

MAINE STATE LEGISLATURE

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STATE OF MAINE
130TH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS



Disposition of bills and summaries of all laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

December 2021

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JOINT STANDING COMMITTEE ON JUDICIARY

LD 192 An Act To Define the Responsibilities of Residential Property Owners for the Maintenance and Repair of Private Roads

ENACTED LAW SUMMARY

Public Law 2021, chapter 13 addresses the responsibility for the repair and maintenance of private roads that benefit residential properties. It is limited in application to residential properties only. Unless there is an agreement, deed restriction, covenant or declaration or road association that specifies the cost to be paid by each owner of a benefited property, the cost is shared equally by the benefited properties. Each residential property is subject to cost sharing, not each residential property owner; each residential property is assessed one share of the collective costs of repairs and maintenance regardless of whether there are multiple owners of record for that property. An owner who fails to comply may be forced to comply through an action brought by other owners on the private road.

The provisions do not apply to a private road constructed or used primarily for commercial or forest management purposes or to a property owner who issues a ground lease to a third party who maintains a residence on the subject property.

LD 209 An Act Concerning Name Changes for Minors

ENACTED LAW SUMMARY

Public Law 2021, chapter 14 contains recommendations of the Family Law Advisory Commission. It clarifies and consolidates in a single section of Maine law the process and standards for changing the names of adults and minors. Chapter 14 provides that a parent or guardian of a minor may file a name change petition for the minor in the Probate Court in the county in which the minor lives, unless the District Court has exclusive jurisdiction regarding the minor pursuant to the Maine Revised Statutes, Title 4, section 152, subsection 5-A, in which case the petition must be filed in District Court. It also permits a parent or guardian to request to change the minor's name as part of a proceeding concerning parentage or other parental rights with respect to the minor in the District Court. A separate petition is not required in these cases.

Chapter 14 requires the parent or guardian who requests a name change for the minor in District Court to provide notice pursuant to the applicable rules of procedure to any other parent, any guardian, any guardian ad litem and any person or agency with legal custody of the minor and to the minor if the minor is 14 years of age or older. The court must provide an opportunity for those entitled to notice to be heard and may change the name of the minor if the court finds that the change is in the best interest of the minor. A parent or guardian does not have to publish notice of a minor's name change unless the court orders that notice publication is required because of the specific circumstances of the case. It authorizes the court to limit notice of the name change if the parent who has sole parental rights and responsibilities shows by a preponderance of the evidence

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that either the minor is a victim of abuse or the minor or petitioner is currently in reasonable fear of the minor's or petitioner's safety.

Chapter 14 provides factors a court must consider to assess whether a request or petition for a name change is in the best interest of the minor.

LD 222 An Act To Update the Maine Parentage Act

ENACTED LAW SUMMARY

Public Law 2021, chapter 141 amends the Maine Parentage Act to update the acknowledgment of paternity provision to broaden the process to be an acknowledgment of parentage and allows intended parents participating in assisted reproduction, as well as presumed parents, to sign the acknowledgment of parentage.

LD 320 An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles

ENACTED LAW SUMMARY

The overarching goal of Public Law 2021, chapter 326 is to ensure that fewer children are in the juvenile justice system and that, if and 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.

Chapter 326 provides that, beginning October 1, 2021, a juvenile who has not attained 12 years of age may not be committed to a secure detention facility, which includes the Long Creek Youth Development Center. It also provides that a juvenile who has not attained 12 years of age may not be detained in a secure detention facility for more than seven days except upon agreement of the parties.

Chapter 326 clarifies that a juvenile who has not attained 21 years of age must be represented by counsel when the court is conducting a review under the Maine Revised Statutes, Title 15, section 3315 or Title 15, section 3317. It prevents courts from imposing dispositions against juveniles that involve commitment without exhausting all other less restrictive alternatives. Chapter 326 also mandates regular opportunities for judicial review of a juvenile's commitment in addition to providing an appellate avenue for relief from unfavorable reviews.

Chapter 326 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. It also requires counsel appointed by the court to continue to represent the juvenile