

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2019

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STATE OF MAINE

129TH 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 129th 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 129th Legislature is Thursday, September 19, 2019. 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 287 An Act To Impose on Mental Health Professionals a Duty To Warn and Protect

PUBLIC 317

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TEPLER D GRATWICK G	OTP-AM ONTP	H-450

This bill imposes on certain mental health professionals a duty to warn and protect if a patient or client is likely to engage in physical violence that poses a serious risk of harm to self or others or that constitutes a serious threat of substantial damage to real property. The duty to warn and protect applies to osteopathic physicians, physicians, psychologists, alcohol and drug counselors, social workers and counseling professionals.

Committee Amendment "A" (H-450)

This amendment, which is the majority report, clarifies the duty that the bill imposes on certain professionals to warn and protect if a patient or client is likely to engage in physical violence by limiting the duty to cases in which there is a belief that the patient is likely to pose a serious risk of harm to self or others. The bill includes a duty with regard to a serious threat of substantial damage to real property, which this amendment deletes.

This amendment also replaces the immunity language provided in the bill to make clear that there is no monetary liability and that the specific mental health professionals are not subject to a cause of action based on the disclosure of information to a third party in an effort to discharge the duty to warn or protect.

Enacted Law Summary

Public Law 2019, chapter 317, statutorily imposes a duty on certain professionals to warn and protect if a patient or client is likely to engage in physical violence that poses a serious risk of harm to self or others. Chapter 317 provides that there is no monetary liability and that the specific mental health professionals are not subject to a cause of action based on the disclosure of information to a third party in an effort to discharge the duty to warn or protect. The duty to warn and protect applies to osteopathic physicians, physicians, psychologists, alcohol and drug counselors, social workers and counseling professionals.

LD 302 An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Evidence in Each Case Involving a Claim of Innocence

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EVANGELOS J MIRAMANT D		

This bill amends the statutory provisions regarding criminal post-conviction review to allow the filing of a petition for post-conviction review claiming actual innocence at any time during the period of direct impediment, except that it may not be filed within one year of a judgment on a prior petition for post-conviction review on the same conviction. This bill requires that a petition for post-conviction review claiming actual innocence receive at least one evidentiary hearing in which the petitioner may submit new evidence and evidence submitted in prior proceedings on the same matter.

This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.