

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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information of state employees to provide consistency and includes gender identity in all three statutes governing private information.

The amendment adds language to each statute to ensure that aggregated private information about state, county and municipal employees is publicly accessible.

Enacted Law Summary

Public law 2019, chapter 451, amends the laws governing the confidentiality of personal information of public employees to provide parallel protections for private information of state, county and municipal employees. Chapter 451 includes protection of genetic information and information about the sexual orientation and gender identity of employees contained in the records of the governmental entity. Chapter 451 provides that aggregated private information about state, county and municipal employees is publicly accessible.

LD 1794 An Act To Amend the Service Fee for Child Support Services

PUBLIC 400

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GRATWICK G	OTP-AM	S-291

This bill amends the service fee for child support services to \$35 annually for those individuals receiving at least \$550 in support collected for the federal fiscal year.

Committee Amendment "A" (S-291)

This amendment incorporates a fiscal note.

Enacted Law Summary

Public Law 2019, chapter 400, amends the service fee for child support services to \$35 annually for those individuals receiving at least \$550 in support collected for the federal fiscal year.

LD 1811 An Act To Enhance Personal and Public Safety by Requiring Evaluations of and Judicial Hearings for Persons in Protective Custody Regarding Risk of Harm and Restricting Access to Dangerous Weapons

PUBLIC 411

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KEIM L	OTP-AM OTP-AM	S-357

Current law authorizes law enforcement to take a person into protective custody for evaluation by a medical practitioner as protection from imminent threats of substantial self-inflicted harm or substantial harm to others. Part A of this bill requires that a medical practitioner evaluate the history, recent actions and behaviors of a person taken into protective custody and determine whether there is a reasonable likelihood that the person's mental health will deteriorate; whether the person will in the foreseeable future pose a likelihood of serious harm; and whether any such likelihood of harm is exacerbated by the person's immediate access to a firearm or other dangerous weapon. A medical practitioner must certify this evaluation and, if the evaluation is certified in the affirmative, the person is required to surrender any dangerous weapons possessed or controlled by that person to a law enforcement officer pending a judicial review hearing to be held within 14 days. A court then determines whether to dissolve or continue those restrictions for one year. When the person is determined by a court to no longer present a substantial threat, the restrictions end and the weapons are returned. Part B of this bill requires that a court make similar determinations for a person enrolled in the progressive treatment program. When a person in that program is no longer determined by a court to present a substantial threat, the restrictions end and the weapons are returned. Part

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C makes related changes to the laws governing the Extradition and Prosecution Expenses Account; possession of firearms by prohibited persons; law enforcement agency written policy requirements; and law enforcement agency training requirements.

Committee Amendment "A" (S-357)

This amendment, which is the majority report, replaces the bill but retains the purpose of providing an alternative to law enforcement to take into protective custody and have assessed a person who presents a likelihood of foreseeable harm to the person or to others.

"Likelihood of foreseeable harm" is defined as a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.

The law enforcement officer is directed to have the person in protective custody assessed by a medical practitioner. If the assessment finds that the person presents a likelihood of foreseeable harm, the law enforcement officer must seek an endorsement from a judicial officer that the person presents a likelihood of foreseeable harm, which authorizes law enforcement to notify the person that the person is a restricted person and is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing. The restricted person must immediately and temporarily surrender any weapon possessed, controlled or acquired by the restricted person to a law enforcement officer.

A restricted person who makes all practical and immediate efforts to comply with a surrender notice is not subject to arrest or prosecution as a prohibited person under the Maine Revised Statutes, Title 15, section 393, subsection 1, paragraph E-1 or E-2. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law.

The district attorney is required to file a petition for judicial review of the initial restrictions by the District Court. Within 14 days of the notice of restricted status given to the restricted person, the court is required to hold a hearing to determine whether to dissolve or extend the initial restrictions. The restricted person has the right to be represented by counsel. The district attorney has the burden of proving by clear and convincing evidence that the restricted person presents a likelihood of foreseeable harm. The court may dissolve the initial restrictions or extend them for up to one year.

This amendment directs the executive branch to work with medical practitioners and law enforcement to develop and release, by January 1, 2020, a request for proposals for the development and acquisition of the technology necessary to enable assessments under Title 34-B, section 3862-A at locations other than health care facilities.

By February 1, 2020, the Department of Public Safety must develop a plan, including any cost estimates, to implement a database system to support this legislation.

The provisions for assessments for likelihood of foreseeable harm and restricted person status take effect July 1, 2020.

Committee Amendment "B" (S-358)

This amendment, which is the minority report, replaces the bill but retains the purpose of providing an alternative to law enforcement to take into protective custody and have assessed a person who presents a likelihood of foreseeable harm to the person or to others. It differs from the majority report in two ways.

First, it authorizes a law enforcement officer to take a person into protective custody on probable cause to believe

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that the person presents a likelihood of foreseeable harm.

Second, it provides that the assessments qualify for the same payment of private or public insurance applicable to assessments under the Maine Revised Statutes, Title 34-B, section 3863.

This amendment was not adopted.

Enacted Law Summary

Public Law 2019, chapter 411 provides an alternative for law enforcement to take into protective custody and have assessed a person who presents a likelihood of foreseeable harm to the person or to others.

"Likelihood of foreseeable harm" is defined as a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.

The law enforcement officer is directed to have the person in protective custody assessed by a medical practitioner. If the assessment finds that the person presents a likelihood of foreseeable harm, the law enforcement officer must seek an endorsement from a judicial officer that the person presents a likelihood of foreseeable harm, which authorizes law enforcement to notify the person that the person is a restricted person and is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing. The restricted person must immediately and temporarily surrender any weapon possessed, controlled or acquired by the restricted person to a law enforcement officer.

A restricted person who makes all practical and immediate efforts to comply with a surrender notice is not subject to arrest or prosecution as a prohibited person under the Maine Revised Statutes, Title 15, section 393, subsection 1, paragraph E-1 or E-2. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law.

The district attorney is required to file a petition for judicial review of the initial restrictions by the District Court. Within 14 days of the notice of restricted status given to the restricted person, the court is required to hold a hearing to determine whether to dissolve or extend the initial restrictions. The restricted person has the right to be represented by counsel. The district attorney has the burden of proving by clear and convincing evidence that the restricted person presents a likelihood of foreseeable harm. The court may dissolve the initial restrictions or extend them for up to one year.

Public Law 2019, chapter 411, directs the executive branch to work with medical practitioners and law enforcement to develop and release, by January 1, 2020, a request for proposals for the development and acquisition of the technology necessary to enable assessments under Title 34-B, section 3862-A at locations other than health care facilities.

By February 1, 2020, the Department of Public Safety must develop a plan, including any cost estimates, to implement a database system to support this legislation.

The provisions for assessments for likelihood of foreseeable harm and restricted person status take effect July 1, 2020.