

MAINE STATE LEGISLATURE

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STATE OF MAINE
130TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

July 2022

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LD 2008 Resolve, To Establish the Committee To Study Court-ordered Treatment for Substance Use Disorder

ENACTED LAW SUMMARY

Resolve 2021, chapter 183 establishes the 16-member Committee To Study Court-ordered Treatment for Substance Use Disorder. The study committee is directed to explore the legal issues and best medical practices and related issues concerning substance use disorder treatment that either is involuntary or includes some form of leverage to ensure adherence to treatment. The study committee shall submit a report that summarizes its activities and recommendations, including suggested legislation, to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Judiciary for presentation to the First Regular Session of the 131st Legislature. The study committee is required to seek outside funding for the costs of the study.

Resolve 2021, chapter 183 was finally passed as an emergency measure effective May 8, 2022.

LD 2022 An Act To Amend the Judicial Districts and Divisions for York County

ENACTED LAW SUMMARY

Public Law 2021, chapter 633 changes provisions of the Maine Revised Statutes, Title 4 to align the statutes with the future location of the District Court in York County. Chapter 633 takes effect January 1, 2023.

LD 2023 An Act To Implement the Recommendations of the Secretary of State Regarding Notarial Acts

ENACTED LAW SUMMARY

Public Law 2021, chapter 651 implements the recommendations of the Secretary of State's study on remote and online notarization pursuant to Public Law 2021, chapter 337. It is based on the Revised Uniform Law on Notarial Acts as approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2018.

Chapter 651 retains the current law's strong conflict of interest protections prohibiting performance of a notarial act for an immediate family member, except in the case of a marriage ceremony, and includes the uniform law's additional restriction on notarial acts involving records in which the notary public or notary public's family member has a direct beneficial interest. It also includes identical language from the current Maine statute for the corporate conflict of interest provision and uses substantively the same language from the current Maine statute that prohibits a notary public from notarizing the petitions for a referendum campaign in which the notary public is otherwise involved.

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Chapter 651 retains the current authorization that allows attorneys-at-law duly admitted and eligible to practice in the courts of this State to perform notarial acts. Additionally, NCCUSL's Revised Uniform Law on Notarial Acts recommends that judges, clerks or deputy clerks of the court be authorized to perform notarial acts, and these additional authorizations, with the addition of state court justices, are included.

Chapter 651 permits any notarial officer, including notaries public, attorneys, justices, judges, clerks and deputy clerks, to perform notarial acts for a remotely located individual in accordance with specified criteria. Chapter 651 includes security measures, including identity proofing and recording requirements, and language that permits the Secretary of State to assess a fee when the Secretary of State accepts service for a civil action in a dispute pursuant to a notarial act performed for a remotely located individual. The Secretary of State currently requires a fee for any service of process made to the Secretary of State.

Chapter 651 authorizes all notarial officers to perform a notarial act with respect to an electronic record. A notarial officer must notify the Secretary of State prior to performing the first notarial act with respect to an electronic record.

Chapter 651 requires any notarial officer seeking to perform remote and online notarization to notify the Secretary of State, who will maintain a database of that information online. The Secretary of State currently maintains a searchable online database of notaries public.

Currently, Maine is one of only three states that gives notaries public the authority to perform marriages. Chapter 651 creates a separate marriage officiant license and eliminates the power of notaries public to perform marriage ceremonies. It also provides that a notary public is automatically issued a marriage officiant license unless the notary public declines the license in writing. Chapter 651 clarifies that marriages may not be solemnized remotely.

Chapter 651 retains the current term of seven years for notaries public, as well as for the new marriage officiant license.

Title 4, section 961 currently provides for the continuation of the temporary modification of certain in-person notarization and acknowledgment requirements established in executive orders in 2020, but only until January 1, 2023. Chapter 651 extends the effect of section 961 until July 1, 2023.

Other than the amendments to Title 4, section 961, Chapter 651 takes effect July 1, 2023.

LD 2028 Resolve, Directing the Family Law Advisory Commission To Develop Options To Improve Preliminary Injunctions in Judicial Separation and Divorce Actions

ENACTED LAW SUMMARY

Resolve 2021, chapter 148 was reported out by the Judiciary Committee pursuant to Resolve 2021, chapter 78. It directs the Family Law Advisory Commission to review the elements of preliminary injunctions in judicial separation and divorce actions both in this State's statutes and in the statutes