

# 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*

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.

This amendment was adopted in the First Regular Session, but was removed from the bill when the bill was recommitted to the committee in the Second Regular Session.

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

**CARRIED OVER**

| <u>Sponsor(s)</u>      | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|------------------------|-------------------------|---------------------------|
| MORALES V<br>MILLETT R |                         |                           |

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

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.

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

### **LD 1703     An Act To Improve Consistency in the Maine Human Rights Act and Related Statutes**

**CARRIED OVER**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| BAILEY D          | OTP-AM<br>ONTP          | H-665   BAILEY D          |

This bill was passed to be enacted by the Legislature then held by the Governor at the end of the First Regular Session of the 129th Legislature. During the Second Regular Session, it was recalled from the Governor's desk and, as described in this summary, was acted upon without reference to committee.

The purpose of this bill is to address inconsistencies in the protections provided in different areas of jurisdiction under the Maine Human Rights Act. The bill provides more inclusive protection by:

1. Including adult family members dependent for care in the definition of "familialstatus";
2. Including familial status as a protected class in employment;
3. Including age as a protected class in public accommodations;
4. Providing that public entities cannot discriminate on the basis of protected class;and

## *Joint Standing Committee on Judiciary*

### 5. Clarifying the scope of the Maine Human Rights Act application in education.

The bill also clarifies the protections provided to pregnant persons in employment and that the sexual orientation provisions already in the Maine Human Rights Act extend to gender identity.

#### **Committee Amendment "A" (H-643)**

This amendment was the majority report of the committee in the First Regular Session. It removes housing from the list in the policy section of activities for which it is illegal to discriminate on the basis of age. The bill clarifies the Maine Human Rights Act by adding "or gender identity" where the phrase "sexual orientation" currently is in place; the amendment does the same throughout the rest of the Maine Revised Statutes.

This amendment was adopted in the First Regular Session, but was removed and replaced by House Amendment "C" in the Second Regular Session.

#### **Senate Amendment "A" (S-349)**

This amendment strikes from the bill the clarifications of protections provided to pregnant persons in employment because they are covered by another bill.

This amendment was adopted in the First Regular Session but was removed and replaced by House Amendment "C" in the Second Regular Session.

#### **House Amendment "A" (H-654)**

This amendment removes references to bona fide nonprofits regarding religious entities.

This amendment was adopted in the First Regular Session but was removed and replaced by House Amendment "C" in the Second Regular Session.

#### **House Amendment "B" (H-663)**

This amendment, which was adopted in the Second Regular Session after the bill was recalled from the Governor's Desk, incorporates the substance of the bill, as amended by Committee Amendment "A," Senate Amendment "A" and House Amendment "A" and it strikes from the bill a provision that makes it unlawful public accommodations discrimination under the Maine Human Rights Act for any public entity to discriminate on the basis of protected class.

It updates the statutory sections to reflect changes in the law that were enacted in the First Regular Session of the 129th Legislature.

This amendment was not offered or adopted. See House Amendment "C".

#### **House Amendment "C" (H-665)**

This amendment incorporates the substance of the bill, as amended by Committee Amendment "A," Senate Amendment "A" and House Amendment "A" and makes the following changes:

1. It strikes from the bill a provision that makes it unlawful public accommodations discrimination under the Maine Human Rights Act for any public entity to discriminate on the basis of protected class because that provision duplicates changes made in LD 1701, Public Law 2019, chapter 464; and
2. It retains a provision in current law that makes it unlawful discrimination for a qualified individual with a disability, by reason of that disability, to be excluded from participation in or denied the benefits of the services, programs or activities of a public entity or subjected to discrimination by a public entity.

## *Joint Standing Committee on Judiciary*

The amendment also updates the statutory sections to reflect changes in the law that were enacted in the First Regular Session of the 129th Legislature.

This bill was carried over in the House to any special session of the 129th Legislature by joint order, S.P. 788.

### **LD 1709     An Act To Amend the Act To Implement the Maine Indian Claims Settlement**

**CARRIED OVER**

| <u>Sponsor(s)</u>       | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------------|-------------------------|---------------------------|
| COLLINGS B<br>JACKSON T |                         |                           |

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

Current law provides that federal laws adopted after October 10, 1980 for the benefit of Indians, Indian nations or tribes or bands of Indians that would affect or preempt the application of the laws of this State, including application of the laws of the State to lands owned by or held in trust for Indians or Indian nations, tribes or bands of Indians do not apply within this State unless the subsequently enacted federal law is specifically made applicable within this State.

This bill directs the Governor or the Governor's designee to maintain active communications with all the members of the Maine congressional delegation about the introduction of any such legislation in the United States Senate or the United States House of Representatives. The Governor or the Governor's designee is required to submit a report within 10 days of the introduction of such legislation to the President of the Senate, the Speaker of the House of Representatives, the Attorney General and the Chair of the Maine Indian Tribal-State Commission. In addition, the Governor or the Governor's designee is required to submit an annual report about such legislation, including its status and disposition. The information in the reports will assist the President of the Senate, Speaker of the House, Attorney General and Maine Indian Tribal-State Commission in deciding how to work with the Maine congressional delegation to ensure the tribes in Maine are included in federal legislation when appropriate.

This bill amends the Act to Implement the Maine Indian Claims Settlement to specifically state that the Passamaquoddy Tribe and the Penobscot Nation have the same rights, privileges, powers and immunities as a sovereign and repeals the requirement that all Indians, Indian nations and tribes and bands of Indians and any lands or other resources owned or held for them are subject to the laws of Maine and to the jurisdiction of Maine courts. The bill provides the same level of immunity to the Passamaquoddy Tribe and the Penobscot Tribe and their officers and employees as is enjoyed by officers and employees of the State. Finally, the bill repeals the provision of the Implementing Act that subjects all Indians and Indian nations or tribe or band of Indians to taxes and fees.

The changes to the Implementing Act do not take effect unless approved by the Governor and Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe within 90 days after adjournment of the First Regular Session of the 129th Legislature.

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