

MAINE STATE LEGISLATURE

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STATE OF MAINE
131ST LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

October 2023

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STATE OF MAINE
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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 First Regular and First Special Sessions 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 First Regular and First Special Sessions of the 131st Legislature is Thursday, June 29, 2023 and Wednesday, October 25, 2023, respectively. 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 1603 An Act to Implement the Recommendations of the Committee To Ensure Constitutionally Adequate Contact with Counsel

ENACTED LAW SUMMARY

Public Law 2023, chapter 394 makes the following statutory changes based on recommendations from the Committee To Ensure Constitutionally Adequate Contact with Counsel, which was established by Resolve 2021, chapter 182.

1. It requires that all state, county and municipal law enforcement agencies and district attorneys and the Attorney General adopt policies and procedures by January 1, 2024 to protect and ensure the confidentiality of attorney-client communications and processes to be followed in the event that there is a breach of attorney-client confidentiality. It also requires the Commissioner of Corrections to establish by January 1, 2024 mandatory standards for all county jails, holding facilities, short-term detention areas and correctional facilities protecting and ensuring the confidentiality of attorney-client communications and processes to be followed in the event that there is a breach of attorney-client confidentiality.
2. It directs the Attorney General to develop a training program by January 1, 2024 for state, county and municipal law enforcement officers who, as part of a criminal investigation, inadvertently hear confidential attorney-client communications.
3. It adds an attorney who represents defendants in criminal cases to the membership of the board of trustees of the Maine Criminal Justice Academy and directs the board to include in the curriculum of the basic law enforcement training program and the basic corrections training a block of instruction on the confidentiality of attorney-client communications.
4. It directs the Maine Commission on Indigent Legal Services to develop and maintain a registry of names, telephone numbers and other contact information for attorneys who provide legal services to persons who are incarcerated and to share this information with the Department of Corrections and each county sheriff's office weekly. The attorneys' names, telephone numbers and other contact information are confidential and do not constitute public records under the Freedom of Access Act.
5. It directs the Commissioner of Corrections to establish by January 1, 2024, standards for all county jails, holding facilities, short-term detention areas and correctional facilities requiring each facility to maintain a registry of the names, telephone numbers and other contact information of attorneys who provide legal services to persons who reside in the facility. The attorneys' names, telephone numbers and other contact information are confidential and do not constitute public records under the Freedom of Access Act except that each facility must proactively and by request of the attorney or the attorney's client confirm the registration of the attorney's name, telephone number and other contact information.
6. It provides that, if an oral or wire communication between a person residing in an adult jail or in an adult or juvenile correctional facility and the person's attorney is intercepted and the defendant can show that the jail or correctional facility had, at the time the communication was

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made, actual or constructive notice of the attorney's name and, if the communication involved the use of a telephone, the attorney's telephone number and the communication was made directly to or from that telephone number:

- A. The contents of and the existence of the communication are not admissible in a criminal proceeding, including a post-conviction review proceeding;
 - B. A person who viewed or listened to the communication and did not immediately discontinue doing so as soon as the person had sufficient information to determine that the communication was protected, is disqualified from participating in an investigation of the resident and from appearing as a witness in a criminal proceeding in which the resident is a defendant, including a post-conviction review proceeding; and
 - C. A person who viewed or listened to the intercepted communication and saw or heard information that may be relevant to a pending or anticipated charge against the resident or a defense the resident may assert, or that may lead to the discovery of that evidence, is disqualified from participating in an investigation of the resident or appearing as a witness in the pending or anticipated criminal proceeding in which the resident is a defendant, including a subsequent post-conviction review proceeding on the pending or anticipated criminal proceeding.
7. It directs the Commissioner of Corrections to establish standards for all county jails, holding facilities, short-term detention areas and correctional facilities requiring each facility, by January 1, 2024, to designate space within the facility for attorney-client meetings and the exchange of case materials.
 8. It directs the State Court Administrator to submit a report by January 1, 2024 to the Joint Standing Committee on Criminal Justice and Public Safety and the Joint Standing Committee on Judiciary on the availability of space in public areas and in secure holding areas of each courthouse for confidential attorney-client communications, including the review of materials related to criminal cases.
 9. It directs the County Corrections Professional Standards Council to convene meetings of state, county and municipal law enforcement agencies, county and municipal jails, the judicial branch, the department, the Maine Sheriffs' Association, the Office of the Attorney General, the Maine Prosecutors Association, the Maine Association of Criminal Defense Lawyers and the Maine Commission on Indigent Legal Services to develop a consistent set of policies and procedures to be implemented by all law enforcement agencies, district attorneys' offices, jails, holding facilities, short-term detention areas and correctional facilities regarding the processes for protecting and ensuring the confidentiality of attorney-client communications, the policies to be followed in the event that there is a breach of attorney-client confidentiality and the methods by which attorneys and persons who are residents of jails and correctional facilities will be made aware of confidential channels for their communications.