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th 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

This resolution 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 resolution 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 resolution proposes to amend the Constitution of Maine to prohibit the denial of equal rights based on the sex of an individual.

Committee Amendment "A" (H-133)

This is the majority report of the committee. This amendment incorporates a fiscal note.

LD 283 An Act To Increase the Jurisdictional Limits for Small Claims Died Between Houses

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

This bill was carried over in committee from the First Regular Session to the Second Regular Session of the 128th Legislature by joint order H.P. 1138.

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

Committee Amendment "A" (H-590)

This amendment, which is the minority report of the committee, adds a General Fund appropriation of \$43,200 per year for the additional mediation costs to the Judicial Department expected to result from increasing the small claims jurisdictional limit.

LD 821 An Act To Enact the Revised Uniform Unclaimed Property Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M TALBOT ROSS R	ONTP	

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

This bill is a concept draft pursuant to Joint Rule 208. It proposes to adopt a law that is based on the Revised Uniform Unclaimed Property Act.

LD 846 An Act To Enact the Revised Uniform Fiduciary Access to Digital Assets Act PUBLIC 359 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B HILL D	OTP-AM	H-691

Joint Standing Committee on Judiciary

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

This bill enacts the Revised Uniform Fiduciary Access to Digital Assets Act, adopted by the Uniform Law Commission in 2015, as the Maine Revised Uniform Fiduciary Access to Digital Assets Act, Article 10 in the Maine Revised Statutes, Title 18-A.

The Revised Uniform Fiduciary Access to Digital Assets Act ensures that Internet users retain control of their digital property and can plan for its ultimate disposition after their death but also takes into account the digital privacy that users and those with whom they communicate have a right to expect under federal law and the unique authentication issues inherent in a paperless record-keeping system. Unless the user instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets and the same duty to comply with the user's instructions.

This bill modifies the Revised Uniform Fiduciary Access to Digital Assets Act to be consistent with existing Maine law with regard to conservators.

Part B amends the Maine Uniform Power of Attorney Act to specifically allow a power of attorney to grant authority to enable the agent to access the content of an electronic communication to be consistent with the grant of express authority required by Section 9 of the Revised Uniform Fiduciary Access to Digital Assets Act.

Part C provides that the provisions of this bill take effect January 1, 2018.

Committee Amendment "A" (H-691)

This amendment revises definitions to accommodate practices in Maine with regard to certain guardians and with regard to small estates. The definition of "conservator" is amended to include a guardian when the guardian is exercising the powers of a conservator because no conservator has been appointed. To be consistent, the definition of "protected person" is amended to include a person for whom a guardian has been appointed when no conservator has been appointed. The definition of "personal representative" is amended to cover a person claiming to be a successor of the decedent user who presents an affidavit governing access to assets in a small estate. This amendment amends the definition of "property" that applies to the entire Probate Code to include a digital asset as defined in the bill.

This amendment adds an emergency preamble and emergency clause and changes the effective date to July 1, 2018.

Enacted Law Summary

Public Law 2017, chapter 359 enacts the Revised Uniform Fiduciary Access to Digital Assets Act as the Maine Revised Uniform Fiduciary Access to Digital Assets Act, Article 10 in the Maine Revised Statutes, Title 18-A.

Chapter 359 ensures that Internet users retain control of their digital property and can plan for its ultimate disposition after their death but also takes into account the digital privacy that users and those with whom they communicate have a right to expect under federal law and the unique authentication issues inherent in a paperless record-keeping system. Unless the user instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets and the same duty to comply with the user's instructions.

Chapter 359 amends the Maine Uniform Power of Attorney Act to specifically allow a power of attorney to grant authority to enable the agent to access the content of an electronic communication to be consistent with the grant of express authority required by the Revised Uniform Fiduciary Access to Digital Assets Act.

Chapter 359 was enacted as an emergency measure on April 4, 2018 and the law goes into effect July 1, 2018.