

# 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*

**LD 1100 An Act To Clarify the Contents of the Complete Agency Record in the Appeal of an Agency's Failure or Refusal To Act**

**PUBLIC 111**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARSON B	OTP-AM	S-50

This bill permits a petitioner under the Maine Administrative Procedure Act to conduct discovery if any agency fails or refuses to act or there are alleged irregularities that are not adequately revealed in the record of a proceeding.

**Committee Amendment "A" (S-50)**

This amendment replaces the bill to clarify what must be included in the complete agency record when the failure or refusal of the agency to act is alleged in a petition filed in Superior Court for the review of final agency action under the Maine Administrative Procedure Act. The amendment explicitly requires the agency to include in the record filed in response to the petition all communications, whether written, electronic or memorialized in any other way, of all decisions by the agency to act, to refuse to act or to delay action. The record must also include all directives, orders and other documentation of those agency decisions.

**Enacted Law Summary**

Public Law 2019, chapter 111, clarifies what must be included in the complete agency record when the failure or refusal of the agency to act is alleged in a petition filed in Superior Court for the review of final agency action under the Maine Administrative Procedure Act. Chapter 111 explicitly requires the agency to include in the record filed in response to the petition all communications, whether written, electronic or memorialized in any other way, of all decisions by the agency to act, to refuse to act or to delay action. The record must also include all directives, orders and other documentation of those agency decisions.

**LD 1113 An Act To Change Procedures of the Governor's Board on Executive Clemency and To Seal Marijuana Convictions**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FECTEAU J	ONTP	

This bill requires a board, commission or panel established to provide the Governor a recommendation on a pardon, clemency or commutation of a sentence to grant a hearing to a petitioner who has been convicted of a nonviolent crime and to consider certain personal criteria of the petitioner and allows an appeal of a recommendation of denial to the Secretary of State.

This bill also seals criminal history record information regarding convictions for crimes and civil violations relating to personal adult use of marijuana by making the information confidential.

**LD 1133 An Act To Require That Hospital Liens Be Satisfied on a Just and Equitable Basis**

**PUBLIC 270**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WARREN C	OTP ONTP	

This bill requires that a hospital's statutory lien be reduced by the patient's proportionate share of a patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees. It also provides that a

## *Joint Standing Committee on Judiciary*

hospital lien must be satisfied on a just and equitable basis considering factors that diminish the patient's claim such as questions of liability or comparative negligence or other legal defenses, exigencies of trial and limits of insurance coverage.

### **Enacted Law Summary**

Public Law 2019, chapter 270, requires that a hospital's statutory lien be reduced by the patient's proportionate share of a patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees. It also provides that a hospital lien must be satisfied on a just and equitable basis considering factors that diminish the patient's claim such as questions of liability or comparative negligence or other legal defenses, exigencies of trial and limits of insurance coverage.

**LD 1175      An Act To Ensure the Timely and Proper Completion of Residential Foreclosures      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R	ONTP	

This bill makes changes to the laws governing the adjournment of a public sale of foreclosed premises and where such a sale must be conducted. It provides that for any period of adjournment for the sale of a mortgaged condominium unit, the mortgagee is required to pay the condominium association the regular monthly condominium assessment assessed against the unit for the period between the original sale date and the date of the final sale. It clarifies several aspects of the post-foreclosure sale process regarding the filing of reports of sale and mandates that the report be filed within 45 days of the sale. If a foreclosure sale produces proceeds beyond those payable to the mortgagee, the bill requires the mortgagee to pay the surplus to the mortgagor or other party entitled to it no later than the time of the filing of the report of sale and provides a means for the party entitled to the surplus to obtain a court order for the turnover of the surplus if the mortgagee fails to do so. The bill clarifies that, after the redemption period has expired, but before a sale, a mortgagee may agree with a mortgagor to a reinstatement of the mortgage, and that the mortgagee may, in connection with the reinstatement, waive the foreclosure judgment and restore all parties to the action to the positions that they were in before any foreclosure.

**LD 1183      Resolve, To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation by Members of Public Bodies      ONTP**

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

This resolve establishes the Study Committee on Remote Participation to explore the use of remote participation by members of public bodies in this State and other jurisdictions and determine the best way to guarantee government transparency and accountability, goals of the Freedom of Access Act, when considering the use of remote participation. The study committee consists of three Senators and four members of the House of Representatives. The study committee may hold a public hearing to collect public testimony on the use of remote participation. The study committee is required to make recommendations, which may include prohibition of or limitations on the use of remote participation. The study committee is required to submit a report, including any legislative recommendations, to the Joint Standing Committee on Judiciary no later than December 4, 2019.

See also the majority committee amendment to LD 1511.