

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

November 2020

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# 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 759 An Act To Increase Efficiency in Enforcement of the Maine Human Rights Act**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R CARPENTER M	OTP-AM ONTP	H-573

This bill was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

This bill provides funding for two Paralegal positions and one Consumer Outreach position within the Maine Human Rights Commission and requires that the commission purchase a computer system. It also includes a \$10,000 appropriation for the initial step in evaluating the commission's computer system needs.

**Committee Amendment "A" (H-573)**

This amendment, which is the majority report of the committee, incorporates a fiscal note.

This bill was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 766 An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013**

**PUBLIC 621**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R CARPENTER M	OTP-AM ONTP OTP-AM	H-763

This bill was passed to be enacted by the Legislature and then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, this bill was recalled from the Governor's desk and re-committed to committee.

This bill amends the Act To Implement the Maine Indian Claims Settlement by:

1. Transferring jurisdiction over violations of a tribal ordinance from the State to the Passamaquoddy Tribe and the Penobscot Nation over a person who is not a member of either tribe or nation in accord with and to the extent authorized by federal law;
2. Increasing the level of certain criminal offenses from a maximum period of imprisonment of one year and a maximum amount of \$5,000 to a maximum period of imprisonment of three years and a maximum amount of \$15,000 over which the Penobscot Nation has the right to exercise exclusive jurisdiction as authorized by the federal Tribal Law and Order Act of 2010; and
3. Clarifying that the Penobscot Nation has concurrent jurisdiction with the State over criminal offenses as authorized by the federal Violence Against Women Reauthorization Act of 2013.

## *Joint Standing Committee on Judiciary*

### **Committee Amendment "A" (H-648)**

This amendment was the majority report of the committee in the First Regular Session. It provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by an individual, regardless of whether the individual is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes.

The Joint Standing Committee on Judiciary has authority to report out legislation to the Second Regular Session of the 129th Legislature concerning the extension of tribal court jurisdiction to felony domestic violence offenses consistent with the federal Violence Against Women Reauthorization Act of 2013 and the Tribal Law and Order Act of 2010.

The tribal courts are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau will share its annual reports with tribal law enforcement agencies.

The changes to the Act To Implement the Maine Indian Claims Settlement included in the bill and this amendment do not take effect unless the tribes affected approve of the changes and certify their approval.

This amendment was adopted in the First Regular Session but was removed from the bill when the bill was re-committed to the committee in the Second Regular Session.

### **Committee Amendment "B" (H-649)**

This amendment was the minority report of the committee in the First Regular Session. It differs from the majority report by repealing the expanded tribal court jurisdiction January 1, 2026.

This amendment was not adopted in either session.

### **House Amendment "A" To Committee Amendment "A" (H-655)**

This amendment clarifies the application of the expanded jurisdiction.

This amendment was adopted in the First Regular Session but was removed from the bill when the bill was re-committed to committee in the Second Regular Session.

### **Committee Amendment "C" (H-763)**

This amendment is the majority report of the committee in the Second Regular Session. It replaces the bill but carries out the bill's intent of extending tribal court jurisdiction, originally authorized by the federal Violence Against Women Reauthorization Act of 2013, to any person who commits certain Class D domestic violence offenses against a member of a federally recognized tribe, nation, band or other group on the lands of the Passamaquoddy Tribe or the Penobscot Nation. This concurrent jurisdiction includes offenses committed by a member of a federally recognized Indian tribe, nation, band or other group on tribal lands against a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

Parts A and C apply to the Penobscot Nation. Parts B and D apply to the Passamaquoddy Tribe.

This amendment provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by a person, regardless of whether the person is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order, but do

## *Joint Standing Committee on Judiciary*

not include offenses between nontribal members. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes. The amendment references the tribal courts' guarantees of all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction to ensure that this enactment, if ratified by the Passamaquoddy Tribe, the Penobscot Nation, or both, is not later determined or deemed to be unconstitutional based on subsequent judicial decisions. This extended jurisdiction applies to the domestic violence crimes committed on the respective reservations and lands taken into trust by the Secretary of the Interior for the benefit of the Passamaquoddy Tribe or the Penobscot Nation, now or in the future. This extended jurisdiction covers lands held in trust on or before the effective date of this Act, as well as lands taken into trust after the effective date of this Act.

This amendment also extends the exclusive jurisdiction of the Passamaquoddy Tribal Court to criminal offenses committed on the Passamaquoddy Indian Reservation between members of any federally recognized Indian tribe, nation, band or other group.

The tribal courts, law enforcement agencies and law enforcement officers are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau is required to share its annual reports with tribal law enforcement agencies.

Other changes include revisions to the definition of "another jurisdiction" in the Maine Criminal Code to include criminal convictions by courts of federally recognized Indian tribes. This change is consistent with federal law and the recognition of orders of protection from abuse from the courts of federally recognized Indian tribes by the Maine Revised Statutes, Title 19-A, section 4011.

The changes to the Act To Implement the Maine Indian Claims Settlement included in this amendment do not take effect unless the tribes affected approve of the changes and certify their approval.

### **Committee Amendment "D" (H-764)**

This amendment is the minority report of the committee in the Second Regular Session. It differs from Committee Amendment "C" in that it includes a sunset on the extended jurisdiction of July 1, 2026.

This amendment was not adopted.

### **Enacted Law Summary**

Public Law 2019, chapter 621 provides authority for the Passamaquoddy Tribe and the Penobscot Nation to extend the jurisdiction of their respective tribal courts over certain criminal offenses committed by a person, regardless of whether the person is a member of a federally recognized Indian tribe. The criminal offenses are domestic violence offenses in the Maine Criminal Code and criminal violation of a protection from abuse order, but do not include offenses between nontribal members. The criminal offenses are Class D crimes, and the tribe's and nation's jurisdictions are concurrent with the State's jurisdiction for the crimes. Chapter 621 references the tribal courts' guarantees of all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction to ensure that this enactment, if ratified by the Passamaquoddy Tribe, the Penobscot Nation or both, is not later determined or deemed to be unconstitutional based on subsequent judicial decisions. This extended jurisdiction applies to the domestic violence crimes committed on the respective reservations and lands taken into trust by the Secretary of the Interior for the benefit of the Passamaquoddy Tribe or the Penobscot Nation, now or in the future. This extended jurisdiction covers lands held in trust on or before the effective date of this Act, as well as lands taken into trust after the effective date of this Act.

Chapter 621 also extends the exclusive jurisdiction of the Passamaquoddy Tribal Court to criminal offenses committed on the Passamaquoddy Indian Reservation between members of any federally recognized Indian tribe,

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nation, band or other group.

The tribal courts, law enforcement agencies and law enforcement officers are required to participate in uniform crime reporting by reporting certain information to the Department of Public Safety, State Bureau of Identification, and the bureau is required to share its annual reports with tribal law enforcement agencies.

Other changes include revisions to the definition of "another jurisdiction" in the Maine Criminal Code to include criminal convictions by courts of federally recognized Indian tribes. This change is consistent with federal law and the recognition of orders of protection from abuse from the courts of federally recognized Indian tribes by the Maine Revised Statutes, Title 19-A, section 4011.

The changes to the Act To Implement the Maine Indian Claims Settlement included in chapter 621 do not take effect unless the Passamaquoddy Tribe and the Penobscot Nation approve of the changes and certify their approval.

**LD 776      An Act Regarding Post-judgment Motion by a Person Seeking To Satisfy      CARRIED OVER**  
**the Prerequisites for Obtaining Special Restrictions on the**  
**Dissemination and Use of Criminal History Record Information for**  
**Certain Criminal Convictions**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TALBOT ROSS R JACKSON T		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill amends the law concerning a post-judgment motion by a person seeking to satisfy the prerequisites for obtaining special restrictions on the dissemination and use of criminal history record information for certain criminal convictions in the following ways:

1. Current law makes convictions of only certain Class E crimes eligible for special restrictions on dissemination and use of criminal history record information. This bill expands eligibility to include convictions of both certain Class E crimes and certain Class D crimes;
2. Current law allows eligibility for restrictions on dissemination and use of criminal history record information only for persons who at the time of the commission of the crime were 18 to 20 years of age. This bill expands eligibility to a person who at the time of the commission of the crime was 18 to 25 years of age; and
3. This bill removes the provision repealing the current law October 1, 2019.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 793      An Act To Improve Accountability of Opioid Manufacturers      PUBLIC 536**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T MADIGAN C	OTP-AM ONTP	S-320 S-321 JACKSON T