

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 1854 An Act To Create the Office of the Public Defender and Amend the Duties of the Maine Commission on Indigent Legal Services

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ESPLING E		

This bill was carried over from the Second Regular Session to the next special session by joint order S.P. 748. This bill was not referred to committee

This bill establishes a statewide public defender system. The purposes of this bill are to:

1. Provide effective assistance of counsel to indigent criminal defendants, juvenile defendants and children and parents in child protective cases in courts of this State;
2. Ensure that the system is free from undue political interference and conflicts of interest;
3. Provide for the delivery of public defender services by qualified and quality counsel in a manner that is fair and consistent throughout the State;
4. Establish a system that uses state employees, contracted services and other methods of providing services in a manner that is responsive to and respectful of regional and community needs and interests;
5. Ensure that adequate public funding of the statewide public defender system is provided and the system is managed in a fiscally responsible manner;
6. Ensure that a person using the services of a statewide public defender system pay reasonable costs for services provided by the system based on the person's financial ability to pay;
7. Increase the size of the Maine Commission on Indigent Legal Services from five to nine members and change the responsibilities of the commission; and
8. Establish the Chief Public Defender as the person who makes indigency determinations.

LD 1876 An Act Regarding Financial Orders Requested by the Attorney General

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREY A HILL D	OTP-AM ONTP	H-763

This bill provides that, if the Governor disapproves or takes no action within 30 days of submission of a financial order request by the Attorney General regarding the compensation of staff attorneys, assistant attorneys general and the secretary to the Attorney General, the financial order is deemed approved as long as the positions are established and the compensations do not in the aggregate exceed the amount appropriated for the positions and do not result in an increased request to future Legislatures. It also provides that the Governor may not impose upon the Attorney General any precondition on the submission of a financial order request or the filling of any position that does not require a financial order.

Committee Amendment "A" (H-763)

Joint Standing Committee on Judiciary

This amendment is the majority report of the committee. It replaces the bill. It removes the current requirement that the Governor approve salaries set by the Attorney General for the Deputy Chief Medical Examiner, staff attorneys, assistant attorneys general and secretary to the Attorney General. Compensations continue to be limited by the total amount appropriated for those positions and cannot result in increases in requests in future budgets.

The amendment gives the Attorney General the same authority within the Office of the Attorney General to approve financial orders as the Chief Justice has within the judicial branch. The Attorney General must provide a copy of each approved financial order to the Department of Administrative and Financial Services, Bureau of the Budget and the Office of Fiscal and Program Review.

**LD 1884 An Act To Specify the Procedures Regarding the Court-ordered
Surrender of Dangerous Weapons**

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M GIDEON S	OTP-AM OTP-AM	S-489

This bill was reported out of committee during the Second Regular Session of the 128th Legislature. The bill was then carried over to the next special session by joint order S.P. 748.

This bill creates a community protection order through which a court may order a person to surrender that person's firearms temporarily for 21 days or on an extended basis for 180 days when it has been proved that the person poses a danger of causing personal injury to that person or another person. The bill provides that:

1. A law enforcement officer or a family or household member of a high risk individual may file a petition for a temporary community protection order, which expires in 21 days. A temporary community protection order may be issued on an ex parte basis. The court is required to hold a hearing to determine if the temporary community protection order should be extended for an additional 180 days;
2. A person who is the subject of a community protection order is required to surrender all firearms in the person's possession to a law enforcement officer. The firearms must be returned to the person at the expiration of the community protection order; and
3. A person who possesses firearms in violation of a community protection order commits a Class D crime. Part of the sentence must include a prohibition on possession of firearms for an additional two years.

Committee Amendment "A" (S-488)

This amendment, which is the majority report of the committee, replaces the bill. Part A of the amendment makes the following changes to the bill.

1. It limits the definition of "family or household member" to include only a former or current spouse or domestic partner of the subject of the petition, an individual who formerly was or currently is living with the subject of the petition as a spouse, the parent of a child of the subject of the petition and household members related by consanguinity or affinity to the subject of the petition.
2. It changes the definition of "high-risk individual" to remove references to mental illness.
3. It enumerates specific factors that a court must consider when deciding whether to issue a temporary or extended community protection order.
4. It reduces the duration of a temporary community protection order from 21 days to 14 days.