

STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2017

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Joint Standing Committee on Judiciary

LD 2 An Act To Prevent Bad Faith Assertions of Patent Infringement

**Accepted Report A
(ONTP)**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN M CARPENTER M	ONTP OTP-AM OTP	

Current law prohibits a person from making a bad faith assertion of patent infringement against another person. A person who does make a bad faith assertion may have to pay remedies awarded by the court, including equitable relief, damages, costs and fees and punitive damages; however, the law exempts persons seeking relief pursuant to 35 United States Code, Section 271(e)(2) or 42 United States Code, Section 262 from the law prohibiting bad faith assertions of patent infringement, which may include businesses such as pharmaceutical companies. This bill removes the exemption.

Committee Amendment "A" (H-12)

This amendment is a minority report. It replaces the bill and narrows the existing exemption to apply to only good faith demand letters and good faith assertions of patent infringement arising under 35 United States Code, Section 271(e)(2) or 42 United States Code, Section 262.

This amendment was not adopted.

LD 21 An Act To Amend the Law Regarding the Execution of Temporary Powers of Attorney

PUBLIC 42

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANDERSON D	OTP-AM	H-22

Under current law, nonprofit legal services providers whose primary purpose is to provide free legal services are exempt from the requirement that organizations that assist parents or guardians with the process of executing a power of attorney for the temporary care of a minor ensure that a background check is completed for the agent and any adult members of the agent's household. This bill extends that exemption to nonprofit hospitals.

Committee Amendment "A" (H-22)

This amendment adds language to make clear that preparation of the powers of attorney contemplated by the current law must be in compliance with current law prohibiting the unauthorized practice of law.

Enacted Law Summary

Public Law 2017, chapter 42 exempts nonprofit hospitals from the requirement that organizations that assist parents or guardians with the process of executing a power of attorney for the temporary care of a minor ensure that a background check is completed for the agent and any adult members of the agent's household. Chapter 42 clarifies that preparation of the powers of attorney contemplated by the law must be in compliance with current law prohibiting the unauthorized practice of law.

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LD 39 An Act To Clarify Landowners' Liability Regarding Public Access

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO T BLACK R	ONTP	

Under the current law, known as the "Landowner Liability Law," liability for recreational or harvesting activities is not limited for an injury suffered in any case where permission to pursue any recreational or harvesting activities was granted for a consideration other than consideration paid to the landowner or the landowner's agent for use of the premises on which the injury was suffered, as long as certain conditions exist. This bill extends the limitation of liability to situations in which consideration is paid to the sublessee or the holder of an easement from the landowner, as long as certain conditions exist. See also LD 112.

LD 46 An Act To Provide Consistency with Regard to Jury Duty Exemption

PUBLIC 275

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LIBBY N	OTP-AM	S-46

Current law requires that all persons chosen for jury service must be selected at random from the broadest feasible cross-section of the population. The bill proposes achieving consistency in exemptions among medical professionals by adding nurse practitioners who are providing active patient care to other medical professionals who are providing active patient care and are currently exempt. This bill exempts certified nurse practitioners providing active patient care from jury duty.

Committee Amendment "A" (S-46)

This amendment creates consistency among medical professionals and others by removing all statutory exemptions from jury duty except for the Governor, active duty military and deployed state National Guard, thus increasing the juror pool.

Enacted Law Summary

Public Law 2017, chapter 275 creates consistency among medical professionals and others with regard to serving as a juror by removing all statutory exemptions from jury duty except for the Governor, active duty military and deployed state National Guard, thus increasing the juror pool.

LD 63 An Act To Ensure Complete Investigations by Guardians Ad Litem

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J CYRWAY S	ONTP	

This bill removes the sunset provision from the consolidated law governing children's guardians ad litem in the Maine Revised Statutes, Title 4, chapter 32.

This bill also requires a guardian ad litem appointed in cases under Title 18-A, Title 19-A or Title 22 of the Maine Revised Statutes to prepare reports to the court and the parties using court-approved forms. Each report must demonstrate that the guardian ad litem fulfilled each of the specific duties assigned to the guardian ad litem in the

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court's order of appointment.

LD 64 An Act To Require Mediation within 90 Days of a Homeowner's Receipt of a Foreclosure Notice ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIERCE J	ONTP	

This bill makes several changes to the foreclosure mediation program.

First, it makes the mediation program mandatory for all parties when a plaintiff commences an action for the foreclosure of an owner-occupied residential property of no more than four units that is the primary residence of the owner-occupant.

Second, it requires the mediation to start not more than 90 days after the defendant receives the foreclosure complaint.

Third, the bill requires the cost of mediation to be paid equally by the plaintiff and the defendant. Currently, the plaintiff pays for mediation services, although they are usually passed on to the defendant.

Fourth, the bill eliminates the requirement that the attorneys for the plaintiff and the defendant, if the defendant is represented, attend the mediation.

LD 70 An Act To Allow Municipal Governing Boards of 3 Members To Perform Official Duties via Technology ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAMPBELL R SAVIELLO T	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to allow municipal governing boards of three members to perform official duties via technology, such as conducting meetings remotely.

LD 80 An Act To Increase the Penalty for Multiple Violations of Protection from Abuse Orders ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CYRWAY S LUCHINI L	ONTP	

This bill amends the laws regarding penalties for violating consent agreements and protection from abuse orders in cases of domestic violence by increasing the penalties for second and third convictions.

The bill also makes a person who commits a crime involving domestic violence ineligible for deferred disposition.

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LD 81 An Act Regarding the Payment of Back Child Support

PUBLIC 102

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND B ORDWAY L	OTP-AM	S-75

This bill removes the presumption that a child support order has been paid after 20 years and clarifies that the equitable defense of laches is unavailable in actions to enforce a child support judgment or agreement.

Committee Amendment "A" (S-75)

This amendment clarifies that a child support order entered either by a court or by an administrative agency is not presumed to have been paid after 20 years. This amendment also removes the section of the bill that states that the equitable defense of laches is unavailable in actions to enforce a child support judgment, which is unnecessary given the Law Court's decision in *Brochu v. McLeod*, 2016 ME 146, 148 A.3d 1220.

Enacted Law Summary

Public Law 2017, chapter 102 removes the presumption that a child support order entered by a court or an administrative agency has been paid after 20 years.

LD 111 An Act To Establish an Additional Veterans Treatment Court

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHEATS B LIBBY N	OTP-AM OTP-AM	H-331 H-488 GUERIN S

This bill directs the Chief Justice of the Supreme Judicial Court to establish a veterans treatment court in Androscoggin County.

Committee Amendment "A" (H-331)

This amendment is the majority report. It replaces the bill and relies on the enabling language already in statute for the Chief Justice of the Supreme Judicial Court to establish veterans treatment courts where appropriate and provides the funding for the courts as well as for the services to be provided.

Committee Amendment "B" (H-332)

This amendment is the minority report. It is the same as the majority report except that it provides the funding for the courts as well as for the services to be provided for the 2018-2019 biennium only.

This amendment was not adopted.

House Amendment "B" To Committee Amendment "A" (H-488)

This amendment strikes the ongoing funding for a veterans treatment court and instead provides funding for the next two biennia only.

House Amendment "A" To Committee Amendment "A" (H-470)

This amendment strikes the ongoing funding for a veterans treatment court and instead provides funding for the next two biennia only.

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This amendment was not adopted.

This bill was reported out of committee and then carried over to the next special or regular session of the 128th Legislature on the Special Appropriations Table by joint order, S.P. 601.

LD 112 An Act To Further Limit the Liability of Landowners Who Permit the Use of Land for Outdoor Recreational Activity ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GINZLER P HAMPER J	ONTP	

Current law, known as the "Landowner Liability Law," limits the liability of landowners who allow certain outdoor recreational or harvesting activities on their land, as long as the land is not primarily used for commercial recreational purposes. This bill extends that limited liability to landowners who allow their land to be used for the construction, maintenance or expansion of trails or ancillary facilities used to pursue outdoor recreational activities. See also LD 39.

LD 123 An Act To Recodify and Revise the Maine Probate Code CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>

This bill, which is being submitted pursuant to Resolve 2015, chapter 73, section 1, recodifies and revises the Maine Revised Statutes, Title 18-A and amends other laws affected by this recodification and revision accordingly.

Resolve 2013, chapters 5 and 82 directed the Probate and Trust Law Advisory Commission to review the existing Probate Code and the latest version of the Uniform Probate Code and develop legislative recommendations based on the review. The Probate and Trust Law Advisory Commission submitted legislative recommendations in a report to the Joint Standing Committee on Judiciary of the 127th Legislature on December 6, 2014 and included revisions to the recommendations in a subsequent report submitted November 20, 2015. The purpose of this bill is to adopt the Uniform Probate Code as the Maine Uniform Probate Code, incorporating the changes recommended by the Probate and Trust Law Advisory Commission, and to reorganize the Probate Code to be more logical, while bringing the language into conformity with current drafting standards, clarifying current law and eliminating inconsistencies within Title 18-A.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 125 An Act To Allow an Order Not To Resuscitate To Be Presented in the Form of an Indelible Mark ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER B	ONTP	

This bill prohibits emergency medical treatment providers from starting resuscitation on a person when an order not to resuscitate is presented in the form of an indelible mark, such as a tattoo, on the person's chest.

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**LD 135 An Act To Authorize the Department of Health and Human Services To
Disclose Information to the Personal Representative of the Estate of an
Incapacitated or Dependent Adult Who Dies While under Public
Guardianship or Public Conservatorship**

PUBLIC 55

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GRATWICK G MALABY R	OTP-AM	S-15

This bill requires the Department of Health and Human Services to disclose information in its records under the Adult Protective Services Act to personal representatives of the estates of incapacitated or dependent adults who die while under public guardianship or public conservatorship.

Committee Amendment "A" (S-15)

This amendment changes the title and replaces the bill to give the Department of Health and Human Services the option of disclosing information in its records under the Adult Protective Services Act to personal representatives of the estates of incapacitated or dependent adults who die while under public guardianship or public conservatorship.

Enacted Law Summary

Public Law 2017, chapter 55 gives the Department of Health and Human Services the option of disclosing information in its records under the Adult Protective Services Act to personal representatives of the estates of incapacitated or dependent adults who die while under public guardianship or public conservatorship.

**LD 146 Act To Protect the Confidentiality of State and Local Government
Employees' Private Information**

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J CARSON B	OTP-AM	H-85

This bill clarifies that certain personal information of municipal employees is confidential and the record or the portion of the record containing that information in the possession of a municipal government is not a public record. The types of information protected include that which pertains to age, ancestry, ethnicity, genetics, national origin, race, skin color, marital status, mental or physical disabilities, personal contact information, religion, sex, sexual orientation, social security and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance.

Committee Amendment "A" (H-85)

This amendment amends the state employee personnel records provisions to include confidentiality of genetic information and sexual orientation and amends the laws governing county employee personnel records to match. This amendment includes cross-references to the Maine Human Rights Act for the definition of "sexual orientation." It also correctly provides for the confidentiality of a municipal employee's social security number.

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LD 147 An Act To Amend the Maine Parentage Act

**Accepted Majority
(ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP OTP	

This bill prohibits a court from ordering payment of child support from a de facto parent to another parent of the child if the de facto parent obtained that status due to the unwillingness or inability of the other parent to provide care for the child.

LD 170 An Act To Allow and Recognize a Legal Name Change upon Marriage

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D CHENETTE J	OTP-AM	H-274

This bill allows a person who is getting married to change that person's name by indicating the new name on the application for recording notice of intent to marry, which becomes effective upon the completion of the marriage license.

Committee Amendment "A" (H-274)

This amendment provides funds to the Department of Health and Human Services for technology updates made necessary by the bill.

This bill was reported out of committee and then carried over on the Special Appropriations Table to the next special or regular session of the 128th Legislature by joint order, S.P. 601.

LD 193 An Act To Protect Retirement Accounts from Creditor Collection

PUBLIC 177

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CHACE P	OTP-AM	H-275

This bill removes the cap on the amount exempted from attachment by creditors for an individual retirement account.

Committee Amendment "A" (H-275)

This amendment replaces the bill by enacting a separate subsection governing the exemption from attachment of retirement accounts to match the same exemption in the United States Bankruptcy Code. The amendment provides that amounts contributed within the 120 days before either the bankruptcy action is filed or the judgment against the debtor or the issuance of the levy or other attachment is issued are not exempt. Amounts necessary to satisfy child support or spousal support obligations are also not exempt from attachment or bankruptcy.

Enacted Law Summary

Public Law 2017, chapter 177 enacts an exemption from attachment of retirement accounts to match the same

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exemption in the United States Bankruptcy Code. The new subsection caps the exemption at an aggregate value of \$1,000,000 for individual retirement accounts and other tax-deferred arrangements that are exempt under the United States Bankruptcy Code, 11 United States Code, Section 522(d)(12). Chapter 177 provides that amounts contributed within the 120 days before either the bankruptcy action is filed or the judgment against the debtor or the issuance of the levy or other attachment is issued are not exempt. Amounts necessary to satisfy child support or spousal support obligations are also not exempt from attachment or bankruptcy.

LD 194 An Act To Ensure Equity in the Awarding of Compensation for Tort Claims **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GINZLER P CUSHING A	ONTP OTP	

This bill provides that, if two or more defendants are found to be liable for a plaintiff's injury, then the defendants are jointly and severally liable for the plaintiff's pecuniary damages, but each defendant is only severally liable for nonpecuniary damages proportional to the percentage of fault attributable to that defendant. If the defendants acted in concert, they are jointly and severally liable for the nonpecuniary damages as well.

LD 195 An Act Amending the So-called "Good Samaritan" Laws **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GINZLER P KEIM L	ONTP OTP	

This bill amends the so-called "Good Samaritan" statute, which provides immunity to a person who renders certain assistance to another person for no expectation of monetary or other compensation from the person aided by adding immunity for any person, nonprofit organization or faith-based organization that provides shelter or housing to a homeless person.

LD 196 An Act To Protect Personal Information of Participants in a Community Well-being Check Program **PUBLIC 118**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R	OTP-AM	H-126

This bill creates a public records exception under the Freedom of Access Act to protect the confidentiality of personal information of participants in community well-being check programs. A community well-being check program, sometimes known as a "Good Morning Program," is a voluntary program that involves daily, or regular, telephone contact with participants and, when telephone contact cannot be made, sends local law enforcement or other designated first responders to check on the well-being of the participant at the participant's residence. The bill makes an exception to the confidentiality provision to allow for the sharing of a participant's personal information, including health information, with local law enforcement or other designated first responders as necessary to administer the program.

Committee Amendment "A" (H-126)

This amendment revises the bill to provide that the information may be made available to first responders but only

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as necessary to implement the program. It also amends the bill to take out the limitation to telephone contact between the participant and the program, allowing any form of contact that the program uses. It also revises the language to use the broader term of "first responder" to cover the persons who the program sends to check on the participant's well-being and who may receive the personal information about the participant only when necessary to implement the program.

Enacted Law Summary

Public Law 2017, chapter 118 creates a public records exception under the Freedom of Access Act to protect the confidentiality of personal information of participants in community well-being check programs. A community well-being check program is a voluntary program that involves daily, or regular, contact with participants and, when contact cannot be made, sends local law enforcement or other designated first responders to check on the well-being of the participant at the participant's residence. Chapter 118 makes an exception to the confidentiality provision to allow for the sharing of a participant's personal information, including health information, with first responders as necessary to administer the program.

LD 197	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Explicitly Protect against Sex Discrimination	CARRIED OVER
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECKITT L VITELLI E	OTP-AM ONTP	H-133

This resolution proposes to amend the Constitution of Maine to prohibit the denial of equal rights based on the sex of an individual.

Committee Amendment "A" (H-133)

This amendment is the majority report. It incorporates a fiscal note.

This bill was reported out of committee and then carried over to the next special or regular session of the 128th Legislature on the Special Appropriations Table by joint order, S.P. 601.

LD 198	An Act To Protect Landlords from Lawsuits for Damage or Harm Caused by Assistance Animals	PUBLIC 61
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ORDWAY L WOODSOME D	OTP-AM	H-74

This bill provides that a landlord is not liable in a civil action for personal injury, death, property damage or other damages caused by an assistance animal on the landlord's rental property.

Committee Amendment "A" (H-74)

This amendment replaces the bill, which amends the Maine Human Rights Act, and instead amends the law governing rental property.

The amendment provides that a landlord is not liable in a civil action for personal injury, death, property damage or other damages caused by an assistance animal on the landlord's property. "Dwelling unit" is currently defined in the Maine Revised Statutes, Title 14, section 6021, subsection 1 to include mobile homes, apartments, buildings or other structures, including the common areas thereof, which are rented for human habitation.

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Title 5, section 4582-A, subsection 3 provides that an individual with a physical or mental disability who uses an assistance animal is liable for any damage done to the premises or facilities by the assistance animal.

Under Title 7, section 3961, the owner or keeper of an animal is liable in a civil action to a person who is injured or whose property is damaged for the amount of damage done if the damage was not occasioned through the fault of the person injured.

Enacted Law Summary

Public Law 2017, chapter 61 provides that a landlord is not liable in a civil action for personal injury, death, property damage or other damages caused by an assistance animal on the landlord's property.

LD 218 An Act To Reduce Criminal Justice System Costs by Allowing Arraignments and Hearings in the Unified Criminal Docket To Be Held by Means of Audiovisual Telecommunications ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAKEY E	ONTP	

This bill provides that in any criminal action in the Unified Criminal Docket, as determined by the court to be appropriate to the defendant and to make sound fiscal sense, an arraignment or hearing may be held by means of audiovisual telecommunications. The bill provides that when an arraignment or hearing is held by means of audiovisual telecommunications, the court is required to ensure that a recording of the arraignment or hearing is made and retained as part of the case file.

LD 224 An Act Regarding Actions for Failure To Follow Condominium Association Requirements ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS R SHERMAN R	ONTP	

This bill provides that, following reasonable notice and an opportunity to be heard, a condominium association may bring an action against a unit owner or a group of unit owners for violating requirements imposed by association documents and that, following reasonable notice and an opportunity to be heard, a unit owner or a group of unit owners may bring an action against an association for violating requirements imposed by those same documents.

LD 280 An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R COLLINS R	ONTP OTP-AM	

This bill adds tax-exempt, nonprofit regional public transportation agencies to the Maine Tort Claims Act, which limits liability for governmental entities.

Committee Amendment "A" (H-464)

This amendment, which is the minority report, replaces the bill. The Maine Tort Claims Act currently includes

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"transit districts," defined in Title 30-A, section 3501, subsection 1, within the definition of "political subdivision" and thus covered by the immunity and limited liability of the Act. This amendment amends the public transportation statutes to expressly treat the tax-exempt nonprofit agencies selected by the Department of Transportation as regional public transportation agencies as transit districts, but for the purposes of the Maine Tort Claims Act only.

This amendment was not adopted.

LD 281 An Act To Amend the Percentage of Votes Needed for Condominium Governance Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HYMANSON P HILL D	OTP-AM	H-430

This bill amends the Maine Condominium Act to change the number of votes, depending on the number of units in the association, needed by owners of units in the association in order to convey or use as collateral common elements of the condominium or to amend the declaration of the condominium. Under this bill, if an association consists of nine or fewer units, agreement by all of the owners is necessary; if an association consists of 10 or more units, agreement by the owners of at least 80% of the votes allocated to units, rounded up to the next whole number, in the association is necessary.

Committee Amendment "A" (H-430)

This amendment replaces the bill but addresses the same issue, which is to allow a vote that is less than unanimous to make changes to a condominium declaration. The amendment, modeled on a law in Washington, requires the approval of all of the owners of the units particularly affected, as well as the approval of 90% of the owners of the total number of units, rather than 100%.

LD 282 An Act To Support Caregivers When Children Have Been Abandoned by Their Parents ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP	

This bill addresses concerns of caretaker relatives and others who take on the care and custody of a child when the child's parents have essentially abandoned the child to the caregiver's care and custody. When the arrangement is without a formal guardianship appointment and without a power of attorney executed by the parent, the caregiver may be considered a de facto guardian after sufficient time has elapsed with a demonstrated lack of consistent participation by the parent. A de facto guardian may petition the court to be appointed as a guardian when the parent does not consent to the appointment if the court finds a demonstrated lack of consistent participation by the parent. Current law provides that the duties of a parent include, but are not limited to, providing the child with necessary food, clothing, shelter, health care and education and a nurturing and consistent relationship and other care and control necessary for the child's physical, mental and emotional health and development.

The bill amends the list of factors the court must consider to determine the best interest of the child when deciding whether to appoint a guardian for the child to add, if there has been a demonstrated lack of consistent participation by a parent, the current capacity and disposition of the parent to comply with the duties imposed upon a parent by the parent-child relationship.

The bill provides that, if the parent or legal custodian objects to the appointment of the de facto guardian as the

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guardian for the child, the court may appoint the de facto guardian as the guardian if the court finds that the parent or legal custodian is currently unwilling or unable to comply with the duties imposed upon a parent by the parent-child relationship.

The bill provides that, after the de facto guardian is appointed the guardian and the parent petitions the court to terminate the guardianship, a party opposing the termination has the burden of proving by a preponderance of the evidence that the parent seeking to terminate the guardianship is currently unfit to regain custody of the child. In determining whether a parent is unfit to regain custody, if the guardian was appointed because of a demonstrated lack of consistent participation by the parent, the court shall require the parent to show by a preponderance of the evidence that the parent is willing and able to comply with the duties imposed upon a parent by the parent-child relationship.

LD 283 An Act To Increase the Jurisdictional Limits for Small Claims

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SPEAR J MIRAMANT D		

This bill increases the jurisdictional limits for small claims from \$6,000 to \$15,000.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 309 Resolve, To Establish the Working Group To Restore Judicial Discretion

**Died On
Adjournment**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK A RECKITT L	OTP-AM ONTP	S-191 H-449 MOONEN M

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to establish a working group that will include representatives of the judicial branch to review mandatory minimum sentences that are currently required under state law and to assess whether any of those mandatory minimum sentence requirements should be amended or repealed.

Committee Amendment "A" (S-191)

This amendment establishes the Working Group To Restore Judicial Discretion to review and assess mandatory minimum sentences in state law. The working group consists of two members of the Senate and three members of the House of Representatives and must invite comments and recommendations from interested parties, including but not limited to prosecutors; criminal defense attorneys; the courts; providers of pretrial services; mental health organizations; providers of services, religious or otherwise, in correctional facilities; law enforcement; administrators of jails and other correctional facilities or programs; the Maine Commission on Indigent Legal Services; and the Criminal Law Advisory Commission. The working group is required to submit a report to the Second Regular Session of the 128th Legislature that includes recommendations to repeal or amend specific mandatory minimum sentence requirements.

House Amendment "A" To Committee Amendment "A" (H-449)

This amendment removes the emergency preamble and emergency clause from committee amendment "A."

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LD 327 An Act To Allow a Wrongful Death Cause of Action for the Death of a Viable Fetus

Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ESPLING E VOLK A	ONTP OTP	

This bill provides for a cause of action for the wrongful death of an unborn viable fetus. The bill specifies that such an action must be brought in Probate Court. The bill provides that an unborn viable fetus is a fetus that has reached 24 or more weeks of gestation.

The bill specifies that a cause of action for the wrongful death of an unborn viable fetus does not exist:

1. Against the mother;
2. Against a health care practitioner or health care provider performing an abortion permitted by law and for which required consent was given; or
3. Against a health care practitioner or health care provider if the health care practitioner or health care provider did not know of the pregnancy and, under the applicable standard of care, had no medical reason to know of the pregnancy.

Senate Amendment "A" (S-316)

This amendment specifies that:

1. The estate of an unborn viable fetus may be opened for two years after the death of the unborn viable fetus for the sole purpose of appointing a personal representative to pursue an action for wrongful death; and
2. The provision for a cause of action for the wrongful death of an unborn viable fetus does not create any other cause of action or claim or status regarding the unborn viable fetus.

This amendment was not adopted.

LD 331 An Act To Correct the Maine Uniform Trust Code Concerning Certain Beneficiaries

PUBLIC 39

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

This bill is a recommendation of the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-A, section 1-803, subsection 2.

The bill addresses the rights of a charitable organization to enforce a trust of which it is a beneficiary. The Maine Revised Statutes, Title 18-B, section 110 provides that a charitable organization is considered a qualified beneficiary of the trust if it would be considered a distributee or permissible distributee of trust income or principal in three different situations. One situation is whether the charitable organization would be a distributee or permissible distributee on the date the status is being determined, without providing additional criteria. That provision of current law is inconsistent with the Uniform Trust Code approved by the Uniform Law Commissioners. The

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Uniform Trust Code provides that a charitable organization is a qualified beneficiary if it would be a distributee or permissible distributee of the trust if the trust were to terminate on that date. This bill amends the current law to be consistent with the Uniform Trust Code, making it clear that the determination is based on whether the charitable organization would be a distributee or permissible distributee if the trust were to terminate on the date that the beneficiary status determination is being made.

Enacted Law Summary

Public Law 2017, chapter 39 implements a recommendation of the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-A, section 1-803, subsection 2. Chapter 39 addresses the rights of a charitable organization to enforce a trust of which it is a beneficiary by clarifying that determination of whether the charitable organization would be a distributee or permissible distributee is made based on its status if the trust were to terminate on the date the determination is being made.

LD 348 An Act To Increase Consumer Protection for Time-share Owners **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CHENETTE J	ONTP OTP	

This bill amends the law governing time shares in the following ways.

1. It grants a person who purchases a time share from a developer the right to sell the time share back to the developer at fair market value after expiration of the sale cancellation period.
2. It prohibits the developer or an entity wholly or partially owned by the developer from serving as the manager of the time-share project.
3. It limits the liability of a time-share owner for assessments levied against the time-share unit for maintenance, taxes or fines to the fair market value of the time share.

LD 362 An Act To Allow Relative Caregivers Standing in Court **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP	

This bill specifies that a relative caregiver involved in a child protection proceeding has an unconditional right to intervene and to obtain the rights of a party in the proceeding.

LD 363 An Act To Make a Child Living with a Custodial Relative Caregiver Eligible for State-paid Legal Services **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP	

This bill provides that a child who is the subject of a child protection proceeding and who is living with a relative has a right to legal counsel at state expense during the child protection proceeding.

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LD 364 An Act To Make Technical Changes to the Laws Governing Child Support

PUBLIC 30

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B HILL D	OTP	

This bill amends the laws governing child support guidelines to conform to changes made by the Department of Health and Human Services by rule that eliminate the age categories in the child support table.

Enacted Law Summary

Public Law 2017, chapter 30 amends the laws governing child support guidelines to conform to changes made by the Department of Health and Human Services by rule that eliminate the age categories in the child support table.

LD 365 An Act To Waive Background Checks for the Parent of a Child Who Is the Subject of an Adoption Proceeding

PUBLIC 64

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GUERIN S	OTP	

Current law requires the court to order a criminal background check of each prospective adoptive parent of a child who is the subject of an adoption petition, except if the petitioner is a biological parent of the child. This bill removes the requirement that the court order a criminal background check of a parent of the child who is not the biological parent.

Enacted Law Summary

Public Law 2017, chapter 64 provides that when a parent of a child is a party to the adoption of the child, no criminal background check is required of the parent. Current law requires all parties to the adoption, except the biological parent, to undergo a criminal background check.

LD 366 An Act To Ensure Compliance with Federal Immigration Law by State and Local Government Entities

Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOCKMAN L CUSHING A	ONTP OTP-AM	

This bill establishes prohibitions concerning restricting the sharing and use of immigration and citizenship information. It prohibits restricting the enforcement of federal immigration law. It authorizes law enforcement agencies to transport aliens who are unlawfully present in the United States to a federal facility. It establishes a complaint process, a private right of action and a duty to report.

Committee Amendment "A" (H-289)

This amendment is the minority report of the committee. It deletes the provisions of the bill authorizing law enforcement agencies to transport aliens who are unlawfully present in the United States to a federal facility and creating private rights of action. It removes from the complaint process the provision that a government entity is ineligible to receive state funds if the Attorney General determines the entity is in violation of the provisions

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concerning the sharing and use of immigration and citizenship information or restricting the enforcement of federal immigration law.

The amendment also provides that if the Attorney General, upon investigation, determines that a government entity is violating the law, the Attorney General must issue an opinion stating that finding. The government entity has 30 days to appeal the finding to the Superior Court. If the Superior Court agrees with the Attorney General, the court must immediately enjoin the policy or practice. Each day the government entity continues the policy or practice results in a \$500 fine. If the Superior Court disagrees with the Attorney General, the Attorney General must immediately certify that the government entity is in compliance with the law.

This amendment was not adopted.

LD 410 An Act To Except from the Freedom of Access Act Certain Information PUBLIC 46
in the Possession of the Maine Public Employees Retirement System

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMPER J	OTP	

This bill excepts from the Freedom of Access Act specific private medical, personal and financial information of members, beneficiaries and participants in any of the programs of the Maine Public Employees Retirement System in the possession of the system.

Enacted Law Summary

Public Law 2017, chapter 46 excepts from the Freedom of Access Act specific private medical, personal and financial information of members, beneficiaries and participants in any of the programs of the Maine Public Employees Retirement System in the possession of the system.

LD 419 An Act To Clarify Damages for the Willful or Negligent Injury or Death Accepted Majority
of a Dog of a Dog (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	ONTP OTP-AM	

This bill allows damages for the willful or negligent injury or death of a dog to include, but not be limited to, actual damages, including veterinary fees and the value of the dog; damages for loss of companionship; damages for pain and suffering; and punitive damages. The prevailing party in any action may recover attorney's fees from the nonprevailing party.

Committee Amendment "A" (H-134)

This amendment is the minority report. It replaces the bill and changes the title. It creates a cause of action for noneconomic damages to be collected by a pet owner when another person or the person's animal kills the pet or injures the pet and the injuries lead to the death of the pet. The person must have been acting unlawfully and either intentionally or negligently. Damages are limited to \$5,000 for the loss of the reasonably expected companionship, love and affection of the pet. The \$5,000 limit does not apply to causes of action for intentional infliction of emotional distress or any other civil action other than the direct and sole loss of a pet.

The amendment does not apply to a nonprofit entity or governmental agency, or its employees, negligently causing the death of a pet while acting on the behalf of public health or animal welfare, and it does not authorize an award

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of noneconomic damages in an action for professional negligence against a licensed veterinarian. It also does not apply to the killing of a dog when the killing is authorized under the Maine Revised Statutes, Title 12, section 12404, subsection 6 concerning nuisance dogs chasing, killing, wounding, worrying or attacking moose, deer, other wild animals, domestic animals, livestock or poultry.

This amendment was not adopted.

LD 428 RESOLUTION, Proposing an Amendment to Article X of the Constitution of Maine Regarding the Publication of Maine Indian Treaty Obligations Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAR H CHIPMAN B	ONTP OTP-AM	

This resolution proposes an amendment to the Constitution of Maine to require that the text of Article X, Section 5 of the Constitution be included in any printed copies of the Constitution included with the laws of the State.

Committee Amendment "A" (H-432)

This amendment is the minority report of the committee. It amends the resolution to repeal all of Article X, Section 7, resulting in the inclusion of the omitted sections, Sections 1, 2 and 5 of Article X, when a printed copy of the Constitution of Maine is prefixed to the Laws of Maine.

This amendment was not adopted.

LD 429 An Act Concerning Guardians Ad Litem and Determinations Regarding the Best Interest of a Child in Custodial Relative Caregiver Cases Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PICCHIOTTI J	ONTP OTP-AM	

This bill clarifies that, in proceedings in which the best interest of a child is considered, giving custody to a family member rather than a parent must be given consideration. Family members may petition for standing in a proceeding involving parental rights and responsibilities with respect to a child under certain circumstances. This bill also requires guardians ad litem in contested cases involving the best interest of a child to issue their written report on a standard form with check boxes for each mandatory and optional duty of the guardian ad litem and to describe the results with respect to the duties performed and to provide an explanation with respect to each duty that was not performed.

Committee Amendment "A" (H-412)

This amendment is the minority report of the committee. The amendment adds an appropriations and allocations section.

This amendment was not adopted.

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LD 457 An Act To Repeal the Sunset Date on the Children's Guardians Ad Litem Law

**PUBLIC 138
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M	OTP-AM	H-152

This bill repeals the sunset date of October 1, 2017 in the law regarding children's guardians ad litem.

Committee Amendment "A" (H-152)

This amendment adds an emergency preamble and emergency clause to the bill to ensure that the law governing children's guardians ad litem in the Maine Revised Statutes, Title 4 is not repealed before this legislation takes effect.

Enacted Law Summary

Public Law 2017, chapter 138 repeals the sunset date of October 1, 2017, in the law regarding children's guardians ad litem.

Public Law 2017, chapter 138 was enacted as an emergency measure effective June 7, 2017.

LD 472 An Act Regarding Parental Rights

**Died Between
Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ESPLING E	ONTP OTP-AM	

This bill amends the law to stipulate that parents have a fundamental right to make decisions concerning the upbringing, education and care of their minor children and requires courts to order shared parental rights and responsibilities unless the limitation of one parent's fundamental rights is supported by a compelling state interest and narrowly tailored to serve that interest through the least restrictive means possible.

Committee Amendment "A" (H-441)

This amendment, which is the minority report of the committee, strikes the portion of the bill requiring a court to order shared parental rights and responsibilities in a divorce or parental rights and responsibilities proceeding unless it finds a compelling state interest to justify an alternative arrangement. The amendment instead provides that the State or a political subdivision of the State may not infringe a parent's fundamental right to direct the care, custody and control of the parent's child unless the infringement is justified by a compelling state interest and narrowly tailored to achieve that compelling state interest through the least restrictive means necessary.

This amendment was not adopted.

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LD 486 An Act To Authorize Vacating the Convictions of Members of the ONTP
Houlton Band of Maliseet Indians Convicted under Prior Laws
Governing the Possession and Use of Marijuana

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAR H	ONTP	

This bill establishes a process for members of the Houlton Band of Maliseet Indians to seek vacation of a criminal conviction or civil violation adjudication if the conduct that formed the basis of the conviction or adjudication would have been legal had that conduct been committed after enactment of the Marijuana Legalization Act. The bill also establishes that, if a member of the Houlton Band of Maliseet Indians is charged with a civil violation or criminal offense for conduct that occurred prior to the effective date of the Marijuana Legalization Act, it is a defense to the prosecution that the conduct would have been legal had the conduct occurred after the effective date of the Marijuana Legalization Act.

LD 505 An Act To Amend the Laws Governing the Issuance of Birth Certificates Accepted Majority
for Adopted Persons Born in Maine (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOW D HICKMAN C	ONTP OTP	

This bill amends the laws governing adoption to eliminate the provision of law that requires that upon adoption of a person born in Maine, unless the adoptive parents or adopted person who is at least 18 years of age requests otherwise, the original birth certificate of the adopted person be sealed and a new certificate showing the adoptive parents as the parents of birth be created.

LD 533 An Act To Clarify the Application of the Statute of Limitations under PUBLIC 251
Article 3-A of the Uniform Commercial Code

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COOPER J BREEN C	OTP-AM	H-431

The Maine Revised Statutes, Title 11, section 3-1118, subsection (1) in Article 3-A of the Uniform Commercial Code, which governs negotiable instruments, provides for a six-year statute of limitations for enforcement of negotiable instruments. In 2004, the Maine Supreme Judicial Court sitting as the Law Court held in *Fleet National Bank v. Liberty*, 2004 ME 36, 845 A.2d 1183, that Title 11, section 3-1118, subsection (1) did not repeal the 20-year statute of limitations for some types of instruments in Title 14, section 751, either expressly or by implication. This bill provides that the six-year statute of limitations in Title 11, section 3-1118, subsection (1) applies to all negotiable instruments, notwithstanding the 20-year statute of limitations for some types of instruments in Title 14, section 751.

This bill also provides that the six-year statute of limitations does not apply to certain negotiable instruments until 90 days after the legislation takes effect. It requires the Department of Professional and Financial Regulation, Bureau of Financial Institutions and Bureau of Consumer Credit Protection to give written notice to all financial institutions, mortgage servicers and debt collectors regulated by or registered with them and to other entities and agencies that have interests in loans that may be affected by this legislation.

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Committee Amendment "A" (H-431)

This amendment replaces the bill. Like the bill, it clarifies that the six-year statute of limitations included in Article 3-A of the Uniform Commercial Code, not the 20-year statute of limitations in Title 14, section 751, applies to all negotiable instruments.

This amendment includes language to specifically apply the language to negotiable instruments executed on or after the effective date of this legislation. Negotiable instruments executed before the effective date are governed by the existing law.

Enacted Law Summary

Public Law 2017, chapter 251 provides that the six-year statute of limitations included in Article 3-A of the Uniform Commercial Code, not the 20-year statute of limitations in Title 14, section 751, applies to all negotiable instruments.

Public Law 2017, chapter 251 specifically applies to negotiable instruments executed on or after the effective date of this legislation. Negotiable instruments executed before the effective date are governed by the existing law.

LD 534 An Act To Amend the Laws Governing the Circumstances of Death That Veto Sustained
Must Be Reported to the Office of Chief Medical Examiner

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M WHITTEMORE R	OTP	

This bill amends the law governing the Department of the Attorney General, Office of Chief Medical Examiner as follows.

1. It clarifies that, absent certain other circumstances, the fact that a patient dies within 24 hours of admission to a hospital or other health care facility need not be reported to the Office of Chief Medical Examiner.
2. It removes the requirement that deaths due to the consequences of long-term alcohol use be reported to the Office of Chief Medical Examiner.

LD 535 An Act To Protect Maine Citizens from Aerial Trespass Leave to Withdraw Pursuant to Joint Rule

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WARREN C BRAKEY E		

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to make the activity of flying an unmanned aerial vehicle into the airspace over or crossing the boundary of another person's property and recording or videotaping or otherwise violating the privacy of the property owner either civil or criminal trespass.

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LD 536 An Act To Protect Homeowners from Debt Collectors

ONTP

Sponsor(s)

ORDWAY L

Committee Report

ONTP

Amendments Adopted

This bill prohibits a court from ordering a sale of property to satisfy a lien on the property if the owner of the property occupies the property as the owner's residence.

**LD 537 An Act To Provide an Exemption from Road Association Payments for
Landowners Whose Primary Access Is Not over the Road**

**Died Between
Houses**

Sponsor(s)

WADSWORTH N
HAMPER J

Committee Report

ONTP
OTP-AM

Amendments Adopted

This bill provides an exemption from road association payments for an owner of a parcel of land benefited by a private road, private way or bridge that does not serve as the primary access route to the land. The owner is exempt from all payments or assessments for repairs or maintenance determined to be undertaken by the road association as long as the owner notifies the owners of all other parcels benefited by the road, way or bridge prior to the determination by the road association to undertake the repair or maintenance.

Committee Amendment "A" (H-531)

This amendment is the minority report and it replaces the bill. The amendment provides that an owner of a parcel of land benefited by a private road, private way or bridge that does not serve as the primary access to that parcel is exempt from all payments or assessments for repairs or maintenance relating to that private road, private way or bridge if the owner agrees to not use the private road, private way or bridge for any means of access to the parcel, whether by private vehicle or any other vehicle. An owner must claim the exemption by providing written notice to the commissioner or board of the road association. The owner is then not subject to assessments and has no voting rights in the association. An owner may terminate an exemption by notifying the road association in writing. The exemption is terminated if the no-use agreement is violated by the owner.

This amendment was not adopted.

**LD 578 An Act To Modify the Divorce Laws Concerning Perpetrators of
Domestic Violence**

ONTP

Sponsor(s)

SAVIELLO T

Committee Report

ONTP

Amendments Adopted

This bill prohibits in a divorce action the awarding of spousal support or retirement benefits to a party if the party has been convicted of or proved by a preponderance of the evidence to have committed domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing or domestic violence stalking and the other party was the victim. The bill also prohibits the party from continuing to use the victim's name unless the names of the parties were identical before the marriage.

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LD 581 An Act To Require Notification When a Temporary Protection from Abuse Order Is Rescinded ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T	ONTP	

This bill specifies the method a court is required to use to notify a plaintiff, a defendant and the relevant law enforcement agency or correctional facility that a temporary protection from abuse order has been modified or dissolved by the court.

LD 610 An Act To Prohibit Prescriptive Property Rights Claims of Property Owned by Nonprofit Organizations Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HANLEY J CYRWAY S	ONTP OTP	

This bill prohibits the acquisition of title to real estate or any interest in real estate against any nonprofit organization organized in this State by adverse possession, however exclusive or long continued.

LD 611 An Act To Amend Certain Laws Affecting the Judicial Branch PUBLIC 223

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M KATZ R	OTP-AM	H-292

This bill amends the definition of "qualified legal interpreter" in the laws governing communication services for deaf persons, hard-of-hearing persons and late-deafened persons in court. The bill prohibits discrimination on account of sexual orientation in jury selection. The bill amends the requirements for record keeping for briefs filed in the Supreme Judicial Court. It requires the preservation of briefs in all cases decided, permits the transfer of the briefs in electronic format and requires the clerk of the Supreme Judicial Court to provide complete sets of the briefs to the law library of Cumberland County and to the Law and Legislative Reference Library instead of the law library of Penobscot County.

Committee Amendment "A" (H-292)

This amendment deletes a grammatical correction.

Enacted Law Summary

Public Law 2017, chapter 223 amends the definition of "qualified legal interpreter" in the laws governing communication services for deaf persons, hard-of-hearing persons and late-deafened persons in court to include in the definition a person who possesses qualifications, certifications or credentials to interpret in court proceedings as established by the Supreme Judicial Court. It prohibits discrimination on account of sexual orientation in jury selection, and amends the requirements for record keeping for briefs filed in the Supreme Judicial Court. It requires the preservation of briefs in all cases decided, permits the transfer of the briefs in electronic format and requires the clerk of the Supreme Judicial Court to provide complete sets of the briefs to the law library of Cumberland County and to the Law and Legislative Reference Library instead of the law library of Penobscot County.

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LD 641 Resolve, To Establish the Commission To Study the Availability of Information Regarding Related Incidents in Domestic Violence Cases

Leave to Withdraw Pursuant to Joint Rule

Sponsor(s)
RECKITT L

Committee Report

Amendments Adopted

This resolve establishes the Commission To Study the Availability of Information Regarding Related Incidents in Domestic Violence Cases, which is directed to conduct a comprehensive examination of domestic violence prosecutions in this State and develop recommendations on the best method to provide judges and prosecuting attorneys with information regarding related domestic abuse incidents.

LD 644 An Act To Improve Citizen Access to Legal Representation

ONTP

Sponsor(s)
SEAVEY S

Committee Report
ONTP

Amendments Adopted

This bill allows an attorney who practices law in a jurisdiction other than this State to be admitted to the general practice of law in this State without complying with the qualifications for admission to practice law specified in the Maine Revised Statutes, Title 4, section 805-A. Such an attorney must disclose in writing to a client in this State represented by that attorney that the attorney has not met these qualifications for admission and must obtain from that client written consent to the representation.

LD 645 An Act To Amend the Penalties for Failure To Pay Child Support

ONTP

Sponsor(s)
HICKMAN C

Committee Report
ONTP

Amendments Adopted

This bill removes the suspension of a driver's license as a penalty for failure to pay child support.

LD 663 An Act To Allow Attorneys Employed by the State To Perform Volunteer Legal Services

Died Between Houses

Sponsor(s)
BRAKEY E

Committee Report
OTP-AM
ONTP

Amendments Adopted

This bill makes clear that an attorney who is employed by the State may provide volunteer legal services as long as the volunteer legal services do not create a conflict of interest with the attorney's work for the State. A conflict of interest exists if there is a substantial risk that the attorney's representation of the State as a client would be materially and adversely affected by the attorney's duties pursuant to the provision of the volunteer legal services. Current law prohibits the Attorney General and family law magistrates from engaging in the private practice of law, and this bill retains those prohibitions.

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Committee Amendment "A" (S-280)

This amendment is the majority report. Current law prohibits district attorneys and assistant district attorneys from appearing as counsel or engaging in the private practice of law while in their full-time positions. This amendment adds to the provisions of the bill by allowing district attorneys and assistant district attorneys to provide legal services for free. Conflict of interest restrictions in rules governing the conduct of attorneys, as well as employment policies, still apply.

This amendment was not adopted.

LD 668 An Act To Facilitate the Return of Unclaimed Property

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MIRAMANT D BRYANT M	ONTP	

Under the Uniform Unclaimed Property Act, entities that hold property that is presumed abandoned must report that property to the administrator, who is the Treasurer of State, on an annual basis. The report includes the name of each apparent owner of the presumed abandoned property and the value of the property. This bill requires the administrator to compile a cumulative list of all apparent owners of presumed abandoned property having a total value of at least \$10,000 that has been paid or delivered to the administrator at least 36 months prior to the compiling of the list. The administrator is required to release the list of apparent owners, without identifying the property or its value, upon written request. See also LD 821.

LD 677 An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Evidence in Each Case Involving a Claim of Innocence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN M BRAKEY E	ONTP	

This bill amends the statutory provisions regarding criminal post-conviction review to allow the filing of a petition for post-conviction review claiming actual innocence at any time during the period of direct impediment, except that it may not be filed within one year of a judgment on a prior petition for post-conviction review on the same conviction. This bill requires that a petition for post-conviction review claiming actual innocence receive at least one evidentiary hearing in which the petitioner may submit new evidence and evidence submitted in prior proceedings on the same matter.

LD 697 Resolve, To Establish a Commission To Study the Roles and Rights of Grandparents in Raising Their Grandchildren

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WARD K ROSEN K	ONTP	

This resolve requires the Chief Justice of the Supreme Judicial Court to convene a study commission to examine the increasing role of grandparents in raising their grandchildren and appropriate legal rights of grandparents in the care, custody and control of those grandchildren.

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LD 698 An Act To Allow Persons 70 Years of Age and Older To Opt Out of Jury Duty ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STANLEY S LIBBY N	ONTP	

This bill allows persons 70 years of age and older to opt out of jury service.

LD 731 An Act To Require Mortgage Servicers To Act in Good Faith in Dealings with Homeowners Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARPENTER M	OTP-AM	S-229

This bill requires servicers of residential mortgage loans to act in good faith when dealing with homeowners who are borrowers under those loans. The bill also makes changes in the foreclosure mediation process providing that, if courts have previously sanctioned the conduct of a mortgage servicer in a foreclosure process, the courts are authorized to directly sanction the mortgage servicer if the mortgage servicer's conduct evidences a failure to mediate in good faith. The bill requires the collection of data on sanctions imposed to provide that, when a mortgage servicer is found to have failed to act in good faith, the court may take into account previous conduct in determining a sanction sufficient to deter such conduct in the same case or future cases.

Committee Amendment "A" (S-229)

This amendment replaces the bill. It imposes the duty to act in good faith and with fair dealing and consistently with specified standards of care on any person who services a consumer credit transaction that is made to finance or refinance the acquisition of real estate or the initial construction of a dwelling or that is secured by a first-lien mortgage on real estate. This amendment specifies that the duties and standards of care may not be waived or modified.

This amendment allows an aggrieved consumer to recover all damages or an amount determined by the court not less than \$250 nor more than \$2,000. Under current law, an aggrieved consumer may recover no more than \$1,000. The amendment provides that the court may, in addition to awarding actual damages, award a homeowner or borrower under the Maine Consumer Credit Code statutory damages not to exceed \$15,000 if the creditor, assignee or servicer engaged in a pattern or practice of violating the duties and standards of care.

LD 771 An Act To Protect Political Speech and Prevent Climate Change Policy Profiling Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOCKMAN L	ONTP OTP	

This bill reinforces the recognition that political speech is deserving of the greatest protection from abridgment by the government. The United States Supreme Court in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), continued the protection of protected political speech, no matter the source or message. This bill provides explicit legislative findings to reinforce the United States Supreme Court decision and to clearly state the

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need for statutory protections of protected political speech.

The bill specifically prohibits the Attorney General from investigating, joining an investigation initiated by another state or the Federal Government or prosecuting any person based on that person's protected political speech. It also prohibits the Attorney General from using the Attorney General's prosecutorial power to favor or disfavor protected political speech.

The bill also prohibits the State from favoring or disfavoring any person based on the person's climate change policy preferences with regard to grants, contracts or employment.

LD 773 An Act To Enact the Uniform Real Property Transfer on Death Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R	ONTP	

This bill enacts the Uniform Real Property Transfer on Death Act, adopted by the Uniform Law Commission in 2009. See also LD 969.

LD 807 An Act Regarding Guardianships PUBLIC 187

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KEIM L MOONEN M	OTP	

This bill changes the law regarding the evidentiary standard for the appointment of a guardian for an unmarried minor.

Enacted Law Summary

Public Law 2017, chapter 187 changes, pursuant to the Law Court decision in *Guardianship of Sebastien Chamberlain et al.*, 2015 ME 76, the law regarding the appointment of a guardian for an unmarried minor. Under the current law, the probate court may appoint a guardian without the consent of the minor's parents whose rights have not been terminated or the minor's legal custodian when the court finds by a preponderance of the evidence that there is a de facto guardian and a demonstrated lack of consistent participation by the nonconsenting parent or legal custodian. Chapter 187 changes the evidentiary standard from a preponderance of the evidence to clear and convincing evidence.

LD 815 An Act To Allow a Council of Governments To Provide Municipal Services to Small Towns under the Maine Tort Claims Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R FOLEY R	ONTP	

This bill expressly authorizes a council of governments to provide municipal services to a municipality pursuant to a contract between the council of governments and the municipality. The bill amends the Maine Tort Claims Act to include in the definition of "political subdivision" a council of governments when it is providing municipal services pursuant to a contract between the council of governments and the municipality.

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LD 821 An Act To Enact the Revised Uniform Unclaimed Property Act

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION M TALBOT ROSS R		

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to adopt the Revised Uniform Unclaimed Property Act as adopted by the Uniform Law Commission.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 845 An Act To Clarify That Petitions for Certiorari to the Supreme Court of the United States Are Included within the Definition of Indigent Legal Services

Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M	OTP-AM ONTP	

This bill includes in the definition of "indigent legal services" the filing, on behalf of an indigent party, defendant or juvenile, of a petition for certiorari to the Supreme Court of the United States from an adverse decision of the Law Court on a case for which indigent legal services were provided.

Committee Amendment "A" (H-205)

This amendment is the majority report. The bill expands the definition of indigent legal services administered through the Maine Commission on Indigent Legal Services to include filing of a petition for certiorari to the United States Supreme Court. This amendment requires the commission to develop a procedure for approving requests by counsel for authorization to file a petition for certiorari. Compensation for the preparation and filing of the petition may not exceed \$1,500.

This amendment was not adopted.

LD 846 An Act To Enact the Revised Uniform Fiduciary Access to Digital Assets Act

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B HILL D		

This bill enacts the Revised Uniform Fiduciary Access to Digital Assets Act as the Maine Revised Uniform Fiduciary Access to Digital Assets Act, Article 10 in the Maine Revised Statutes, Title 18-A. This bill modifies the Revised Uniform Fiduciary Access to Digital Assets Act to be consistent with existing Maine law with regard to conservators.

Part B amends the Maine Uniform Power of Attorney Act to specifically allow a power of attorney to grant

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authority to enable the agent to access the content of an electronic communication to be consistent with the grant of express authority required by Section 9 of the Revised Uniform Fiduciary Access to Digital Assets Act, included in this bill as the Maine Revised Statutes, Title 18-A, section 10-109.

Part C provides that the provisions of this bill take effect January 1, 2018.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 847 An Act To Hold Refugee Resettlement Agencies Accountable to Maine People **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOCKMAN L DAVIS P	ONTP OTP-AM	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to amend the laws governing the tax status of refugee resettlement agencies that refuse to consult with state and local governments or that otherwise disregard the concerns of state and local governments and to make refugee resettlement agencies liable for acts of terrorism committed by refugees placed by those agencies in this State.

Committee Amendment "A" (H-413)

This amendment is the minority report of the committee. It replaces the bill, which is a concept draft.

The amendment establishes the Responsible Refugee Resettlement Act.

The Act prohibits the State and local governments from participating in the federal refugee resettlement program as created by the United States Congress pursuant to the Refugee Act of 1980, Public Law 96-212.

Under the Act, any nongovernmental entity that provides refugee resettlement services after January 1, 2018 may be held liable in a civil action if it resettles a refugee who subsequently commits an act of terrorism in this State and the entity knew or should have known that the act of terrorism was likely or imminent.

Under the Act, a nongovernmental entity that provides refugee resettlement services must certify that certain requirements are met in order to maintain eligibility for state or local tax exemptions.

Under the Act, a nongovernmental entity that provides refugee resettlement services must submit an annual report to the Governor and the Legislature that includes specific information about the refugees, refugee demographics and plans for the following year.

The Commissioner of Health and Human Services must adopt routine technical rules to carry out the Act.

The Act takes effect January 1, 2018.

This amendment was not adopted.

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LD 860 An Act To Establish a Statewide Electronic Warrant System

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERRISH K ROSEN K		

This bill directs the State Court Administrator to establish a secure system for the application, issuance and return of arrest warrants and search warrants that is electronic and that provides access to authorized users statewide. The bill amends the law on search warrants to require electronic application and issuance once the electronic system has been established. The bill directs the Supreme Judicial Court to adopt amendments to the Maine Rules of Unified Criminal Procedure, Rule 4, Arrest Warrant or Summons, effective on the date of the establishment of the statewide electronic warrant system, to provide for the application, issuance and return of arrest warrants and search warrants through electronic means.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 871 An Act To Require Disclosures Relating to the Sale of Residential Property Accessible by a Public Way and Any Means Other than a Public Way

PUBLIC 181

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAY J BELLOWS S	OTP-AM ONTP	H-414

This bill provides that, for residential real property accessible only by a private way, the seller must disclose, if known, the name of the person who owns the private way and the name of the person who is responsible for the maintenance and repair of the private way.

Committee Amendment "A" (H-414)

This amendment requires the disclosure in the sale of residential property of information regarding the means of accessing the property.

Enacted Law Summary

Public Law 2017, chapter 181 requires the disclosure in the sale of residential property of information regarding the means of accessing the property by a public way as well as by any means other than a public way. If the property is accessible by means other than a public way, whether as the only means of access or in addition to access via a public way, the owner is required to disclose information about who is responsible for maintenance of the means of the non-public way access, including any responsible road association, if known. The disclosure will put the prospective buyer on notice that access to the property may be limited and that there is a possibility that the property is subject to membership in a road association, which may require the payment of assessments.

LD 896 An Act To Promote Retention and Recruitment of Judicial Marshals and Sergeants

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL D MOONEN M	ONTP	

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This bill provides for a 20% upward adjustment in the salary schedules of judicial marshals and judicial sergeants in the judicial branch beginning with the pay period commencing closest to July 1, 2017. See Public Law 2017, chapter 284, Part TTTTTT.

LD 903 An Act To Protect Rights and Privileges Granted under the United States Constitution and the Constitution of Maine

Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAMPSON H WOODSOME D	ONTP OTP	

This bill addresses the application of foreign law in this State with the goal of protecting American citizens' constitutional rights when foreign laws and foreign legal doctrines are applied in judicial and administrative tribunals. The bill provides that:

1. A court or administrative ruling violates the public policy of this State and is void and unenforceable if it is based in whole or in part on a foreign law, legal code or legal system that would not grant the same liberties, rights and privileges as are granted under the United States Constitution and the Constitution of Maine;
2. A contract's choice of law provision that chooses such a foreign law, legal code or legal system to govern aspects of the contract is void and unenforceable if the foreign law, legal code or legal system does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine;
3. A contract's choice of personal jurisdiction provision that provides jurisdiction over the parties that applies a foreign law, legal code or legal system to govern aspects of the contract is void and unenforceable if the foreign law, legal code or legal system does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine; and
4. The court must deny a claim of forum non conveniens or related claim if granting the claim would subject the nonclaimant to a foreign forum that applies a foreign law, legal code or legal system that does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine.

The bill provides that these provisions do not apply to a corporation, partnership, limited liability company, business association or legal entity that contracts to subject itself to a foreign law, legal code or legal system in a jurisdiction other than this State or the United States and do not limit the free exercise of religion or require or authorize a court to adjudicate issues within a religious organization that would violate the First Amendment's establishment clause.

The bill also provides that these provisions may not be interpreted to conflict with any relevant treaty or international agreement.

LD 916 An Act To Modify the Term and Withholding Limitations for Spousal Support

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WOODSOME D	ONTP	

This bill amends the laws governing spousal support in divorce actions by:

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1. Repealing the provision authorizing courts to award general spousal support and limiting the possible term of all spousal support orders to four years;
2. Unless agreed to by the parties, limiting the amount of support a court may order to no more than 30% of the obligor's income;
3. Limiting the amount of a withholding order to no more than 30% of a obligor's income and, if the award is based upon an agreement of the parties, no more than 35% for amounts owed that are in arrearage; and
4. Requiring the parties annually to submit financial affidavits to the court.

LD 921 An Act To Extend Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DANA M MAKER J	OTP-AM	H-513

This bill removes the time and acreage limits for placing land in trust status for the Passamaquoddy Tribe and the Penobscot Nation under the Maine Indian Claims Settlement.

Committee Amendment "A" (H-513)

The bill repeals both acreage limits and time limits applicable to the acquisition and certification of trust lands under the Act to Implement the Maine Indian Claims Settlement for the Passamaquoddy Tribe and the Penobscot Nation. This amendment extends all time limits for both the Passamaquoddy Tribe and the Penobscot Nation to add to their respective trust lands to January 31, 2025. This amendment retains the acreage limits.

The effective date and certification provisions of the bill are retained. Because this bill amends the Act to Implement the Maine Indian Claims Settlement, this bill does not take effect unless the Joint Tribal Council of the Passamaquoddy Tribe and the Tribal Chief and Council of the Penobscot Nation agree to these changes and certify their agreement to the Secretary of State within 60 days of the adjournment of the First Regular Session of the 128th Legislature.

LD 934 An Act To Establish an Expedited Temporary Guardianship Process CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE K		

This bill amends the Probate Code to add an expedited process for the court to appoint a temporary guardian for a minor.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

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LD 969 An Act Regarding Nonprobate Transfers on Death

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R WHITTEMORE R		

This bill enacts as Article 6, Part 4 of the Maine Probate Code the Uniform Real Property Transfer on Death Act, adopted by the Uniform Law Commission in 2009. It amends the Maine Probate Code to provide for the nonprobate transfer of personal property not already covered by Article 6 of the Maine Probate Code by enacting a new Part 5. Part 5 is modeled on Missouri law.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 1043 An Act To Promote Impartiality in the Probate Court

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R BAILEY D	OTP-AM	S-230 S-254 KEIM L

Beginning January 1, 2019, this bill prohibits probate judges from appearing as counsel in contested probate cases. Beginning January 1, 2021, this bill also prohibits probate judges from engaging in the practice of law while they are serving as probate judges.

Committee Amendment "A" (S-230)

This amendment removes from the bill the prohibition on probate judges engaging in the practice of law while serving as probate judges.

Senate Amendment "A" (S-254)

This amendment prohibits probate judges from appearing as counsel in contested probate proceedings beginning January 1, 2021 rather than January 1, 2019 as in the bill.

LD 1047 An Act To Protect Homeowners from Improper Foreclosure Fees

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BELLOWS S LAWRENCE M	OTP-AM ONTP	S-198

Current law provides that attorney's fees must be paid to mortgagors when the mortgagee does not prevail in a foreclosure action, which creates a loophole that allows the mortgagee to escape the attorney's fees provisions when the plaintiff does not prevail because it is determined that the plaintiff is not the true mortgagee. This bill rectifies that loophole by clarifying that a plaintiff who claims to be a mortgagee who does not prevail in a foreclosure action must still pay attorney's fees to the prevailing mortgagor.

Committee Amendment "A" (S-198)

This amendment is the majority report. It simplifies the language of the bill to make it clear that if the plaintiff in

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the foreclosure action does not prevail or did not bring the action in good faith, the court can order the plaintiff to pay costs and attorney's fees.

LD 1057 An Act To Protect Condominium Owners in the Event of a Power Outage **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ZEIGLER S	ONTP OTP-AM	

This bill allows a condominium unit owner to install a backup electricity generator in a common element space as long as the installation does not block or disrupt the use of the common element space.

Committee Amendment "A" (H-291)

This amendment is the minority report. It allows a condominium unit owner to install an electricity generator in a limited common element space associated with the unit instead of in a common element space, which is open to all units.

This amendment was not adopted.

LD 1099 Resolve, To Require the State To Bring Suit against the Federal Government for Failure To Comply with the Federal Refugee Act of 1980 **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOCKMAN L DAVIS P	ONTP	

This resolve directs the Attorney General to initiate or intervene in a civil action against the Federal Government in opposition to the federal Refugee Act of 1980 and the imposition of financial mandates on the State. If the Attorney General sends notice to the Senate and the House of Representatives declining to initiate or intervene in a civil action required by this resolve, this resolve authorizes the President of the Senate and the Speaker of the House of Representatives to employ outside counsel to commence the civil action.

LD 1120 Resolve, Directing the Maine Commission on Domestic and Sexual Abuse To Study Economic Abuse **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAY J	ONTP	

This resolve directs the Maine Commission on Domestic and Sexual Abuse to study the effect of economic abuse and the enforcement of laws to prevent economic abuse and to provide relief to victims of economic abuse, to study the provision of training opportunities for public officials, to study the provision of a media campaign and to study the creation of programs to provide legal remedies, including the reimbursement of attorney's fees.

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LD 1139 An Act To Clarify Certain Right-of-way Limitations

PUBLIC 194

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEARNS P	OTP-AM	H-276

This bill provides that a conveyance after January 1, 2018 of an easement or right-of-way leading to or touching upon a water body does not include any right by implication to install a dock or other fixture on that water body unless such a right is expressly stated in the easement or right-of-way.

This bill also provides that a municipality may, at the request of the owner of land subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or touching upon a water body that does not expressly include a right to install a dock or other fixture on that water body, after notice and hearing, direct any person who has built a dock or other fixture on that water body under a claim of an implied right under that easement or right-of-way to remove the dock or fixture at that person's expense.

Committee Amendment "A" (H-276)

This amendment replaces the bill to clearly state that, unless the written instrument that establishes an easement or right-of-way that leads to or touches upon a water body expressly includes the right to construct a dock on or using the easement or right-of-way, no such right exists in an easement or right-of-way created on or after January 1, 2018. "Water body" is intended to be all-inclusive, covering all inland and coastal waters.

This amendment does not affect easements or rights-of-way created before January 1, 2018.

Enacted Law Summary

Public Law 2017, chapter 194 provides that, unless the written instrument that establishes an easement or right-of-way that leads to or touches upon a water body expressly includes the right to construct a dock on or using the easement or right-of-way, no such right exists in an easement or right-of-way created on or after January 1, 2018. "Water body" is intended to be all-inclusive, covering all inland and coastal waters. Chapter 194 does not affect easements or rights-of-way created before January 1, 2018.

LD 1187 An Act To Amend the Child Protective Services Statutes

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY R		

This bill makes the following changes to the laws governing child protective services.

1. It changes the standard for determining when placement of a child in custody is in the best interests of the child to include a rebuttable presumption that placement with a relative is in the best interests of the child, if placement with that relative does not substantially interfere with reunification efforts with the birth parents.
2. It provides that in any hearing held by the court prior to issuing an order in a child protection proceeding, a parent of the child who is the subject of the proceeding has the right to hear all evidence presented, except for testimony by the guardian ad litem, prior to testifying in the hearing.
3. It changes the standard of proof required for a preliminary protection order from a preponderance of the evidence to clear and convincing evidence.

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4. It requires that the Department of Health and Human Services limit its use of preliminary protection orders to no more than 50% of the total child protection petitions it has filed in a calendar year and to report to the Legislature annually on its use of the preliminary protection order relative to child protection petitions.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1187.

LD 1190 An Act Regarding Driver's License Suspensions for Nondriving-related Violations CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M KEIM L	OTP-AM ONTP	H-532 H-550 MOONEN M

This bill removes the provisions of law that allow driver's license suspensions for failure to pay a fine in offenses not related to driving. This bill provides that the statutory exemptions from attachment and execution for certain property apply to the enforcement of fines owed to the State.

Committee Amendment "A" (H-532)

This amendment adds a sunset to the bill of October 1, 2021, thus prohibiting driver's license suspensions for failure to pay a fine in offenses not related to driving until October 1, 2021 and allowing two full fiscal years of information about the fiscal effect of eliminating driver's license suspension as a tool to collect fines. Without further legislative action, the law in effect prior to this Act takes effect on October 1, 2021, reinstating the ability of the court to suspend driver's licenses for nonpayment of fines.

House Amendment "A" To Committee Amendment "A" (H-550)

The bill eliminates the ability of the court to suspend a person's driver's license for failure to pay a court-ordered fine for an offense not related to driving. This amendment amends the committee amendment to give the court the option of restricting a person's driver's license to work, work-search or education purposes if the person has the ability to pay a fine and fails to do so.

This bill was reported out of committee and then carried over to any special or regular session of the 128th Legislature on the Special Appropriations Table by joint order, S.P. 601.

LD 1216 An Act To Clarify the Law Regarding Arbitration Privacy with Respect to Executive and Legislative Branch Employees Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYLVESTER M BELLOWS S	OTP-AM ONTP	

Current law requires that the final written decision of a state executive branch or legislative branch employer relating to disciplinary action of an employee that is appealed to an arbitrator be made public when the arbitrator issues a final written decision on the matter or within 120 days after a written request for the decision is made to the employer, whichever is earlier. This bill changes the law to making the employer's final written decision relating to disciplinary action of the employee public upon the issuance and release of the arbitrator's written decision on the matter, regardless of the time frame in which the arbitrator's decision is issued and released.

Committee Amendment "A" (H-433)

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This amendment is the majority report. The bill addresses confidentiality of disciplinary actions appealed to arbitration affecting state employees. The amendment extends the same confidentiality to county and municipal employees. Disciplinary actions concerning state, county and municipal employees remain confidential if an action is appealed to arbitration until the arbitration decision is final and released.

This amendment was not adopted.

LD 1239 An Act To Increase Efficiency in Enforcement of the Maine Human Rights Act

Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUELL W KATZ R	OTP-AM ONTP	

This bill implements several recommendations of a review panel created by the Governor to review operations of the Maine Human Rights Commission.

Under the bill, if both parties are in agreement, the commission is authorized to make binding determinations pertaining to violations of the Maine Human Rights Act. The commission is authorized to order remedies that the court is currently authorized to impose. Final decisions of the commission are appealable under the Maine Administrative Procedure Act as final agency actions.

The bill provides for the commission to suspend an investigation if a complainant files an affidavit with the commission stating that the complainant will seek a right-to-sue letter when permitted under law. Current law allows a complainant to ask for a right-to-sue letter, bypassing the commission findings, after 180 days have elapsed since the complaint was filed. Because the commission will suspend the investigation once the affidavit stating that the complainant will seek a right-to-sue letter is filed, the complainant may not withdraw the affidavit.

The bill provides for the commission to issue a right-to-sue letter to a complainant if 180 days have elapsed since the complaint was filed and the commission has not filed a civil action in the case and has not entered into a conciliation agreement in the case.

The bill authorizes the commission to impose sanctions and seek penalties for perjury, false swearing, making a false statement, providing false information or violating the nondisclosure requirements. Sanctions may include the imposition of adverse inference, liability or other remedies.

The bill authorizes the commission to establish by rule procedures to discourage abuse of the complaint and investigation process. These procedures may include, but are not limited to, refusing to accept more than five complaints from the same complainant in a 12-month period and other requirements designed to eliminate the filing of frivolous complaints.

The bill provides funding for two new paralegal positions and one new consumer outreach position.

The bill directs the commission to purchase a computer system to provide for electronic data management that allows parties and their attorneys to access the status of their cases electronically.

Committee Amendment "A" (H-434)

This amendment is the majority report. It strikes the bill but retains the provisions providing funding for the two paralegal positions and one consumer outreach position and the requirement that the Maine Human Rights Commission purchase a computer system. It adds a \$10,000 appropriation for the initial step in evaluating the commission's computer system needs.

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This amendment was not adopted.

LD 1240 An Act To Provide Immunity to Medical Professionals Who Provide Free Health Care Services to Uninsured and Underserved Populations of the State **Accepted Majority (ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GINZLER P MAKER J	ONTP OTP	

This bill improves access to medical care for low-income individuals by providing governmental protection to health care practitioners who offer free medical services to underserved populations of the State. It is modeled on Florida law. Health care professionals who contract to provide such services as agents of the State are provided immunity under the Maine Tort Claims Act.

For those health care practitioners with continuing education requirements, each hour of volunteer service provides credit for one hour of continuing education, up to a total of eight continuing education credit hours per calendar year.

This bill applies to adverse incidents occurring on or after January 1, 2018.

LD 1241 An Act To Encourage Child Support Accountability **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DECHANT J GRATWICK G	ONTP	

This bill requires a personal representative to search an electronic registry of child support obligors with outstanding child support debt prior to distributing the assets of an estate to an heir or a devisee. The personal representative shall withhold from an heir's or a devisee's inheritance the amount of any outstanding child support debt and forward that amount to the Department of Health and Human Services.

This bill also directs the Department of Health and Human Services to make recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the most effective way to create a program that requires an unemployed or underemployed child support obligor who has a substantial unpaid child support debt to engage in at least 30 hours per week of uncompensated community service work, receiving an hourly credit against the obligor's child support debt equivalent to the minimum wage. It authorizes the joint standing committee to submit a bill to implement this program to the Second Regular Session of the 128th Legislature.

LD 1260 Resolve, To Establish the Commission To Create a Plan To Enhance the Efficiency and Effectiveness of the Probate Court System **Veto Sustained**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R	OTP-AM	S-231 S-287 KATZ R

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This resolve establishes the Commission To Create a Plan for the Establishment of a Probate Court System with Full-time Judges including legislators and interested parties to create a plan describing how a probate system with full-time judges can be created and funded. The Joint Standing Committee on Judiciary has authority to report out a bill regarding the plan to the Second Regular Session of the 128th Legislature.

Committee Amendment "A" (S-231)

This amendment makes the following changes to the resolve.

1. It adds an emergency preamble and emergency clause to the resolve.
2. It changes the title of the resolve and renames the commission the Commission To Create a Plan To Enhance the Efficiency and Effectiveness of the Probate Court System. It does not require that the plan be based on full-time judges, although the commission is not prohibited from including full-time judges in its plan.
3. It changes the membership of the commission from 15 members to 13 members and requires the appointing authorities to make every effort to ensure that appointments to the commission represent diversity with regard to geography and population across the State.
4. To provide flexibility to the commission to manage its work, it deletes the requirement that subcommittees include individuals not on the commission.
5. It requires that the commission include in its funding recommendations a plan that ensures the probate judges are provided payment and benefits that fairly compensate them and prohibits them from practicing law during their service as Probate Court Judges.
6. It requires that county officials, in addition to the registers of probate and the Administrative Office of the Courts, provide information and assistance when requested by the commission.

Senate Amendment "A" To Committee Amendment "A" (S-287)

This amendment amends Committee Amendment "A" by striking the emergency preamble and emergency clause, adding a preamble and authorizing the Commission To Create a Plan To Enhance the Efficiency and Effectiveness of the Probate Court System to seek private and public funding.

LD 1264 Resolve, Regarding Court Facilities in York County

ONTP

<u>Sponsor(s)</u> WOODSOME D	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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This resolve directs the Judicial Department to terminate all construction, contracts, contract negotiations and any other negotiations and any other actions relating to the acquisition, ownership, construction, permitting and operation of the York County Judicial Center and to maintain and continue providing court services in the Superior Court and District Courts in York County. Under the resolve, if the Judicial Department determines that terminating all construction, contracts, contract negotiations and any other negotiations and any other actions relating to the acquisition, ownership, construction, permitting and operation of the York County Judicial Center will result in excessive monetary loss to the State, the construction of the York County Judicial Center may continue, but the Judicial Department must provide office space in the York County Judicial Center to the York County District Attorney's Office, compensate York County for the cost of additional staffing associated with inmate security and ensure that the York County Board of Commissioners' recommendations concerning inmate holding areas are

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considered in the design of the York County Judicial Center.

LD 1267 An Act To Protect Licensing Information of Medical Professionals

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R TUELL W		

This bill provides that information concerning the application for and granting of licenses issued by the State Board of Nursing, the Board of Osteopathic Licensure and the Board of Licensure in Medicine is confidential, except that each board is required to allow inspection of certain information. See also LD 1541.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

**LD 1275 An Act To Amend and Remove the Need for Periodic Update of the
Laws Governing the Validation of Title Defects**

PUBLIC 196

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARDONE B	OTP	

This bill amends the laws governing the validation of title defects to specify under what circumstances various defects in deeds and other instruments and subdivision plats do not affect title to real property. The bill removes the need for periodic updating of these laws by specifying the applicable lookback period.

Enacted Law Summary

Public Law 2017, chapter 196 amends the laws governing the validation of title defects to specify under what circumstances various defects in deeds and other instruments and subdivision plats do not affect title to real property. Chapter 196 removes the need for periodic updating of these laws by specifying the applicable lookback period.

**LD 1281 An Act Regarding the Compensation of Assistant Attorneys General and
District Attorneys and the Approval of Financial Orders by the Attorney
General and Secretary of State**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL D MOONEN M	ONTP	

This bill eliminates the requirement that compensation set by the Attorney General for assistant attorneys general, staff attorneys, the secretary to the Attorney General, District Attorneys and deputy and assistant district attorneys be approved by the Governor. It also allows the Attorney General and the Secretary of State to approve financial orders for transfers and revisions of and increases to allotments within the budgets of their respective departments.

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LD 1282 An Act To Provide a Definition for the Maine Condominium Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS R GRANT G	ONTP	

This bill provides a definition of "asset" for use in the Maine Condominium Act.

LD 1304 An Act To Specify the Rights of Parents

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAMPSON H KEIM L	ONTP	

This bill amends the Child and Family Services and Child Protection Act in several ways.

1. The bill prohibits the Department of Health and Human Services from discriminating against parents who engage in nontraditional methods of parenting when the department determines whether to take any child protective actions and in determining what actions to take.
2. The bill requires the court to give appropriate weight to the importance of maintaining the familial bond connecting the child and a relative requesting placement when determining the best interests of the child.
3. The bill requires the department to share confidential records with a person designated by one or both parents as a participant.
4. The bill clarifies that the restrictions on the release of confidential information do not prohibit a parent, other family member, participant or caretaker of a child from sharing any information about the child, the family or the circumstances involving the child that is the subject of an investigation or proceeding under this Act as long as the information shared was not obtained by the parent, other family member, participant or caretaker from confidential records of the department.
5. The bill requires the department to develop a roster of appropriate professionals capable and appropriately credentialed to investigate, interview or provide expert testimony that may be admissible in a proceeding under this Act. At the request of a parent, the court is required to order a professional on the roster to investigate, interview or provide expert testimony in addition to any investigation, interview or expert testimony provided by one or more persons already involved by the department. The State is responsible for paying the costs of the additional expert's services.
6. The bill amends the law concerning rehabilitation and reunification plans to ensure that the department provide or make available any services the department identifies as necessary for a parent to receive and complete to be reunited with the child. If the department fails to provide or make those services available, the department is required to report the failure to the court, and the court will extend the time within which the parent is required to meet the requirements of the plan. Related to the failure of the department to provide or make available the identified services is the adjustment to the calculation of the time the child is considered in foster care for the purpose of triggering the termination of parental rights. The period of time during which the department is required to provide or make available services but fails to do so is not included in the time the child is considered in foster care.

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7. Current law provides that the department may file a termination of parental rights petition when the child has been in foster care for at least 15 of the most recent 22 months. The bill extends those periods to 24 months and 30 months, respectively.

8. The bill provides an opportunity for a parent who has been convicted of a crime to show the rehabilitative steps taken to address the underlying criminal behavior, and thus rebut the presumption favoring termination of parental rights.

LD 1305 An Act To Protect Victims of Sexual Assault

**Accepted Majority
(ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KUMIEGA W DILL J	ONTP OTP	

Current law allows a person who is a victim of a sexual assault to file a petition for a protection order, whether or not the person who committed the assault is a family or household member or dating partner; the duration of the protection order may be for a fixed period not to exceed two years. This bill expands the possible duration of a protection order for victims of sexual assault. The bill provides a victim of a sexual assault the opportunity to petition for an order that is a fixed period of time that may be longer than two years, including an order that may be permanent. The bill also adds to the types of relief that a court may order for a sexual assault victim the requirement that the defendant refrain from knowingly coming within or knowingly remaining within a specified distance of a specified location.

**LD 1311 An Act To Amend the Law Regarding Notice of Claim Recordings by
Statutory Road Associations**

PUBLIC 306

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WADSWORTH N	OTP-AM ONTP	H-435

This bill makes the following changes to the laws governing the repair and maintenance of private ways.

1. It requires any notice of claim or process for the recovery of money from the owner of a parcel of land benefited by a private way to include the name of the owner of the parcel.
2. It provides that in order for an obligation of an owner of a parcel of land benefited by a private way to burden the parcel and run with the land upon the transfer of the owner's interest, a notice of claim must be recorded in the county's registry of deeds.
3. It requires the road commissioner or road association board to prepare and record in the county's registry of deeds a release of a recorded notice of claim when money owed by an owner of a parcel of land benefited by a private way is paid.

Committee Amendment "A" (H-435)

This amendment is the majority report. It replaces the bill but retains the provision that ensures that the obligations for assessments imposed by road associations are recorded in the registry of deeds. The amendment provides that after June 30, 2018, in order for an obligation of an owner of a parcel of land benefited by a private way to burden the parcel and run with the land upon the transfer of the owner's interest, a notice of claim must be recorded in the

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LD 1356 An Act To Amend the Grandparents Visitation Act

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN K	ONTP	

This bill amends the Grandparents Visitation Act and other provisions of law concerning grandparents by:

1. Repealing and replacing the current laws governing grandparent standing to petition the court for visitation with and access to a grandchild; under the bill a grandparent seeking visitation must engage in mediation with the parent or parents prior to filing a petition unless mediation is not possible due to the death, incapacity or unavailability of the parent or parents, in which case the grandparent must satisfy one of three specific standing criteria;
2. Including, in the factors related to the best interests of the child that the court must consider when ruling on a grandparent visitation petition, the effect on a grieving child who has lost a parent of being denied visitation with and access to a grandparent and any evidence that a parent or legal guardian of a child is not considering or acting in the best interests of the child;
3. Removing the provision requiring supervision of a grandparent who is a convicted sex offender and has been granted visitation and access to a grandchild; and
4. Removing the provision of the child protective statutes that terminates a grandparent's right to visitation with and access to a grandchild after the grandchild has been adopted.

LD 1406 An Act To Promote Prescription Drug Price Transparency

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VITELLI E FOLEY R		

This bill amends the law governing profiteering in prescription drugs. The bill requires more disclosure of drug production, research and development costs, marketing and advertising costs and actual costs paid upon purchase. The bill allows investigations by the Attorney General of violations of these provisions. The bill adds a required written report from the Attorney General each year. See also LD 1605.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

**LD 1432 An Act To Implement the Recommendations of the Right To Know
Advisory Committee Concerning Advance Payment of Costs for Public
Records Requests**

PUBLIC 158

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP OTP-AM	

This bill, which is a recommendation of the Right To Know Advisory Committee in response to the decision of the Superior Court in *Flanders v. State, et al.*, BELSC-CV-15-12 (Me. Super. Ct., Waldo Cty., Aug. 12, 2016), is

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intended to clarify that under Maine's Freedom of Access Act, an agency or public official may require payment of all costs before providing a public record to a requester.

Committee Amendment "A" (H-290)

This amendment is the minority report. It allows an agency or official to require payment of all costs before providing the requested public record only if the costs exceed \$20.

This amendment was not adopted.

Enacted Law Summary

Public Law 2017, chapter 158 is intended to clarify that under Maine's Freedom of Access Act, an agency or public official may require payment of all costs before providing a public record to a requester.

LD 1437 An Act To Establish a Youth-in-care Court

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMANN S MILLETT R	ONTP	

This bill directs the Chief Justice of the Supreme Judicial Court to establish a youth-in-care court with jurisdiction over child protective and termination of parental rights proceedings as well as adoption and child custody proceedings involving youth in the foster care system as a pilot project within one or more judicial districts of the District Court. The bill further directs the judicial branch to evaluate the effectiveness of the pilot project and to submit a report and recommendations regarding the pilot project to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15, 2019. The joint standing committee may report out a bill related to the report to the First Regular Session of the 129th Legislature.

LD 1442 An Act To Raise the Debtor's Exemption on Vehicles

PUBLIC 209

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARPENTER M	OTP-AM	S-212

This bill increases the exemption from attachment and execution for a motor vehicle from \$5,000 to \$7,500 and provides a full exemption for a payment or account under an individual retirement plan or account that was rolled over from a plan or account under the United States Internal Revenue Code of 1954, Section 401(k) or 403(b) or from a similar, employment-related retirement or pension plan or account.

Committee Amendment "A" (S-212)

This amendment removes the provision of the bill that establishes an exemption for the rollover of individual retirement or similar accounts and plans and makes technical corrections. See also LD 193.

Enacted Law Summary

Public Law 2017, chapter 209 increases the exemption from attachment and execution for a motor vehicle from \$5,000 to \$7,500.

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LD 1465 An Act To Protect Elders from Financial Exploitation and Ensure the ONTP
Efficient Use of Litigation Resources for the State

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL D MOONEN M	ONTP	

This bill provides General Fund appropriations for the Department of the Attorney General to establish one Research Assistant position dedicated to the litigation division and one Attorney General Detective position to assist in cases involving elder financial exploitation.

LD 1482 An Act To Implement the Recommendations of the Right To Know PUBLIC 163
Advisory Committee Concerning Existing Public Records Exceptions

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM OTP	H-333

This bill implements the recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions enacted after 2004 and before 2013.

This bill repeals the current exception from the definition of "public records" under Maine's Freedom of Access Act for social security numbers in the possession of the Secretary of State because this is duplicative of the existing general exception for social security numbers in the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph N.

This bill changes the criteria for designation of records of the Efficiency Maine Trust as confidential from requiring that each of four criteria be met to instead require that one of two criteria be met. This bill also provides that the director of the Efficiency Maine Trust, instead of the Efficiency Maine Trust Board, may disclose or authorize disclosure of otherwise confidential information in certain specified circumstances.

Committee Amendment "A" (H-333)

This amendment is the majority report, and it retains the current decision-making authority of the Efficiency Maine Trust Board with regard to treating records as confidential.

Enacted Law Summary

Public Law 2017, chapter 163 implements the recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions enacted after 2004 and before 2013.

Public Law 2017, chapter 163 repeals the current exception from the definition of "public records" under Maine's Freedom of Access Act for social security numbers in the possession of the Secretary of State because this is duplicative of the existing general exception for social security numbers in the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph N.

Public Law 2017, chapter 163 changes the criteria for designation of records of the Efficiency Maine Trust as confidential from requiring that each of four criteria be met to instead require that one of two criteria be met.

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LD 1541 An Act To Protect Certain Administrative Licensing Files

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERRISH K		

This bill makes polygraph examiner and professional investigator administrative licensing files confidential by law, except the final written decision of whether a license is issued or denied, or of whether, in response to a complaint, adverse action is taken against a licensee's license, is publicly accessible and records may be disclosed for criminal justice purposes or to a government licensing agency of this State or another state. In the case of the issuance or denial of a license, the final written decision must state the basis for which a license is issued or denied, and, in the case of a complaint against a licensee's license, the final written decision must state the basis for which adverse action was or was not taken against the license. The Private Security Guards Act also is amended to ensure consistency with the changes made to the Polygraph Examiners Act and Professional Investigators Act. See also LD 1267.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 1605 An Act To Increase Consumer Prescription Drug Protections

Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VITELLI E	ONTP OTP	

This bill requires the Maine Health Data Organization to annually identify, upon the request of the Attorney General, prescription drugs on which the State spends significant amounts of money and for which the manufacturer's list price for the drug has increased by 50% or more over the past five years or 15% or more over the past 12 months. The Maine Health Data Organization is required to provide the list to the Attorney General, who must require the manufacturer of the drugs to provide a justification for the increase.

The bill also prohibits manufacturers and wholesale distributors from price gouging in the sale of essential off-patent or generic drugs. It authorizes the Attorney General to obtain data from the Maine Health Data Organization concerning increases in prices of essential off-patent or generic drugs and requires manufacturers of essential off-patent or generic drugs to submit information to the Attorney General upon request of the Attorney General. See also LD 1406.

LD 1607 An Act To Prioritize Family Members as Surrogates for Medical Decisions

Died Between Houses

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAWKE S ROSEN K	ONTP OTP-AM	

Current law places nonspousal partners above adult children, parents and adult siblings when prioritizing who may act as a surrogate for medical decisions for an incapacitated adult, including the decision to withhold or withdraw

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life-sustaining treatment. This bill gives adult children, parents and adult siblings medical decision-making priority over nonspousal partners.

Committee Amendment "A" (H-465)

This amendment is the minority report. It replaces the bill to give a patient's adult child and parent higher priority than a nonspousal partner to serve as a surrogate decision maker for medical decisions when the patient is unable to make or communicate decisions.

This amendment was not adopted.

LD 1616 An Act To Correct Errors and Inconsistencies in the Laws of Maine

**PUBLIC 288
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-556
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This bill corrects technical errors and inconsistencies in the laws of Maine.

Committee Amendment "A" (H-556)

This amendment designates the contents of the bill as Part A. Sections of the bill containing errors or conflicts that have been resolved by the enactment of other public laws or that are otherwise not needed are deleted from the bill. Sections of the bill containing errors or conflicts that this amendment further amends are moved to the new Part B.

The amendment adds Part B, which makes technical corrections, and Part C, which makes corrections that are or could be interpreted as being substantive.

Part C of the amendment makes the following changes which are or could be considered to be substantive.

Section C-1 corrects a drafting error made in Public Law 2017, chapter 143 concerning credit unions, and section C-4 provides that the changes are effective 90 days after the Legislature adjourns, which is the effective date of Public Law 2017, chapter 143.

Section C-2 corrects a drafting error in Public Law 2017, chapter 179 concerning contracts involving the Maine Community College System. This section corrects the provision to provide that a contract that contains one or more of the listed prohibited provisions is not void, as the language in chapter 179 states, but that the provisions are void; the rest of the contract is not affected. Section C-4 provides that the changes are effective 90 days after the Legislature adjourns, which is the effective date of Public Law 2017, chapter 179.

Section C-3 amends a statute governing home heating oil delivery drivers to correct a cross-reference to a provision that would otherwise prohibit home heating oil delivery drivers from bleeding a residential home heating oil burner because they lack a license from the Maine Fuel Board. Section 39 of the bill incorrectly addressed this issue.

Enacted Law Summary

Public Law 2017, chapter 288 corrects technical and substantive errors and inconsistencies in the laws of Maine.

Parts A and B make technical corrections; Part C makes corrections that are or could be interpreted as being substantive.

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Part C of chapter 288 makes the following changes which are or could be considered to be substantive.

Section C-1 corrects a drafting error made in Public Law 2017, chapter 143 concerning credit unions, and section C-4 provides that the changes are effective 90 days after the Legislature adjourns, which is the effective date of Public Law 2017, chapter 143.

Section C-2 corrects a drafting error in Public Law 2017, chapter 179 concerning contracts involving the Maine Community College System. This section corrects the provision to provide that a contract that contains one or more of the listed prohibited provisions is not void, as the language in chapter 179 states, but that the provisions are void; the rest of the contract is not affected. Section C-4 provides that the changes are effective 90 days after the Legislature adjourns, which is the effective date of Public Law 2017, chapter 179.

Section C-3 amends a statute governing home heating oil delivery drivers to correct a cross-reference to a provision that would otherwise prohibit home heating oil delivery drivers from bleeding a residential home heating oil burner because they lack a license from the Maine Fuel Board.

Public Law 2017, chapter 288 was enacted as an emergency measure effective July 15, 2017, although some provisions do not take effect until 90 days after adjournment of the First Regular Session of the 128th Legislature.

**LD 1633 An Act Concerning Private Personal Information of Public Employees
and Licensed Individuals**

**Died Between
Houses**

Sponsor(s)

Committee Report

Amendments Adopted

This bill was not referred to committee.

This bill is based on a recommendation of the Right To Know Advisory Committee concerning the protection of private personal information that may be considered public records. The bill directs the joint standing committee of the Legislature having jurisdiction over judiciary matters to balance the public's right to know about public employees and professional and occupational licensees and license applicants with the privacy and safety interests of the individuals involved when a proposed public records exception concerns the private personal information of public employees and professional or occupational licensees or license applicants.

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SUBJECT INDEX

Adoption

Enacted

LD 365 An Act To Waive Background Checks for the Parent of a Child Who Is the Subject of an Adoption Proceeding PUBLIC 64

Not Enacted

LD 505 An Act To Amend the Laws Governing the Issuance of Birth Certificates for Adopted Persons Born in Maine Majority (ONTP) Report

Attorney General & District Attorneys

Not Enacted

LD 534 An Act To Amend the Laws Governing the Circumstances of Death That Must Be Reported to the Office of Chief Medical Examiner Veto Sustained

LD 1281 An Act Regarding the Compensation of Assistant Attorneys General and District Attorneys and the Approval of Financial Orders by the Attorney General and Secretary of State ONTP

LD 1465 An Act To Protect Elders from Financial Exploitation and Ensure the Efficient Use of Litigation Resources for the State ONTP

Child Abuse and Child Protection

Not Enacted

LD 362 An Act To Allow Relative Caregivers Standing in Court ONTP

LD 363 An Act To Make a Child Living with a Custodial Relative Caregiver Eligible for State-paid Legal Services ONTP

LD 429 An Act Concerning Guardians Ad Litem and Determinations Regarding the Best Interest of a Child in Custodial Relative Caregiver Cases Majority (ONTP) Report

LD 1187 An Act To Amend the Child Protective Services Statutes CARRIED OVER

LD 1304 An Act To Specify the Rights of Parents ONTP

LD 1437 An Act To Establish a Youth-in-care Court ONTP

Constitutional Issues

Not Enacted

LD 197	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Explicitly Protect against Sex Discrimination	CARRIED OVER
LD 771	An Act To Protect Political Speech and Prevent Climate Change Policy Profiling	Majority (ONTP) Report
LD 903	An Act To Protect Rights and Privileges Granted under the United States Constitution and the Constitution of Maine	Majority (ONTP) Report
LD 1099	Resolve, To Require the State To Bring Suit against the Federal Government for Failure To Comply with the Federal Refugee Act of 1980	ONTP

Courts

Enacted

LD 611	An Act To Amend Certain Laws Affecting the Judicial Branch	PUBLIC 223
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Not Enacted

LD 111	An Act To Establish an Additional Veterans Treatment Court	CARRIED OVER
LD 283	An Act To Increase the Jurisdictional Limits for Small Claims	CARRIED OVER
LD 860	An Act To Establish a Statewide Electronic Warrant System	CARRIED OVER
LD 896	An Act To Promote Retention and Recruitment of Judicial Marshals and Sergeants	ONTP
LD 1264	Resolve, Regarding Court Facilities in York County	ONTP

Courts and Court Procedure

Not Enacted

LD 218	An Act To Reduce Criminal Justice System Costs by Allowing Arraignments and Hearings in the Unified Criminal Docket To Be Held by Means of Audiovisual Telecommunications	ONTP
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Courts, Jury Duty

Enacted

LD 46	An Act To Provide Consistency with Regard to Jury Duty Exemption	PUBLIC 275
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Not Enacted

LD 698	An Act To Allow Persons 70 Years of Age and Older To Opt Out of Jury Duty	ONTP
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Criminal Law and Procedure

Not Enacted

LD 309	Resolve, To Establish the Working Group To Restore Judicial Discretion	Died On Adjournment
LD 677	An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Evidence in Each Case Involving a Claim of Innocence	ONTP

Domestic Violence/Protection from Abuse

Not Enacted

LD 80	An Act To Increase the Penalty for Multiple Violations of Protection from Abuse Orders	ONTP
LD 578	An Act To Modify the Divorce Laws Concerning Perpetrators of Domestic Violence	ONTP
LD 581	An Act To Require Notification When a Temporary Protection from Abuse Order Is Rescinded	ONTP
LD 641	Resolve, To Establish the Commission To Study the Availability of Information Regarding Related Incidents in Domestic Violence Cases	Leave to Withdraw Pursuant to Joint Rule 310
LD 1120	Resolve, Directing the Maine Commission on Domestic and Sexual Abuse To Study Economic Abuse	ONTP
LD 1305	An Act To Protect Victims of Sexual Assault	Majority (ONTP) Report

Family Law, Child Support

Enacted

LD 81	An Act Regarding the Payment of Back Child Support	PUBLIC 102
LD 364	An Act To Make Technical Changes to the Laws Governing Child Support	PUBLIC 30

Not Enacted

LD 147	An Act To Amend the Maine Parentage Act	Majority (ONTP) Report
LD 645	An Act To Amend the Penalties for Failure To Pay Child Support	ONTP
LD 1241	An Act To Encourage Child Support Accountability	ONTP

Family Law, General

Not Enacted

LD 170	An Act To Allow and Recognize a Legal Name Change upon Marriage	CARRIED OVER
LD 282	An Act To Support Caregivers When Children Have Been Abandoned by Their Parents	ONTP
LD 472	An Act Regarding Parental Rights	Died Between Houses
LD 697	Resolve, To Establish a Commission To Study the Roles and Rights of Grandparents in Raising Their Grandchildren	ONTP
LD 916	An Act To Modify the Term and Withholding Limitations for Spousal Support	ONTP
LD 1356	An Act To Amend the Grandparents Visitation Act	ONTP

Family Law, Guardians ad litem

Enacted

LD 457	An Act To Repeal the Sunset Date on the Children's Guardians Ad Litem Law	PUBLIC 138 EMERGENCY
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Not Enacted

LD 63	An Act To Ensure Complete Investigations by Guardians Ad Litem	ONTP
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Foreclosure

Enacted

LD 533	An Act To Clarify the Application of the Statute of Limitations under Article 3-A of the Uniform Commercial Code	PUBLIC 251
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Not Enacted

LD 64	<i>An Act To Require Mediation within 90 Days of a Homeowner's Receipt of a Foreclosure Notice</i>	ONTP
LD 731	An Act To Require Mortgage Servicers To Act in Good Faith in Dealings with Homeowners	Veto Sustained
LD 1047	An Act To Protect Homeowners from Improper Foreclosure Fees	Veto Sustained
LD 1355	An Act To Ensure the Timely and Proper Completion of Residential Foreclosures	CARRIED OVER

Freedom of Access/Confidentiality/Privacy

Enacted

LD 135	An Act To Authorize the Department of Health and Human Services To Disclose Information to the Personal Representative of the Estate of an Incapacitated or Dependent Adult Who Dies While under Public Guardianship or Public Conservatorship	PUBLIC 55
LD 196	An Act To Protect Personal Information of Participants in a Community Well-being Check Program	PUBLIC 118
LD 410	An Act To Except from the Freedom of Access Act Certain Information in the Possession of the Maine Public Employees Retirement System	PUBLIC 46
LD 1432	An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Advance Payment of Costs for Public Records Requests	PUBLIC 158
LD 1482	An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Existing Public Records Exceptions	PUBLIC 163

Not Enacted

LD 70	An Act To Allow Municipal Governing Boards of 3 Members To Perform Official Duties via Technology	ONTP
LD 146	Act To Protect the Confidentiality of State and Local Government Employees' Private Information	Veto Sustained
LD 1216	An Act To Clarify the Law Regarding Arbitration Privacy with Respect to Executive and Legislative Branch Employees	Died Between Houses
LD 1267	An Act To Protect Licensing Information of Medical Professionals	CARRIED OVER
LD 1541	An Act To Protect Certain Administrative Licensing Files	CARRIED OVER
LD 1633	An Act Concerning Private Personal Information of Public Employees and Licensed Individuals	Died Between Houses

Human Rights and Medical Rights

Not Enacted

LD 125	An Act To Allow an Order Not To Resuscitate To Be Presented in the Form of an Indelible Mark	ONTP
LD 1239	An Act To Increase Efficiency in Enforcement of the Maine Human Rights Act	Died Between Houses
LD 1607	An Act To Prioritize Family Members as Surrogates for Medical Decisions	Died Between Houses

Legal Services

Not Enacted

LD 644	An Act To Improve Citizen Access to Legal Representation	ONTP
LD 663	An Act To Allow Attorneys Employed by the State To Perform Volunteer Legal Services	Died Between Houses
LD 845	An Act To Clarify That Petitions for Certiorari to the Supreme Court of the United States Are Included within the Definition of Indigent Legal Services	Died Between Houses

Miscellaneous

Enacted

LD 193	An Act To Protect Retirement Accounts from Creditor Collection	PUBLIC 177
LD 1442	An Act To Raise the Debtor's Exemption on Vehicles	PUBLIC 209

Not Enacted

LD 2	An Act To Prevent Bad Faith Assertions of Patent Infringement	Report A (ONTP)
LD 366	An Act To Ensure Compliance with Federal Immigration Law by State and Local Government Entities	Majority (ONTP) Report
LD 535	An Act To Protect Maine Citizens from Aerial Trespass	Leave to Withdraw Pursuant to Joint Rule 310
LD 847	An Act To Hold Refugee Resettlement Agencies Accountable to Maine People	Majority (ONTP) Report
LD 1190	An Act Regarding Driver's License Suspensions for Nondriving-related Violations	CARRIED OVER
LD 1406	An Act To Promote Prescription Drug Price Transparency	CARRIED OVER
LD 1605	An Act To Increase Consumer Prescription Drug Protections	Majority (ONTP) Report

Probate Code and Trust Code

Enacted

LD 21	An Act To Amend the Law Regarding the Execution of Temporary Powers of Attorney	PUBLIC 42
LD 331	An Act To Correct the Maine Uniform Trust Code Concerning Certain Beneficiaries	PUBLIC 39
LD 807	An Act Regarding Guardianships	PUBLIC 187

Not Enacted

LD 123	An Act To Recodify and Revise the Maine Probate Code	CARRIED OVER
LD 773	An Act To Enact the Uniform Real Property Transfer on Death Act	ONTP

LD 846	An Act To Enact the Revised Uniform Fiduciary Access to Digital Assets Act	CARRIED OVER
LD 934	An Act To Establish an Expedited Temporary Guardianship Process	CARRIED OVER
LD 969	An Act Regarding Nonprobate Transfers on Death	CARRIED OVER
LD 1043	An Act To Promote Impartiality in the Probate Court	Veto Sustained
LD 1260	Resolve, To Establish the Commission To Create a Plan To Enhance the Efficiency and Effectiveness of the Probate Court System	Veto Sustained

Real Property, Property Rights and Eminent Domain

Enacted

LD 871	An Act To Require Disclosures Relating to the Sale of Residential Property Accessible by a Public Way and Any Means Other than a Public Way	PUBLIC 181
LD 1139	An Act To Clarify Certain Right-of-way Limitations	PUBLIC 194
LD 1275	An Act To Amend and Remove the Need for Periodic Update of the Laws Governing the Validation of Title Defects	PUBLIC 196
LD 1311	An Act To Amend the Law Regarding Notice of Claim Recordings by Statutory Road Associations	PUBLIC 306

Not Enacted

LD 224	An Act Regarding Actions for Failure To Follow Condominium Association Requirements	ONTP
LD 281	An Act To Amend the Percentage of Votes Needed for Condominium Governance	Veto Sustained
LD 348	An Act To Increase Consumer Protection for Time-share Owners	Majority (ONTP) Report
LD 536	An Act To Protect Homeowners from Debt Collectors	ONTP
LD 537	An Act To Provide an Exemption from Road Association Payments for Landowners Whose Primary Access Is Not over the Road	Died Between Houses
LD 610	An Act To Prohibit Prescriptive Property Rights Claims of Property Owned by Nonprofit Organizations	Majority (ONTP) Report
LD 1057	An Act To Protect Condominium Owners in the Event of a Power Outage	Majority (ONTP) Report
LD 1282	An Act To Provide a Definition for the Maine Condominium Act	ONTP

Statutes

Enacted

LD 1616	An Act To Correct Errors and Inconsistencies in the Laws of Maine	PUBLIC 288 EMERGENCY
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Torts, Immunity and Medical Malpractice

Enacted

LD 198	An Act To Protect Landlords from Lawsuits for Damage or Harm Caused by Assistance Animals	PUBLIC 61
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Not Enacted

LD 39	An Act To Clarify Landowners' Liability Regarding Public Access	ONTP
LD 112	An Act To Further Limit the Liability of Landowners Who Permit the Use of Land for Outdoor Recreational Activity	ONTP
LD 194	An Act To Ensure Equity in the Awarding of Compensation for Tort Claims	Majority (ONTP) Report
LD 195	An Act Amending the So-called "Good Samaritan" Laws	Majority (ONTP) Report
LD 280	An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act	Died Between Houses
LD 327	An Act To Allow a Wrongful Death Cause of Action for the Death of a Viable Fetus	Died Between Houses
LD 419	An Act To Clarify Damages for the Willful or Negligent Injury or Death of a Dog	Majority (ONTP) Report
LD 815	An Act To Allow a Council of Governments To Provide Municipal Services to Small Towns under the Maine Tort Claims Act	ONTP
LD 1240	An Act To Provide Immunity to Medical Professionals Who Provide Free Health Care Services to Uninsured and Underserved Populations of the State	Majority (ONTP) Report

Tribal-State Relations

Not Enacted

LD 428	RESOLUTION, Proposing an Amendment to Article X of the Constitution of Maine Regarding the Publication of Maine Indian Treaty Obligations	Died Between Houses
LD 486	An Act To Authorize Vacating the Convictions of Members of the Houlton Band of Maliseet Indians Convicted under Prior Laws Governing the Possession and Use of Marijuana	ONTP
LD 921	An Act To Extend Time Limits for Placing Land in Trust Status	Veto Sustained

LD 1315 under the Maine Indian Claims Settlement
An Act Regarding the Maine Indian Tribal-State Commission
and Directing the Commission To Address Issues To Improve
the Relationship between the State and the Penobscot Nation,
Passamaquoddy Tribe, Houlton Band of Maliseet Indians and
Aroostook Band of Micmacs ONTP

Unclaimed Property

Not Enacted

LD 668 An Act To Facilitate the Return of Unclaimed Property ONTP
LD 821 An Act To Enact the Revised Uniform Unclaimed Property Act CARRIED OVER