

# MAINE STATE LEGISLATURE

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**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

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# STATE OF MAINE

129<sup>TH</sup> 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 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*

This resolve establishes an intensive drug treatment court two-year pilot project in the midcoast area of the State to be operational no later than November 1, 2019. The pilot project will serve ten participants who meet the requirements for participation in drug court programs. The support services provided by the Department of Health and Human Services under the pilot project are more intensive than those provided to current participants in drug court programs. The department is required to provide an interim report on implementation and a final report that includes the results of an independent evaluation of the project.

This bill was reported out of committee and then carried over to any special or regular session, or both, of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

### **Committee Amendment "A" (H-475)**

This amendment, which is the minority report, revises the number of participants in the pilot project from ten to 25. The amendment also replaces the appropriations and allocations section.

This amendment was adopted in the House and Senate before the bill was carried over on the Special Appropriations Table.

### **LD 1091 An Act Regarding the Personal Liability of Government Employees**

**ONTP**

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

Current law provides that the personal liability of an employee of a governmental entity for negligent acts or omissions within the course and scope of employment is subject to a limit of \$10,000. This bill provides an exception to this limit for an employee who is covered by liability insurance covering the negligent acts or omissions, in which case the limit is equal to the limits of the policy.

### **LD 1097 An Act To Protect Tenants from Sexual Harassment**

**PUBLIC 351**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LUCHINI L	OTP-AM	S-165

This bill creates a rebuttable presumption that a forcible entry and detainer action was commenced in retaliation against a tenant if the tenant had made a complaint of an act of sexual harassment by the landlord or landlord's agent. The bill defines "sexual harassment."

### **Committee Amendment "A" (S-165)**

This amendment is the majority report of the committee.

The bill addresses sexual harassment with regard to tenants in residential property. This amendment clearly states a landlord or a landlord's agent may not subject a tenant to sexual harassment. It retains the provision that nothing in the subchapter limits the application of the Maine Human Rights Act, which addresses discrimination in housing.

The amendment revises the definition of "sexual harassment" to include retaliation for communicating about or filing a complaint of sexual harassment.

The amendment replaces the rebuttable presumption that a forcible entry and detainer action was commenced in

## *Joint Standing Committee on Judiciary*

retaliation against a tenant with additional options for the tenant: the tenant raises the rebuttable presumption of retaliation by having communicated to the landlord or the landlord's agent about an act of sexual harassment or filed a complaint with a law enforcement agency, the Maine Human Rights Commission or a court of an act of sexual harassment by the landlord or the landlord's agent against the tenant or a family or household member of the tenant. The tenant must have made the communication, which does not have to be in writing, or complaint prior to receiving the eviction notice. This is consistent with current law that creates a rebuttable presumption based on the tenant's filing a fair housing complaint prior to receiving an eviction notice.

In addition, the amendment provides that the defense of retaliation cannot be used in an eviction if the action is brought because the tenant violated a lease provision or for any reason that is listed in the Maine Revised Statutes, Title 14, section 6002, subsection 1 as grounds for an eviction with seven days' written notice. Thus, if the landlord commences an eviction based on nonpayment of rent, for example, the fact that the tenant had communicated about sexual harassment or filed a complaint of sexual harassment does not create a presumption that the eviction is in retaliation for the assertion of that right.

The amendment also provides a tenant who is the victim of sexual harassment by the landlord or the landlord's agent with the opportunity to terminate the lease early, using the same process currently in law for a victim of domestic violence, sexual assault or stalking, by providing specified written documentation with appropriate notice.

### **Enacted Law Summary**

Public Law 2019, chapter 351, addresses sexual harassment with regard to tenants in residential property. It clearly states a landlord or a landlord's agent may not subject a tenant to sexual harassment. It provides that nothing in the subchapter limits the application of the Maine Human Rights Act, which addresses discrimination in housing.

Public Law 2019, chapter 351 defines "sexual harassment" to include retaliation for communicating about or filing a complaint of sexual harassment.

Public Law 2019, chapter 351 provides that when a tenant is subject to sexual harassment by the landlord or the landlord's agent, the tenant may raise the rebuttable presumption of retaliation by having communicated to the landlord or the landlord's agent about an act of sexual harassment or filed a complaint with a law enforcement agency, the Maine Human Rights Commission or a court of an act of sexual harassment by the landlord or the landlord's agent against the tenant or a family or household member of the tenant. The tenant must have made the communication, which does not have to be in writing, or complaint prior to receiving the eviction notice. This is consistent with current law that creates a rebuttable presumption based on the tenant's filing a fair housing complaint prior to receiving an eviction notice.

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Public Law 2019, chapter 351, also provides a tenant who is the victim of sexual harassment by the landlord or the landlord's agent with the opportunity to terminate the lease early, using the same process currently in law for a victim of domestic violence, sexual assault or stalking, by providing specified written documentation with appropriate notice.