

MAINE STATE LEGISLATURE

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STATE OF MAINE
131ST LEGISLATURE
SECOND REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON HEALTH COVERAGE,
INSURANCE AND FINANCIAL SERVICES**

June 2024

STAFF:

COLLEEN MCCARTHY REID, PRINCIPAL ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670
<http://legislature.maine.gov/opla>

MEMBERS:

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STATE OF MAINE

131ST LEGISLATURE
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LEGISLATIVE DIGEST OF BILLS AND SUMMARIES OF ENACTED LAWS

This *Legislative Digest of Bills and Summaries of Enacted Laws* provides the disposition of all LDs and summaries of all laws enacted or finally passed during the Second Regular Session of the 131st Maine Legislature. Please note that all LDs and proposed amendments may be found through the Legislature's webpage, and each includes a summary of what the bill or amendment proposed.

The *Legislative Digest of Bills and Summaries of Enacted Laws* is arranged alphabetically by committee. Within each committee section is a subject index of all LDs considered by that committee as well as a digest of the LDs, arranged by LD number. Also included are enacted law summaries of the LDs enacted or finally passed. Brief analyst notes on certain LDs are also included: a committee digest will indicate if additional notes are provided for an LD. These notes add information staff found useful and may provide useful information to users of this *Digest*; please note that most LDs do not have a note and lack of a note should not be interpreted as having any significance. A separate section of the *Digest* provides a digest of the relatively few LDs that were not referred to a committee or reported from a committee as a committee bill; enacted law summaries of the LDs enacted or finally passed are provided. Finally, an appendix provides a summary of relevant session statistics.

The final disposition of each LD is noted in the relevant summary digest and index. 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 Second Regular Session of the 131st Legislature is Friday, August 9, 2024. 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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LD 227 An Act Regarding Legally Protected Health Care Activity in the State

ENACTED LAW SUMMARY

Public Law 2023, chapter 648 provides protections to persons who seek, health care practitioners who provide and those who assist health care practitioners in providing gender-affirming health care services and reproductive health care services in accordance with the applicable standard of care.

Part A of the law does the following.

1. It states the Legislature’s finding that access to gender-affirming health care services and reproductive health care services, when those services are authorized under the laws of this State, is a legal right and that interference with access to such services or the provision of such services is against the public policy of this State.
2. It defines “legally protected health care activity” as the exercise or attempted exercise of the right to gender-affirming health care services or reproductive health care services secured in this State as well as the provision or attempted provision of gender-affirming health care services or reproductive health care services authorized under the laws of this State by a health care practitioner licensed and physically present in this State, regardless of whether the patient is located in this State or the health care practitioner is licensed in the state where the patient is located. “Legally protected health care activity” does not include conduct that could form the basis of civil, criminal or administrative liability under the laws of this State had the course of conduct occurred entirely within this State.
3. It authorizes a health care practitioner or person assisting a health care practitioner against whom a civil, criminal or administrative action in another state is brought to deter, prevent, sanction or punish that health care practitioner for engaging in legally protected health care activity or that person for aiding and assisting legally protected health care activity, referred to in the law as “hostile litigation,” to bring a civil action in this State for damages, punitive damages and equitable relief. A court in this State may include in a damage award the amount of any judgment issued in connection with the hostile litigation as well as the person’s reasonable attorney’s fees and expenses incurred in connection with that action.
4. It requires a person seeking to enforce in this State a judgment from another state, referred to in the law as a “foreign judgment,” in connection with hostile litigation to bring an action on the judgment within five years. A court in this State may not enforce a foreign judgment in connection with hostile litigation if the court that issued the judgment lacked jurisdiction or failed to provide due process of law.
5. It provides that, unless required by federal law, a court of this State may not order a person in this State to give testimony or produce documents or other information in any proceeding involving hostile litigation. In addition, unless required by federal law, a court in this State may not issue a summons or warrant in a case involving a grand jury investigation of or prosecution under the criminal laws of another state for engaging in or for aiding and assisting

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legally protected health care activity unless the conduct at issue would constitute a criminal offense if it had occurred entirely within this State.

6. It prohibits public agencies, including law enforcement agencies, from knowingly cooperating with or expending public resources in furtherance of an investigation or proceeding against a person for engaging in or aiding and assisting legally protected health care activity. It also prohibits the arrest of a person in this State if the arrest is related to criminal liability for engaging in or aiding and assisting legally protected health care activity. The law does not prohibit a public agency, including a law enforcement agency, from cooperating or assisting an investigation or proceeding or from responding to a warrant or extradition demand on the good faith belief that the warrant or demand is valid in this State or when exigent circumstances make compliance with the law impossible.
7. It provides that the laws of this State apply to any case or controversy heard in this State involving legally protected health care activity or aiding and assisting legally protected health care activity.

Part B of the law amends the Uniform Interstate Depositions and Discovery Act, through which a person may request that a court in this State issue a subpoena to effectuate a subpoena issued under the authority of a court in another state, referred to as a "foreign subpoena." Under the law, a person submitting a foreign subpoena to a clerk of court must also submit an affidavit attesting whether the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity. If the affidavit reveals that the foreign subpoena is related to legally protected health care activity or aiding and assisting legally protected health care activity, the clerk may not issue the subpoena and must present the request to the court. The court must deny the request unless it finds that the foreign subpoena seeks documents, information, inspection or testimony related to specified types of civil actions either brought by a person or brought under a contract for which a similar cause of action exists under the laws of this State.

Part C of the law amends the Uniform Criminal Extradition Act to prohibit the Governor from surrendering a person charged in another state for engaging in or aiding and assisting legally protected health care activity unless the executive authority in the other state alleges that the accused was physically present in the other state when the alleged offense was committed and thereafter fled the other state. In addition, Part C prohibits a court in this State from issuing a search warrant authorizing a government entity to obtain portable electronic device content information that relates to an investigation into legally protected health care activity or aiding and assisting legally protected health care activity.

Part D of the law provides that a health care practitioner that provides services related to legally protected health care activity may participate in the Address Confidentiality Program administered by the Secretary of State.

Current law prohibits an insurer that provides medical malpractice insurance in this State from discriminating or taking any adverse action against a health care professional who provides reproductive health care services on the sole basis that the health care professional is acting in

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violation of another state's law or is subject to an adverse action against the health care professional's license in another state. Part E of the law extends analogous protections to health care practitioners who engage in or aid and assist legally protected health care activity

Part E of the law also does the following.

1. It prohibits a professional licensing authority in this State from subjecting a health care practitioner to professional discipline based solely on the health care practitioner's engaging in or aiding and assisting legally protected health care activity or a pending or final criminal, civil or professional discipline action in another state based on engaging in or aiding and assisting legally protected health care activity.
2. It prohibits a health care provider or health care entity from restricting or denying the clinical privileges of or taking formal disciplinary action against a health care practitioner solely as a result of the health care practitioner's engaging in or aiding and assisting legally protected health care activity or the initiation or final disposition of a professional discipline action by a professional licensing authority in another state based on the health care practitioner's engaging in or aiding and assisting legally protected health care activity.
3. It prohibits a carrier offering or renewing a health care plan in this State from terminating or not renewing a contract with or imposing any monetary penalties against a participating provider on the sole basis that the participating provider engages in or aids and assists legally protected health care activity.

Part F of the law prohibits a health care practitioner or facility from disclosing in a civil or administrative action or proceeding or in response to a subpoena issued in such a proceeding information obtained through an examination of an individual relating to reproductive health care services or gender-affirming health care services and from disclosing a communication from an individual or a person acting on the individual's behalf about reproductive health care services or gender-affirming health care services unless the disclosure is authorized in writing by the individual; the disclosure is requested in connection with a medical malpractice claim brought by the individual against the health care practitioner or facility; the disclosure is requested by a professional licensing board in this State in connection with a complaint that is not based solely on an allegation that a licensee provided reproductive health care services or gender-affirming health care services that are lawful in this State and within the licensee's scope of practice; or the disclosure is requested in connection with an investigation of abuse, neglect or exploitation of a child or an incapacitated or dependent adult by a federal or Maine agency responsible for investigating such abuse, neglect or exploitation.

Part G of the law makes clear that the provisions of the law may not be construed to conflict with or amend the Uniform Child Custody Jurisdiction and Enforcement Act.