

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE**  
129<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

August 2019

**MEMBERS:**

SEN. MICHAEL E. CARPENTER, CHAIR  
SEN. SHENNA BELLOWS  
SEN. LISA M. KEIM

REP. DONNA BAILEY, CHAIR  
REP. CHRISTOPHER BABBIDGE  
REP. BARBARA A. CARDONE  
REP. LOIS GALGAY RECKITT  
REP. RACHEL TALBOT ROSS  
REP. THOM HARNETT  
REP. DAVID G. HAGGAN  
REP. PHILIP CURTIS  
REP. JOHN DEVEAU  
REP. JEFFREY EVANGELOS

**STAFF:**

MARGARET J. REINSCH, SENIOR LEGISLATIVE ANALYST  
OFFICE OF POLICY AND LEGAL ANALYSIS  
13 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1670  
<http://legislature.maine.gov/legis/opla/>

# STATE OF MAINE

129<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## 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 129<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 date for non-emergency legislation enacted in the First Regular Session of the 129<sup>th</sup> 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 595 An Act To Amend the Laws Governing the Unlawful Cutting of Trees**

**PUBLIC 195**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TIMBERLAKE J MORRIS J	OTP-AM	S-126

Current law governing the measurement of damages for trees that are unlawfully cut, damaged or destroyed allows an owner of property zoned for residential use to recover the costs of replacing, replanting or restoring any tree. This bill limits recovery of the costs of replacement to trees that are ornamental or fruit trees.

**Committee Amendment "A" (S-126)**

This amendment provides the option of increased damages equal to the damages available under current law in a residential zone when the trees are ornamental or fruit trees or when the trees are located within 400 feet of a dwelling. The court has discretion to reduce the damages awarded for good cause shown when the cutting of the trees was done negligently or without fault, which under current law is not applicable in residential zones.

**Enacted Law Summary**

Public Law 2019, chapter 195 provides the option of increased damages equal to the damages available under current law in a residential zone when the trees are ornamental or fruit trees or when the trees are located within 400 feet of a dwelling. Current law governing the measurement of damages for trees that are unlawfully cut, damaged or destroyed allows an owner of property zoned for residential use to recover the costs of replacing, replanting or restoring any tree. The court has discretion to reduce the damages awarded for good cause shown when the cutting of the trees was done negligently or without fault, which under current law is not applicable in residential zones.

**LD 627 An Act Regarding Portable Electronic Device Content, Location Information and Tracking Devices**

**PUBLIC 489**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-634

This bill sets forth procedures to govern the installation and monitoring of tracking devices by law enforcement officers. It amends the definition of "portable electronic device" to clarify that the device is electric and defines "tracking device." The bill also establishes parallel terms and procedures in the laws governing portable electronic device content information, electronic device location information and tracking information, including parallel definitions of "adverse result" and "serious physical injury." It provides an exception to the requirement that notice be given to the owner or user if the government entity is unable to identify the owner or user.

**Committee Amendment "A" (H-634)**

This amendment clarifies the definition of "tracking device" to limit the definition to those devices the primary purpose of which is to track a person or object and to provide that the definition does not include the electronic devices covered by Title 16, chapter 3, subchapters 10 (content information) and 11 (location information).

This amendment makes consistent the definition of "adverse result," used when requesting that notice not be provided when a warrant is issued, to include "immediate danger of death or serious physical injury to any person" and "seriously jeopardizing an investigation" but not including "other significantly detrimental consequence." The definition is used in the new subchapter on tracking devices as well as the existing subchapters on access to content and location information of electronic devices and the warrant procedure requirements for content and location information.

## *Joint Standing Committee on Judiciary*

The bill authorizes the court to issue a search warrant for the installation and monitoring of a tracking device and waive notice of the issuance of the warrant. This amendment directs the Right To Know Advisory Committee to review the law concerning the application for and issuance of search warrants authorizing the installation and monitoring of tracking devices, as well as obtaining content information and location information, and make recommendations concerning the public's right to know aggregate information about the warrants, including warrants in which the application for the warrant included a request for an order to waive notice of the issuance of the warrant. The Right To Know Advisory Committee is required to include in its report submitted by January 15, 2020, pursuant to Title 1, section 411, subsection 10, a summary of its review and any recommendations.

### **Enacted Law Summary**

Public Law 2019, chapter 489, adds a new subchapter on obtaining search warrants for tracking devices and makes changes to the laws governing access to content of and location information pertaining to portable electronic devices, including cellular telephones.

Public Law 2019, chapter 489, clarifies the definition of "tracking device" to limit the definition to those devices the primary purpose of which is to track a person or object and to provide that the definition does not include the electronic devices covered by the Maine Revised Statutes, Title 16, chapter 3, subchapters 10 (content information) and 11 (location information).

Public Law 2019, chapter 489, makes consistent the definition of "adverse result," used when requesting that notice not be provided when a warrant is issued, to include "immediate danger of death or serious physical injury to any person" and "seriously jeopardizing an investigation" but not including "other significantly detrimental consequence." The definition is used in the new subchapter on tracking devices as well as the existing subchapters on access to content and location information of electronic devices and the warrant procedure requirements for content and location information.

Public Law 2019, chapter 489, authorizes the court to issue a search warrant for the installation and monitoring of a tracking device and waive notice of the issuance of the warrant. Chapter 489 directs the Right To Know Advisory Committee to review the law concerning the application for and issuance of search warrants authorizing the installation and monitoring of tracking devices, as well as obtaining content information and location information, and make recommendations concerning the public's right to know aggregate information about the warrants, including warrants in which the application for the warrant included a request for an order to waive notice of the issuance of the warrant. The Right To Know Advisory Committee is required to include in its report submitted by January 15, 2020, pursuant to Title 1, section 411, subsection 10, a summary of its review and any recommendations.

**LD 634      An Act Regarding Implementation of Differentiated Case Management  
in the Judicial Branch**

**Leave to Withdraw  
Pursuant to Joint  
Rule**

Sponsor(s)

WARREN C

Committee Report

Amendments Adopted

This bill is a concept draft pursuant to Joint Rule 208. This bill proposes to establish guidelines for implementation of a differentiated case management system in the Judicial Department.