

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 JUDICIARY

June 2024

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STATE OF MAINE

131ST LEGISLATURE
SECOND REGULAR SESSION



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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of Maliseet Indians or the chief's designee to certify their respective agreements to Public Law 2023, chapter 370, An Act Regarding the Maine Indian Tribal-State Commission.

LD 1937 An Act Regarding the Transportation of Hazardous Materials by Railroad Companies

ENACTED LAW SUMMARY

Public Law 2023, chapter 618 requires a railroad company to submit to the Commissioner of Transportation, on request, records related to routine inspections of trains, rail corridors and safety equipment and provides that these records are not public records for purposes of the Freedom of Access Act. It also requires railroad companies to submit prevention and response plans to the Department of Environmental Protection.

Public Law 2023, chapter 618 also establishes procedures and notices to be provided to agencies and the public in the event of a mainline train derailment involving hazardous materials and clarifies that any such records are public records for purposes of the Freedom of Access Act. It also requires railroad companies to offer periodic training to fire departments and emergency medical services to address train derailments and requires the Commissioner of Transportation to conduct a review after any accident involving hazardous materials. After conducting a post-accident review, the commissioner must submit a report to the joint standing committees of the Legislature having jurisdiction over railroads and public records matters.

Public Law 2023, chapter 618 was enacted as an emergency measure effective April 12, 2024.

LD 2007 An Act Regarding the Criminal Jurisdiction of Tribal Courts and to Extend the Time for the Penobscot Nation to Certify Its Agreement to Public Law 2023, Chapter 369

ENACTED LAW SUMMARY

Public Law 2023, chapter 647, Parts A to D, amend An Act to Implement the Maine Indian Claims Settlement, commonly known as “the Maine Implementing Act”, and the Mi’kmaq Nation Restoration Act to adopt most of federal Indian law related to the criminal jurisdiction of tribal courts, including the Indian Civil Rights Act of 1968, the Tribal Law and Order Act of 2010 and the tribal jurisdiction provisions of the Violence Against Women Act Reauthorization Act of 2022. It expands the criminal jurisdiction of the Passamaquoddy Tribal Court, the Penobscot Nation Tribal Court and the Houlton Band of Maliseet Indians Tribal Court as well as the potential criminal jurisdiction of the Mi’kmaq Nation Tribal Court, collectively referred to in this summary as “the tribal courts of the Wabanaki Nations” in the following ways.

1. It recognizes the exclusive jurisdiction of the tribal courts of the Wabanaki Nations over Class C, D and E crimes committed within the relevant Wabanaki Nation’s respective Indian territory or jurisdiction land by an adult member of a federally recognized Indian tribe if those crimes:

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- A. Are defined in the Maine Revised Statutes, Title 15, 17, 17-A, 19-A or 29-A and are not committed against a person or the property of a person; or
 - B. Are defined in any Title of the Maine Revised Statutes and are committed against a person or the property of a person who is a member of any federally recognized Indian tribe.
2. It recognizes the concurrent jurisdiction of the State and of the tribal courts of the Wabanaki Nations over Class C, D and E crimes committed within the relevant Wabanaki Nation's respective Indian territory or jurisdiction land:
 - A. By an adult member of a federally recognized Indian tribe against a person or the property of a person who is not a member of any federally recognized Indian tribe; or
 - B. By a person who is not a member of any federally recognized Indian tribe against a member of any federally recognized Indian tribe as authorized in the federal Violence Against Women Act Reauthorization Act of 2022, commonly known as "VAWA." When exercising concurrent criminal jurisdiction under VAWA, the tribal courts of the Wabanaki Nations may not deny to a defendant the protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for Congress or the State to recognize the tribal court's concurrent jurisdiction.
3. It provides that the tribal courts of the Wabanaki Nations may not deny to any criminal defendant prosecuted for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c), including the requirement that the judge presiding over the criminal proceeding is licensed to practice law and has sufficient legal training; the right to the effective assistance of counsel; the right to the appointment of licensed counsel at the expense of the tribal government if the defendant is indigent; the right to advance notice of all criminal laws and applicable court rules of the tribal government; and the right to have the criminal proceeding recorded.
4. It retains the provisions of current law directing that, when the tribal courts of the Wabanaki Nations exercise exclusive or concurrent criminal jurisdiction, the definitions of the relevant crimes and the punishments applicable to those crimes are governed by state law but clarifies that, in doing so, the tribal courts of the Wabanaki Nations are nevertheless enforcing their respective tribal law. It also retains the provisions of current law directing that 25 United States Code, Sections 1301 to 1303 and federal rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes apply when the tribal courts of the Wabanaki Nations exercise their exclusive or concurrent criminal jurisdiction.
5. It recognizes the exclusive jurisdiction of the State over all crimes and juvenile crimes not within the exclusive or concurrent jurisdiction of the tribal courts of the Wabanaki Nations that are committed on Indian territory or jurisdiction land, including:

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- A. Notwithstanding any provision of law to the contrary, all crimes and juvenile crimes against the State or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State; and
 - B. All Class C, D and E crimes defined in provisions of the Maine Revised Statutes outside of Titles 15, 17, 17-A, 19-A and 29-A committed by an adult member of any federally recognized Indian tribe that are not committed against a person or the property of a person.
6. It clarifies that nothing within the Maine Implementing Act or the Mi'kmaq Nation Restoration Act affects, alters or preempts the authority of the State to investigate or prosecute any conduct occurring on Indian territory or trust land that is within the State's exclusive or concurrent jurisdiction.

Public Law 2023, chapter 647, Part B, also amends the provisions of the Maine Implementing Act governing the jurisdictional relationship between the State and the Penobscot Nation in the following ways; these changes were included within Part C of Public Law 2023, chapter 369 but were not approved by the Penobscot Nation within the time frame established in that law.

1. It recognizes the exclusive authority of the Penobscot Nation in Penobscot Indian territory to enact ordinances regulating drinking water unless the nation exercises its discretion to enter into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues. It also prohibits the State from exercising primary enforcement authority to implement the federal Safe Drinking Water Act within Penobscot Indian territory and recognizes the authority of the Penobscot Nation to seek to be treated as a state and to obtain primary enforcement authority to implement the federal Safe Drinking Water Act within Penobscot Indian territory. Additionally, it recognizes the exclusive authority of the Penobscot Nation Tribal Court to enforce any drinking water ordinances adopted by the nation for Penobscot Indian territory, except that the nation may not exercise jurisdiction over a nonprofit public municipal corporation.
2. It provides that the exclusive jurisdiction of the Penobscot Nation Tribal Court over certain criminal offenses, juvenile crimes, small claims and civil drug possession actions arising within the Penobscot Indian reservation under current law extends to those same types of criminal offenses, juvenile crimes, small claims and civil drug possession actions arising within all of Penobscot Indian territory. To the extent that the Penobscot Nation Tribal Court has exclusive jurisdiction over members of the Passamaquoddy Tribe or the Penobscot Nation under these provisions, it extends that exclusive jurisdiction to members of any of the Wabanaki Nations. It also provides that the exclusive jurisdiction of the Penobscot Nation Tribal Court over domestic relations matters between members of the Passamaquoddy Tribe and the Penobscot Nation, both of whom reside on the Penobscot Indian reservation, extends to the same types of domestic relations matters arising between members of any of the Wabanaki Nations, both of whom reside within Passamaquoddy Indian territory.

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3. It clarifies within the Maine Implementing Act that the State must give full faith and credit to the judicial proceedings of the Penobscot Nation and that the Penobscot Nation must give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.

Public Law 2023, chapter 647, Part E, amends the provisions of the Maine Implementing Act governing the jurisdictional relationship between the State and both the Passamaquoddy Tribe and the Penobscot Nation in the following ways; these changes were included within Part E of Public Law 2023, chapter 369 but were not approved by the Penobscot Nation within the time frame established in that law.

1. It provides that the Passamaquoddy Tribe and the Penobscot Nation each have exclusive jurisdiction within their respective Indian territory over violations of their respective tribal ordinances by members of any federally recognized Indian tribe, but that the State has exclusive jurisdiction within Passamaquoddy Indian territory and Penobscot Indian territory over violations of applicable tribal ordinances by persons who are not members of any federally recognized Indian tribe.
2. It provides that law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce, within their respective Indian territories, civil and domestic relations laws over which the Passamaquoddy Tribal Court and the Penobscot Nation Tribal Court have exclusive jurisdiction, respectively. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation also have exclusive authority to enforce, on their respective Indian reservations, the criminal and juvenile offenses over which the Passamaquoddy Tribal Court and the Penobscot Nation Tribal Court have exclusive jurisdiction, respectively. State and county law enforcement officers have concurrent authority with law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation to enforce all other laws of the State within both Indian territories and concurrent authority to enforce fishing rules or regulations adopted by the Maine Indian Tribal State Commission.

Each Part of Public Law 2023, chapter 647 takes effect 150 days after the adjournment of the Second Regular Session of the 131st Legislature only if, within 120 days after adjournment of the Second Regular Session, the Secretary of State receives written certification that tribal government of the affected Wabanaki Nation or Wabanaki Nations agree to the provisions of that Part.

LD 2035 An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate

ENACTED LAW SUMMARY

Public Law 2023, chapter 585 requires sellers of residential and nonresidential real property to notify prospective buyers in writing whether the property is in an area of special flood hazard mapped on the effective flood insurance rate map issued by the Federal Emergency Management Agency as well as any previous flood damage incurred, any flood insurance claims filed and any