

# 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  
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*

Forestry employee designated by the commissioner does not constitute a waiver of the confidentiality of those records. A person who knowingly or intentionally makes a disclosure in violation of this provision commits a civil violation for which a fine not to exceed \$1,000 may be adjudged.

**LD 1304     An Act To Ease Financial Burdens for Juveniles Involved in the Justice System**

**PUBLIC 474**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	OTP-AM	H-616

This bill amends the Maine Juvenile Code concerning the payment of restitution and fines as follows.

1. It removes from the consideration of withholding an institutional disposition following the adjudication of a juvenile crime the juvenile's ability or agreement to make restitution for a victim's damages or injuries.
2. It caps the amount of restitution a juvenile may be ordered to pay at \$800, requires the court to hold a hearing to determine the juvenile's financial capacity and allows the court to order community service in place of restitution.
3. Regarding a contempt proceeding concerning the enforcement of a dispositional order following the adjudication of a juvenile crime, the bill removes the ability of a court to incarcerate a juvenile or to levy execution of the monetary penalty or restitution to be collected as an unpaid civil judgment. The bill authorizes the court as a punitive or remedial sanction for the nonpayment of the restitution or fine to require the juvenile to earn credit by court-approved community service, which must be at a rate no less than the state minimum wage without considering whether the nonpayment was excusable or inexcusable.

**Committee Amendment "A" (H-616)**

This amendment replaces the bill. It enacts a new section in the Maine Juvenile Code governing court orders of restitution and orders to modify restitution. The new section:

1. Requires that restitution be considered by the court and, when the court does not order restitution, that the court state on the record or in writing the reasons for not imposing restitution;
2. Establishes criteria that must be considered in determining whether restitution is appropriate and the amount of restitution to be paid. The amendment specifically prohibits an order of restitution in enumerated circumstances;
3. Clarifies to whom restitution may be paid;
4. Establishes who has the burden of proof with regard to the capacity to pay restitution. If the juvenile is under 16 years of age, there is a rebuttable presumption that the juvenile does not have the capacity to pay restitution; the State may rebut the presumption by a preponderance of evidence. If the juvenile is 16 years of age or older, the juvenile has the burden of proving the incapacity to pay restitution by a preponderance of the evidence. On appeal, the juvenile has the burden of demonstrating that the court abused its discretion in ordering an amount of restitution;
5. Provides for the modification of orders of juvenile restitution; and
6. Provides that, in enforcing an order to pay restitution, the court may not enter an order for confinement as a remedial or contempt sanction unless the juvenile is at least 14 years of age. The court may also order the juvenile to complete community service.

**Enacted Law Summary**

Public Law 2019, chapter 474, enacts a new section in the Maine Juvenile Code governing court orders of

***Joint Standing Committee on Judiciary***

restitution and orders to modify restitution. The new section:

1. Requires that restitution be considered by the court and, when the court does not order restitution, that the court state on the record or in writing the reasons for not imposing restitution;
2. Establishes criteria that must be considered in determining whether restitution is appropriate and the amount of restitution to be paid. The amendment specifically prohibits an order of restitution in enumerated circumstances;
3. Clarifies to whom restitution may be paid;
4. Establishes who has the burden of proof with regard to the capacity to pay restitution. If the juvenile is under 16 years of age, there is a rebuttable presumption that the juvenile does not have the capacity to pay restitution; the State may rebut the presumption by a preponderance of evidence. If the juvenile is 16 years of age or older, the juvenile has the burden of proving the incapacity to pay restitution by a preponderance of the evidence. On appeal, the juvenile has the burden of demonstrating that the court abused its discretion in ordering an amount of restitution;
5. Provides for the modification of orders of juvenile restitution; and
6. Provides that, in enforcing an order to pay restitution, the court may not enter an order for confinement as a remedial or contempt sanction unless the juvenile is at least 14 years of age. The court may also order the juvenile to complete community service.

**LD 1312     An Act Regarding Access to Firearms by Extremely Dangerous and Suicidal Individuals**

**Accepted Report B  
(ONTP)**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLETT R GIDEON S	OTP-AM ONTP OTP-AM	

This bill creates an extreme risk protection order to authorize a court to order a person to surrender that person's firearms temporarily for 14 days or on an extended basis for 365 days when it has been proved that the person poses a danger of causing personal injury to that person or another person. The bill provides the following:

1. A law enforcement officer, a law enforcement agency or a family or household member may file a petition for a temporary extreme risk protection order, which may be granted if the court finds probable cause exists to issue the order. The temporary extreme risk protection order expires in 14 days or when a hearing to determine whether to issue an extended extreme risk protection order is held, whichever occurs sooner. A temporary extreme risk protection order may be issued on an ex parte basis.
2. Whether or not the court issues a temporary extreme risk protection order, the court is required to hold a hearing within 14 days to determine whether the person poses a danger of causing personal injury to that person or another person. If the court, based on clear and convincing evidence, finds that an extended extreme risk protection order should be issued, the extended extreme risk protection order must be issued, and it expires 365 days after the issuance of the order unless extended after another hearing.
3. Following the issuance of a temporary or extended extreme risk protection order, the court is required to order law enforcement to serve the order and is required to issue a search warrant if the court finds probable cause that the person who is the subject of the order is in possession of a firearm.
4. A person who is the subject of a temporary or extended extreme risk protection order is required to surrender all