

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
128<sup>TH</sup> 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

128<sup>TH</sup> 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 128<sup>th</sup> 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 128<sup>th</sup> 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*

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

## *Joint Standing Committee on Judiciary*

placement of a child with a relative and moves those laws to a section of the Act immediately following the section outlining the department's responsibilities for relative and sibling placement. The amendment authorizes the court to order a relative who requests placement to participate in mediation with the foster parents, if any, the guardian ad litem and the department, when appropriate. The court must consider but is not bound by an agreement involving placement or visitation reached by the parties at mediation. The amendment also provides that if a court orders that a child be placed with a relative as part of a permanency planning order, that placement is the preferred placement in all future proceedings on the child protection petition unless the court finds that remaining in that placement will negatively affect the child.

### **Enacted Law Summary**

Public Law 2017, chapter 411 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 placement of a child with a relative and moves those laws to a section of the Act immediately following the section outlining the department's responsibilities for relative and sibling placement. The court may order a relative who requests placement to participate in mediation with the foster parents, if any, the guardian ad litem and the department, when appropriate. The court must consider but is not bound by an agreement involving placement or visitation reached by the parties at mediation. If a court orders that a child be placed with a relative as part of a permanency planning order, that placement is the preferred placement in all future proceedings on the child protection petition unless the court finds that remaining in that placement will negatively affect the child.

### **LD 1190      An Act Regarding Driver's License Suspensions for Nondriving-related Violations**

**PUBLIC 462**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M KEIM L	OTP-AM ONTP	H-532 H-550    MOONEN M

This bill was reported out of committee in the First Regular Session of the 128th Legislature and then carried over on the Special Appropriations Table. This bill was again carried over, still on the Special Appropriations Table, from the Second Regular Session to the special session by joint order S.P. 748.

This bill removes the provisions of law that allow driver's license suspensions for failure to pay a fine in offenses not related to driving. This bill provides that the statutory exemptions from attachment and execution for certain property apply to the enforcement of fines owed to the State.