

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 1355 An Act To Ensure the Timely and Proper Completion of Residential Foreclosures

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARPENTER M	ONTP	

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

This bill makes changes to the laws governing the adjournment of a public sale of foreclosed premises and where such a sale must be conducted. It clarifies several aspects of the post-foreclosure sale process regarding the filing of reports of sale and mandates that the report be filed within 45 days of the sale. If a foreclosure sale produces proceeds beyond those payable to the mortgagee, the bill requires the mortgagee to pay the surplus to the mortgagor or other party entitled to it no later than the time of the filing of the report of sale and provides a means for the party entitled to the surplus to obtain a court order for the turnover of the surplus if the mortgagee fails to do so. The bill clarifies that, after the redemption period has expired, but before a sale, a mortgagee may agree with a mortgagor to a reinstatement of the mortgage, and that the mortgagee may, in connection with the reinstatement, waive the foreclosure judgment and restore all parties to the action to the positions that they were in before any foreclosure.

LD 1406 An Act To Promote Prescription Drug Price Transparency

PUBLIC 406

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VITELLI E FOLEY R	OTP-AM OTP-AM	S-452

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

This bill amends the law governing profiteering in prescription drugs. The bill requires more disclosure of drug production, research and development costs, marketing and advertising costs and actual costs paid upon purchase. The bill allows investigations by the Attorney General of violations of these provisions.

Committee Amendment "A" (S-451)

This amendment is the majority report of the committee. The amendment replaces the bill and amends the statutes governing the Maine Health Data Organization to address the collection and reporting of information about prescription drug prices.

This amendment directs the Maine Health Data Organization, referred to as the "organization," to collect and report information with regard to the 25 prescription drugs that are the most frequently prescribed in the State, the 25 costliest as determined by the total amount spent on those drugs in the State and the 25 drugs that have the highest year-over-year cost increases in total spending in the State. The organization is required to post online a list of the identified prescription drugs, along with the corresponding wholesale acquisition cost and the percentage of wholesale acquisition cost increase, if applicable, for each identified prescription drug.

This amendment directs the organization to develop a plan to collect data from manufacturers that will help explain how prescription drug prices are established. The organization is required to work with other state and national agencies and organizations to determine how to conduct the data collection. The organization is required to submit the plan as well as any recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by April 1, 2019. That committee may report out legislation to the First or Second Regular Session of the 129th Legislature.

Joint Standing Committee on Judiciary

Using the plan developed and reported to the Legislature, starting in 2019, the organization must require the manufacturer of each drug on the list to disclose drug production, research and development costs, marketing and advertising costs and actual costs paid by purchasers. The manufacturer must certify the accuracy of the information and provide it within 60 days after the information is requested by the organization. The organization is authorized to request additional information related to the required information.

The organization is required to submit an annual report to the Legislature based on the list of up to 75 drugs and the wholesale acquisition cost information. The organization may include in the report recommendations for increasing prescription drug pricing transparency. Once the organization starts collecting information from manufacturers in 2019, the report must also include at least a summary of the manufacturer information. The organization is required to post the report online.

This amendment replaces the penalties in the bill to provide that when a manufacturer violates the reporting requirements, the Board of Directors of the Maine Health Data Organization may impose a fine of not more than \$10,000 per day after the deadline for reporting required information. If the manufacturer fails to pay a fine, or if an injunction is necessary, the board may refer the matter to the Attorney General. The Attorney General may bring an action in Superior Court for injunctive relief, enforcement of fines, costs, attorney's fees and any other appropriate remedy.

The legislation does not restrict the legal ability of a prescription drug manufacturer to change prices to the extent permitted under federal law.

The amendment includes an appropriations and allocations section.

Committee Amendment "B" (S-452)

This amendment is the minority report of the committee. This amendment directs the Maine Health Data Organization, referred to as the "organization," to collect and report information with regard to the 25 prescription drugs that are the most frequently prescribed in the State, the 25 costliest as determined by the total amount spent on those drugs in the State and the 25 drugs that have the highest year-over-year cost increases in total spending in the State. The organization is required to post online a list of the identified prescription drugs, along with the corresponding wholesale acquisition cost and the percentage of wholesale acquisition cost increase, if applicable, for each identified prescription drug.

This amendment directs the organization to develop a plan to collect data from manufacturers that will help explain how prescription drug prices are established. The organization is required to work with other state and national agencies and organizations to determine how to conduct the data collection. The organization is required to submit the plan as well as any recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by April 1, 2019. That committee may report out legislation to the First or Second Regular Session of the 129th Legislature.

The amendment also adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2017, chapter 406 directs the Maine Health Data Organization to analyze and post pharmacy data it currently collects to identify prescription drugs, both brand name and generic, that are the 25 most frequently prescribed in the State, the 25 costliest drugs as determined by total spending in the State and the 25 drugs that have the highest year-over-year cost increases in the State. The Maine Health Data Organization is required to prepare the report annually, beginning with the first report by December 1, 2018.

Chapter 406 directs the Maine Health Data Organization to develop a plan to collect data from manufacturers that will help explain how prescription drug prices are established. The organization is required to work with other state

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and national agencies and organizations to determine how to conduct the data collection. The organization must submit the plan as well as any recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by April 1, 2019. That committee may report out legislation to the First or Second Regular Session of the 129th Legislature.

LD 1541 An Act To Protect Certain Administrative Licensing Files

ONTP

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

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

This bill makes polygraph examiner and professional investigator administrative licensing files confidential by law, except the final written decision of whether a license is issued or denied, or of whether, in response to a complaint, adverse action is taken against a licensee's license, is publicly accessible and records may be disclosed for criminal justice purposes or to a government licensing agency of this State or another state. In the case of the issuance or denial of a license, the final written decision must state the basis for which a license is issued or denied, and, in the case of a complaint against a licensee's license, the final written decision must state the basis for which adverse action was or was not taken against the license. The Private Security Guards Act also is amended to ensure consistency with the changes made to the Polygraph Examiners Act and Professional Investigators Act.

LD 1658 An Act To Make Criminal History Record Information Maintained in a Database Confidential

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COREY P DIAMOND B	ONTP	

This bill makes criminal history record information contained in a database maintained or caused to be maintained by the Department of Public Safety, State Bureau of Identification confidential.

LD 1670 An Act To Revise the Grandparents Visitation Act

PUBLIC 328

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B	OTP-AM	H-597

This bill amends the Grandparents Visitation Act to alleviate the constitutional concerns raised by the Law Court in *Dorr v. Woodard*, 2016 ME 79, 140 A.3d 467. Specifically, the bill:

1. Requires that a grandparent seeking access to or visitation with a child under the Grandparents Visitation Act demonstrate standing to proceed at the outset of the case through a procedure that more closely tracks the procedure for demonstrating standing to obtain de facto parentage of a child under the Maine Parentage Act;
2. Amends the substantive test for a grandparent's standing by eliminating the automatic standing granted under current law to a grandparent when one of the child's parents or legal guardians has died. Under the bill, a grandparent has standing if the grandparent can demonstrate that the grandparent has a "sufficient existing relationship" with the child as that term is newly defined in the bill, that the absence of contact between the