

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
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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

LD 1139 An Act To Clarify Certain Right-of-way Limitations

PUBLIC 194

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEARNS P	OTP-AM	H-276

This bill provides that a conveyance after January 1, 2018 of an easement or right-of-way leading to or touching upon a water body does not include any right by implication to install a dock or other fixture on that water body unless such a right is expressly stated in the easement or right-of-way.

This bill also provides that a municipality may, at the request of the owner of land subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or touching upon a water body that does not expressly include a right to install a dock or other fixture on that water body, after notice and hearing, direct any person who has built a dock or other fixture on that water body under a claim of an implied right under that easement or right-of-way to remove the dock or fixture at that person's expense.

Committee Amendment "A" (H-276)

This amendment replaces the bill to clearly state that, unless the written instrument that establishes an easement or right-of-way that leads to or touches upon a water body expressly includes the right to construct a dock on or using the easement or right-of-way, no such right exists in an easement or right-of-way created on or after January 1, 2018. "Water body" is intended to be all-inclusive, covering all inland and coastal waters.

This amendment does not affect easements or rights-of-way created before January 1, 2018.

Enacted Law Summary

Public Law 2017, chapter 194 provides that, unless the written instrument that establishes an easement or right-of-way that leads to or touches upon a water body expressly includes the right to construct a dock on or using the easement or right-of-way, no such right exists in an easement or right-of-way created on or after January 1, 2018. "Water body" is intended to be all-inclusive, covering all inland and coastal waters. Chapter 194 does not affect easements or rights-of-way created before January 1, 2018.

LD 1187 An Act To Amend the Child Protective Services Statutes

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R		

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

1. It changes the standard for determining when placement of a child in custody is in the best interests of the child to include a rebuttable presumption that placement with a relative is in the best interests of the child, if placement with that relative does not substantially interfere with reunification efforts with the birth parents.
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 required for a preliminary protection order from a preponderance of the evidence to clear and convincing evidence.