

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH 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

129TH 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 129th 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 129th 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.

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from the Department of Corrections, the district attorney or the juvenile or the juvenile's attorney. If the juvenile or the juvenile's attorney is providing the notice, the notice must first be served on the office of the district attorney who prosecuted the juvenile crime.

This amendment provides that the court must send the order sealing the record to the Department of Public Safety, Bureau of State Police, State Bureau of Identification, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources or the Department of the Secretary of State, Bureau of Motor Vehicles, as appropriate.

This amendment provides that if the juvenile crime for which the person was adjudicated disqualifies the person from possessing a firearm as provided in the Maine Revised Statutes, Title 15, section 393, the sealing of the record does not affect the prohibition on possession of a firearm by that person.

LD 1672 An Act Regarding the Admissibility of Certain Health Care Records as Evidence

Leave to Withdraw Pursuant to Joint Rule

Sponsor(s)
BAILEY D

Committee Report

Amendments Adopted

This bill makes changes to the law governing the admissibility of health care records as evidence in court. It specifies that records, including itemized bills, kept by health care practitioners, health care entities, health care providers, pharmacists and pharmacies may be admissible in court as evidence of: (1) the fair and reasonable charge for such services or the necessity of services or treatments; (2) the diagnosis provided by the medical entity; (3) the prognosis provided by the medical entity; (4) the opinion provided by the medical entity regarding the proximate cause of the condition diagnosed by the medical entity; and (5) the opinion provided by the medical entity regarding any disability or incapacity proximately resulting from the condition diagnosed by the medical entity.

LD 1684 An Act To Clarify the Right to Counsel for Juveniles and Improve Due Process for Juveniles

CARRIED OVER

Sponsor(s)
MORALES V
MILLETT R

Committee Report

Amendments Adopted

Currently, Maine has no minimum age at which a child may be prosecuted for a crime. The purpose of this bill is to prevent children under 12 years of age from being prosecuted for crimes, to prevent children under 14 years of age from being incarcerated, to eliminate the current requirement that, if committed, a juvenile must be committed for at least a year and to prevent courts from imposing dispositions against juveniles that involve commitment without exhausting all other less restrictive alternatives. The bill also mandates regular opportunities for judicial review of a juvenile's commitment in addition to providing an appellate avenue for relief from unfavorable reviews.

The bill provides that if a court imposes a disposition that involves incarceration, the court must conduct a detailed analysis on the record explaining the rationale for the disposition. Such a disposition is authorized only if the court finds certain criteria by clear and convincing evidence. If the court commits a juvenile to a facility, the bill requires periodic judicial review of the incarceration to ensure that the rehabilitative purposes of incarceration are not being outweighed by the harm caused by incarceration.

The overarching goal of this bill is to ensure that fewer children are in the juvenile justice system and that, if and

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when they do become involved in the system, there is a presumption against incarceration and a requirement for the regular review of any commitment imposed, in order to minimize the harm that incarceration can cause children.

This bill amends the statute governing a juvenile's right to counsel to specify that the right to counsel attaches at the juvenile's initial appearance and continues until the court no longer has jurisdiction over the juvenile, including all post-dispositional hearings and during the time of commitment. This bill also requires counsel appointed by the court to continue to represent the juvenile throughout all proceedings concerning the juvenile, unless relieved by the court.

This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.

LD 1688 An Act To Protect Original Birth Certificates

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOW D HEPLER A	ONTP	

This bill repeals the law authorizing the creation of a new birth certificate for an adopted person and it removes the provision that requires the sealing of the original birth certificate. The bill allows a person born in this State to retain that person's original birth certificate, even if that person is adopted. This change does not affect a person born in a foreign country who is adopted in this State. A person adopted before October 1, 2019 will still need to follow the current statutory procedure to receive access to that person's original birth certificate upon attaining 18 years of age. This bill requires a certificate of birth for a child who is being adopted to be amended to include the adoptee's new name and the adoptive parent's name or parents' names and personal data.

LD 1695 An Act Regarding the Law Governing the Disclosure of Vital Records

ONTP

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

This bill makes the following changes to the laws governing vital records.

1. It provides that certificates and records of birth, marriage, intentions to marry, domestic partnerships and death, including fetal death, are open to the public without restriction. It allows any person to inspect and purchase noncertified copies of these vital records. Certified copies of these records may be purchased only by those persons specified in law.
2. It provides that inspection of certificates and records includes visual and physical access to the original certificate or record when no alternative method of inspection is available, subject to rules designed to protect the physical integrity and condition of the certificates and records.
3. It provides that indices to certificates and records of birth, marriage, intentions to marry, domestic partnerships and death, including fetal death, at the municipal and state levels are open to the public without restriction.
4. It directs the State Registrar of Vital Statistics to enter into a long-term nonexclusive contract with a private entity experienced in maintaining genealogical research databases to create, maintain and update at no direct cost to the State an online index to records of birth, marriage, intentions to marry, domestic partnerships and death, including fetal death, in exchange for allowing the private entity to also provide that index to its subscribers and