

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

LD 860 An Act To Establish a Statewide Electronic Warrant System

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERRISH K ROSEN K	ONTP	

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 directs the State Court Administrator to establish a secure electronic system for the application, issuance and return of arrest warrants and search warrants that provides access to authorized users statewide. The bill also amends the law on search warrants to require electronic application and issuance once the electronic system has been established. The bill further directs the Supreme Judicial Court to adopt amendments to Rule 4 of the Maine Rules of Unified Criminal Procedure, effective on the date of that the statewide electronic warrant system is established, to provide for the application, issuance and return of arrest warrants through electronic means.

LD 934 An Act To Establish an Expedited Temporary Guardianship Process

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE K	ONTP	

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

This bill amends the Probate Code to add an expedited process for the court to appoint a temporary guardian for a minor.

LD 123, Public Law 2017, Chapter 402 provides for the appointment of a guardian for a minor on an emergency basis.

LD 969 An Act Regarding Nonprobate Transfers on Death

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R WHITTEMORE R	ONTP	

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

This bill enacts as Article 6, Part 4 of the Maine Probate Code the Uniform Real Property Transfer on Death Act, adopted by the Uniform Law Commission in 2009. This bill amends the Maine Probate Code to provide for the nonprobate transfer of personal property not already covered by Article 6 of the Maine Probate Code by enacting a new Part 5. The bill allows the owner of personal property, whether tangible or intangible, to provide for the transfer of that property to take place at the death of the owner without the property being included in the estate of the deceased owner. Current law already provides for "payable on death" accounts and the registration of securities to be transferred on the death of the owner. Part 5 is modeled on Missouri law.

The text of Part 4, as amended by the committee, was incorporated into the Committee Amendment to LD 123, An

Joint Standing Committee on Judiciary

Act to Recodify and Revise the Maine Probate Code, now Public Law 2017, Chapter 402.

LD 1187 An Act To Amend the Child Protective Services Statutes

PUBLIC 411

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R	OTP-AM	H-724

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 makes the following changes to the laws governing child protective services.

1. It creates a rebuttable presumption that, when a child has been removed from the custody of the child's parent or parents, placement of the child with a relative is in the best interest of the child as long as the placement does not substantially interfere with parental reunification efforts.
2. It provides that in any hearing held by the court prior to issuing an order in a child protection proceeding, a parent of the child who is the subject of the proceeding has the right to hear all evidence presented, except for testimony by the guardian ad litem, prior to testifying in the hearing.
3. It changes the standard of proof at a summary preliminary hearing from a preponderance of the evidence to clear and convincing evidence.
4. It requires that the Department of Health and Human Services limit its use of preliminary protection orders to no more than 50% of the total child protection petitions it files in a calendar year.
5. It requires the department to report to the Legislature annually the number of preliminary protection orders it requested in the previous calendar year as well as the total number of child petitions it filed in that same calendar year.

Committee Amendment "A" (H-724)

This amendment replaces the bill and makes the following changes to the Child and Family Services and Child Protection Act.

1. It specifies that the standard of the best interest of the child set forth in the Maine Revised Statutes, Title 19-A, section 1653, subsection 3 applies to child protection proceedings.
2. It amends the definition of "relative" to be consistent with the Maine Parentage Act and the federal Indian Child Welfare Act of 1978.
3. It establishes the Legislature's intent that a child who has been removed from the custody of the child's parents be placed with as many of the child's siblings as is possible and consistent with the safety and well-being of the child and the child's siblings.
4. It outlines the process and timelines that the Department of Health and Human Services must follow to effectuate the Legislature's intent that the department place a child who has been removed from the custody of the child's parents with an adult relative rather than a nonrelated caregiver as long as the adult relative passes child welfare and criminal background checks and exercises due diligence to obtain a license as a family foster home.
5. It changes the laws outlining a court's authority to order grandparent visitation or access to a child and to order