

STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

June 2012

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Joint Standing Committee on Judiciary

LD 145 An Act To Clarify and Streamline Foreclosure Proceedings

**VETO
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAVERS	OTP-AM MAJ ONTP MIN	H-721 S-426 HASTINGS

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill requires a mortgagee bringing a civil foreclosure action on real property to produce the original mortgage note, signed by the mortgagor, as part of the complaint.

This bill was reported out of the Judiciary Committee with a unanimous Ought to Pass as Amended report, and was subsequently recommitted to the Judiciary Committee.

Committee Amendment "A" (H-425)

This amendment replaces the bill but retains the proposed requirement that a plaintiff seeking to foreclose on a mortgage is required to produce the original mortgage note, evidencing that the plaintiff has the right to foreclose, during the foreclosure action.

This amendment requires the plaintiff to produce the original note and all the endorsements associated with the note within 30 days of the defendant's request for production to allow the defendant to inspect and copy or photograph the original mortgage note. The plaintiff must specify the date, time and place for production of the note. The place may be at the courthouse, in an attorney's office or in a financial institution or any other place to which the plaintiff and defendant agree. The date of production must be within 40 days of the request for production.

If the plaintiff fails to produce the original note, the defendant may ask the court to dismiss the action without prejudice and the court shall award the defendant reasonable attorney's fees. If the defendant chooses not to request the dismissal of the action, the court may not allow the plaintiff to recover any interest or late fees on the mortgage loan between the date required for the note's production and the date when the note is produced.

If the plaintiff is not in possession of the note but the Uniform Commercial Code provisions on lost, stolen or destroyed instruments apply, the plaintiff's provision of a sworn affidavit pursuant to the Maine Revised Statutes, Title 11, section 3-1309 to the defendant constitutes sufficient compliance with the production requirements. If the plaintiff claims the note is an electronic transferable record, as defined in the Uniform Electronic Transactions Act, the plaintiff's furnishing of a sworn affidavit setting forth the proof required pursuant to Title 10, section 9416, subsection 6 constitutes sufficient compliance with the production requirements.

This amendment was adopted before the bill was recommitted to the Judiciary Committee and carried over to the Second Regular Session.

House Amendment "A" To Committee Amendment "A" (H-525)

This amendment changes the provisions of Committee Amendment "A" in the following ways.

1. It allows the plaintiff in a foreclosure action to produce an electronic equivalent of the mortgage note, loan agreement or other evidence of indebtedness.
2. It requires the defendant to send the written request to inspect the original mortgage note prior to judgment being

Joint Standing Committee on Judiciary

entered.

3. It removes the specific time limit for the plaintiff to respond to the defendant's written request and to produce the note and instead requires the response and production to be in accordance with the Maine Rules of Civil Procedure.
4. It adds, as an acceptable place for inspection, the office of the plaintiff's attorney.
5. It removes the requirement that the court, upon motion of the defendant, dismiss the foreclosure action and award the defendant attorney's fees for failure of the plaintiff to produce the original note. Instead, this amendment requires the plaintiff to provide a valid excuse for failure to provide the note or an electronic equivalent and, in the event that the plaintiff fails to provide either the note or its electronic equivalent or a valid excuse, allows the court to fashion appropriate remedies.
6. It removes the provision that allows the plaintiff to provide a sworn affidavit in lieu of the original note in the event that the provisions of the Uniform Commercial Code regarding lost, stolen or destroyed instruments apply or the note is an electronic transferable record under the Uniform Electronic Transactions Act.

This amendment was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S-270)

This amendment is the same as House Amendment "A" to Committee Amendment "A."

This amendment was not adopted.

Committee Amendment "B" (H-721)

This amendment is the majority report of the Joint Standing Committee on Judiciary for the Second Regular Session.

This amendment replaces the bill but retains the proposed requirement that a plaintiff seeking to foreclose on a mortgage is required, upon request of the defendant, to produce the original mortgage note, evidencing that the plaintiff has the right to foreclose, during the foreclosure action.

This amendment requires that the plaintiff respond within 30 days to a written request for production of the original note to allow the defendant to inspect and copy or photograph the original mortgage note. The plaintiff must specify the date, time and place for production of the note. The place may be at the courthouse, in an attorney's office or in a financial institution or any other place to which the plaintiff and defendant agree. The date of production must be at least 7 days after the plaintiff's written response and within 45 days of the request for production, which may be extended for good cause shown.

If the plaintiff fails to produce the original note, the defendant may ask the court to dismiss the action without prejudice.

The right of the defendant to request inspection of the note and any corresponding obligation of the plaintiff to produce the note for inspection terminate upon the entry of a judgment of foreclosure or other termination of the foreclosure action. The defendant may request inspection and copying only once, although a court may order otherwise for good cause shown.

If the plaintiff is not in possession of the note but the Uniform Commercial Code provisions on lost, stolen or destroyed instruments apply, the plaintiff's provision of a sworn affidavit pursuant to the Maine Revised Statutes, Title 11, section 3-1309 to the defendant constitutes sufficient compliance with the production requirements. Nothing in the 2 paragraphs added by this amendment alter in any respect the elements of proof and evidentiary standards applicable in any foreclosure action.

Joint Standing Committee on Judiciary

If the plaintiff claims the note is an electronic transferable record, as defined in the Uniform Electronic Transactions Act, the plaintiff's furnishing of a sworn affidavit setting forth the proof required pursuant to Title 10, section 9416, subsection 6 constitutes sufficient compliance with the production requirements. If the plaintiff claims it is not in possession of the original note in circumstances other than those to which Title 11, section 3-1309 applies, the plaintiff may satisfy the production requirements by providing a sworn affidavit setting forth the basis for the assertion that it is nonetheless entitled to enforce the note.

Senate Amendment "A" To Committee Amendment "B" (S-426)

This amendment permits a defendant in a foreclosure action to request to be allowed to inspect and copy the original note and related endorsements within 90 days of service of the foreclosure summons or complaint on the defendant.

House Amendment "A" To Committee Amendment "B" (H-785)

The amendment provides that the right of a defendant to obtain production of the original note under the Maine Rules of Civil Procedure is not altered.

This amendment was not adopted.

LD 324 An Act To Authorize Parents with Power of Attorney To Make ONTP
Decisions Regarding the Education of Their Adult Children

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill allows a parent who has power of attorney to make education decisions on behalf of an adult child with mental retardation, serious emotional disturbance or other developmental disabilities.

This bill was originally referred to the Joint Standing Committee on Education and Cultural Affairs. It was reported out of that committee with a suggested re-referral to the Judiciary Committee.

LD 419 An Act To Ensure the Payment of Survivor Benefits to Certain Children ONTP

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill addresses the ability to inherit for purposes of intestate succession when a child is conceived using the gametes of a person after the person has died. This bill provides that the child has the same right to inherit from the decedent as if the child had been born prior to the decedent's death. This bill also clarifies that a parent-child relationship is established for the purposes of intestate succession between a child and a person if the child is conceived after the death of the person and the child is born to the person's surviving spouse using the gametes of the person. In each situation, the person must have consented in a record to be a parent in the given circumstances. The availability of Social Security survivor benefits is based on state intestate succession laws. This bill will

Joint Standing Committee on Judiciary

facilitate the eligibility for survivor benefits to be paid to posthumously conceived children.

LD 651 An Act To Improve Tribal-State Relations

ONTP

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

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill allows the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to adopt ordinances, determined by the Secretary of State to be equivalent to the State's freedom of access laws, that will exempt them from the State's freedom of access laws. The authorization is subject to approval of the respective tribe, nation or band and is repealed July 1, 2016.

LD 978 An Act To Provide for School Enrollment and an Appeal Process in Specific Cases in Which Students Do Not Reside with Parents

PUBLIC 502

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS ROSEN R	OTP-AM	H-720

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill contains recommendations of the Kinship Task Force. This bill:

1. Extends the duration of a guardianship under the Probate Code for a minor or incapacitated person from 6 months to 12 months (see also LD 170);
2. Authorizes the Probate Court in issuing, modifying or terminating a guardianship of a minor to enter an order providing transition arrangements that are in the best interests of the minor (see also LD 170);
3. Defines "kinship parent" as an adult who assumes responsibility for a child but is not a parent of that child. The kinship parent must hold power of attorney for the kinship family child or apply to the Probate Court for guardianship of the kinship family child in order to enroll the kinship family child in school and participate in educational decisions made for the kinship family child; and
4. Allows a superintendent to deny enrollment of a kinship family child in the superintendent's school administrative unit if the superintendent determines that enrollment is not in the best interest of the kinship family child and provides an appeal process for the kinship parent to appeal this denial.

Committee Amendment "A" (H-720)

This amendment adds a mandate preamble to and changes the title of the bill. It replaces the bill to provide that a student's safety in a parent's home is a basis for a superintendent to determine that it is in the best interest of the student to enroll in that school administrative unit when the student is residing in that unit with someone other than a parent or guardian. This amendment restructures the language to still require that the person with whom the child is

Joint Standing Committee on Judiciary

living must be residing in the unit for other than education purposes, and then provides that one of three conditions, one of them the new safety requirement, must also be met. The other, existing conditions are that it is undesirable and impractical for that student to reside with the student's parent and that other extenuating circumstances exist which justify residence in the unit.

The amendment requires the school administrative unit to take reasonable steps to notify the student's parents or legal guardian if a request for enrollment is made by a person other than the parent or legal guardian.

The amendment provides that a superintendent is required to consult with knowledgeable employees of relevant school administrative units that the superintendent considers appropriate in order to determine if enrollment is in the student's best interest. The superintendent must notify the person requesting enrollment within 10 calendar days of the request whether the student may enroll in that unit. If the determination is to deny enrollment because the superintendent determines that enrollment in the school administrative unit is not in the best interest of the student, the superintendent must send written notice to the person with whom the student is residing of the denial of enrollment, the reason for the denial and the right to appeal to the Commissioner of Education.

It provides that, if the person appeals the superintendent's denial of enrollment, the Commissioner of Education must decide within 7 calendar days whether to overturn the superintendent's decision.

It provides that the Commissioner of Education must develop a model written explanation of the appeal process when the superintendent determines that attendance in that school administrative unit is not in the best interest of the student and distribute it to superintendents.

Enacted Law Summary

Public Law 2011, chapter 502 provides that a student's safety in a parent's home is a basis for a superintendent to determine that it is in the best interest of the student to enroll in that school administrative unit when the student is residing in that unit with someone other than a parent or guardian. Current law provides that, for a superintendent to determine that a student's enrolling in that school administrative unit is in the student's best interest when the student is not living with a parent, 2 requirements must be met: first, that it is undesirable and impractical for that student to reside with the student's parent or that other extenuating circumstances exist that justify residence in the unit; and, second, that the person with whom the child is living is residing in the school administrative unit for other than just education purposes. Chapter 502 restructures the language to still require that the person with whom the child is living must be residing in the unit for other than education purposes, and then provides that one of three conditions, one of them the new safety requirement, must also be met. The other, existing conditions are that it is undesirable and impractical for that student to reside with the student's parent and that other extenuating circumstances exist which justify residence in the unit.

Chapter 502 requires the school administrative unit to take reasonable steps to notify the student's parents or legal guardian if a request for enrollment is made by a person other than the parent or legal guardian.

Chapter 502 provides that a superintendent is required to consult with knowledgeable employees of relevant school administrative units that the superintendent considers appropriate in order to determine if enrollment is in the student's best interest. The superintendent must notify the person requesting enrollment within 10 calendar days of the request whether the student may enroll in that unit. If the determination is to deny enrollment because the superintendent determines that enrollment in the school administrative unit is not in the best interest of the student, the superintendent must send written notice to the person with whom the student is residing of the denial of enrollment, the reason for the denial and the right to appeal to the Commissioner of Education.

Chapter 502 provides that, if the person appeals the superintendent's denial of enrollment, the Commissioner of Education must decide within 7 calendar days whether to overturn the superintendent's decision. The Commissioner of Education must develop a model written explanation of the appeal process when the superintendent determines that attendance in that school administrative unit is not in the best interest of the student and distribute it to

Joint Standing Committee on Judiciary

superintendents.

LD 1377 An Act To Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

PUBLIC 564

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANBORN BRANNIGAN	OTP-AM	H-800

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill enacts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act as a new Part of Article 5 of the Probate Code. The uniform comments adopted by the National Conference of Commissioners on Uniform State Laws are included.

The bill addresses the issue of jurisdiction over adult guardianships, conservatorships and other protective proceedings, providing an effective mechanism for resolving multistate jurisdictional disputes. It contains specific guidelines to specify which court has jurisdiction to appoint a guardian or conservator for an incapacitated adult. The objective is that only one state will have jurisdiction at any one time.

The bill takes effect January 1, 2012, but applies to all guardianships and conservatorships, including those created prior to that date.

Committee Amendment "A" (H-800)

This amendment contains changes to the bill recommended by the Probate and Trust Law Advisory Commission.

This amendment changes the effective date and application dates to July 1, 2013.

Enacted Law Summary

Public Law 2011, chapter 564 makes changes to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act recommended by the Probate and Trust Law Advisory Commission.

The revisions to the Maine Revised Statutes, Title 18-A, section 5-512 address inconsistencies between the definitions in the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and related definitions in the Probate Code.

The revisions to Title 18-A, section 5-521, subsection (a), paragraph (1); section 5-524, subsection (a); and section 5-526, subsections (b) and (c) eliminate ambiguous language and extend the emergency term of a guardian from 90 days to 6 months.

The change to Title 18-A, section 5-531, subsection (c) eliminates the court's obligation to hold a hearing if a hearing would serve no useful purpose.

The changes to Title 18-A, section 5-531, subsection (d), paragraph (2); section 5-531, subsection (e), paragraph (2); and section 5-532, subsection (d), paragraph (1) identify the evidentiary standard to be applied to proceedings involving the transfer of guardianship and protective proceedings.

The word "disposition" is added to Title 18-A, section 5-531, subsection (e), paragraph (3) because the term "management" may be too narrow to accurately describe the actions a conservator might need to take.

Joint Standing Committee on Judiciary

Title 18-A, section 5-532, subsection (f) is deleted because it is unrealistic to require a Maine court to unilaterally evaluate a foreign order and identify modifications, as it is unclear from the Act exactly what process would be undertaken to modify a foreign order.

Title 18-A, sections 5-541 and 5-542 are modified to provide a safeguard that will enable the appointing court to intervene if foreign registration is for any reason inappropriate.

Public Law 2011, chapter 564 contains an effective date and an application date of July 1, 2013.

LD 1465 An Act To Amend the Laws Governing Freedom of Access

PUBLIC 662

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN R	OTP-AM MAJ ONTP MIN	S-514 S-599 ROSEN R

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill increases governmental transparency by enhancing the existing freedom of access laws to provide deadlines for responses to requests for public records, to ensure that requesters can access public records in the format requested and to require the designation of public access officers for every agency and political subdivision.

The bill provides funding for an Assistant Attorney General position located in the Office of the Attorney General to act as the public access ombudsman, which is a part-time position.

Committee Amendment "A" (S-514)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill.

The amendment titles the Maine Revised Statutes, Title 1, chapter 13, subchapter 1 "the Freedom of Access Act."

The amendment adds software to the description of information technology elements that are excepted from the definition of "public records" to clarify that proprietary information, technology infrastructure, systems and software used by governmental entities are not public records.

The amendment repeals and replaces the current section of law that lays out the process and fees concerning inspecting and copying public records, although much of the current language is retained. It allows inspection and copying of public records during reasonable office hours. The reasonable office hours must be posted. It requires the agency or official, when acknowledging the receipt of a request for public records, to provide a good faith estimate of when the response to the request will be complete. Although the time estimate is not binding, the agency or official must make a good faith effort to meet that time target.

The agency or official may not charge for inspection unless the requested public record is such that it cannot be inspected without being compiled or converted. If the agency or official must compile the record for inspection, then the agency or official may charge \$15 per hour, after the first hour, for the time it takes to enable inspection. If the agency or official must convert a public record into a form susceptible of visual or aural comprehension or into a usable format, the agency or official may charge for the actual cost to perform the conversion. The amendment increases the per hour cost for compiling a record from \$10 to \$15, after the first hour.

The amendment clarifies that a request for a public record does not have to be made in writing or in person. The

Joint Standing Committee on Judiciary

amendment provides that an agency or official is not required to create a record that does not exist in response to a request for a public record.

The amendment clarifies that an agency or official is not required to provide a requester with access to a computer terminal.

The amendment requires an agency or official to provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

The amendment creates the position of public access officer and requires each state agency, county, municipality, school administrative unit and regional or other political subdivision to designate an existing employee to serve in that capacity as a resource for freedom of access questions. Requests for public records do not have to be made to the public access officer. The public access officer must undergo the same freedom of access training as elected officials.

The amendment requires government agencies, when making purchases of or contracting for computer software and other information technology resources, to consider maximizing public access to public records, as well as maximizing the exportability of public records while protecting confidential information.

The amendment includes funding for a full-time Assistant Attorney General to serve as a Public Access Ombudsman in the Office of the Attorney General.

The amendment adds an appropriations and allocations section.

Senate Amendment "A" To Committee Amendment "A" (S-599)

This amendment replaces the appropriations and allocations section to reduce the amount of funding provided in Committee Amendment "A" by the amount previously provided in Public Law 2011, chapter 655 for one part-time Assistant Attorney General position. Coupled with the funding in Public Law 2011, chapter 655, this provides funds for one full-time ombudsman position and related All Other costs.

See the bill summary for LD 1903 under the Joint Standing Committee on Appropriations and Financial Affairs for detail on Public Law 2011, chapter 655.

Enacted Law Summary

Public Law 2011, chapter 662 titles the Maine Revised Statutes, Title 1, chapter 13, subchapter 1 "the Freedom of Access Act."

Chapter 662 adds software to the description of information technology elements that are excepted from the definition of "public records" to clarify that proprietary information, technology infrastructure, systems and software used by governmental entities are not public records.

Chapter 662 repeals and replaces the current section of law that lays out the process and fees concerning inspecting and copying public records, although much of the current language is retained. It allows inspection and copying of public records during reasonable office hours. The reasonable office hours must be posted. It requires the agency or official, when acknowledging the receipt of a request for public records, to provide a good faith estimate of when the response to the request will be complete. Although the time estimate is not binding, the agency or official must make a good faith effort to meet that time target.

The agency or official may not charge for inspection unless the requested public record is such that it cannot be

Joint Standing Committee on Judiciary

inspected without being compiled or converted. If the agency or official must compile the record for inspection, then the agency or official may charge \$15 per hour, after the first hour, for the time it takes to enable inspection. If the agency or official must convert a public record into a form susceptible of visual or aural comprehension or into a usable format, the agency or official may charge for the actual cost to perform the conversion. The per hour cost for compiling a record is increased from \$10 to \$15, after the first hour.

Chapter 662 clarifies that a request for a public record does not have to be made in writing or in person. An agency or official is not required to create a record that does not exist in response to a request for a public record. An agency or official is not required to provide a requester with access to a computer terminal.

Chapter 662 requires an agency or official to provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

Chapter 662 creates the position of public access officer and requires each state agency, county, municipality, school administrative unit and regional or other political subdivision to designate an existing employee to serve in that capacity as a resource for freedom of access questions. Requests for public records do not have to be made to the public access officer. The public access officer must undergo the same freedom of access training as elected officials.

Chapter 662 requires government agencies, when making purchases of or contracting for computer software and other information technology resources, to consider maximizing public access to public records, as well as maximizing the exportability of public records while protecting confidential information.

Chapter 662 includes funding for a half-time Assistant Attorney General to serve as a Public Access Ombudsman in the Office of the Attorney General. This funding, when combined with funding for a half-time position provided in Public Law 2011, chapter 655, provides funds for one full-time ombudsman position and related All Other costs.

LD 1530 An Act To Amend the Housing Provisions of the Maine Human Rights Act

PUBLIC 613

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM MAJ ONTP MIN	S-465

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill amends the Maine Human Rights Act in order to maintain its substantial equivalency with the federal Fair Housing Act and to update the accessible building requirements in public housing.

Committee Amendment "A" (S-465)

This amendment is the majority report of the Joint Standing Committee on Judiciary.

This amendment revises the definition of "aggrieved person" to apply to persons aggrieved by unlawful housing discrimination differently than it applies to persons aggrieved by other kinds of discrimination under the Maine Human Rights Act. The bill's definition of "aggrieved person" includes any person who claims to have been subjected to unlawful discrimination; this covers unlawful discrimination in employment, housing, public accommodations, credit and education. The amendment alters the definition of "aggrieved person" with regard to

Joint Standing Committee on Judiciary

unlawful housing discrimination to be consistent with federal law: "aggrieved person" includes any person who claims to have been injured by unlawful housing discrimination, which covers persons who may not have been personally subject to unlawful housing discrimination, but who have nonetheless been injured by it.

This amendment adds an effective date of September 1, 2012. The bill was proposed in anticipation of the new building accessibility standards to apply beginning March 15, 2012. By establishing September 1, 2012 as the effective date, this amendment eliminates the need for language to provide for the transition from older building accessibility standards. Thus, the Maine Revised Statutes, Title 5, section 4581-A, subsections 5 and 6, as proposed in the bill, as well as the bill's amendments to Title 5, section 4582-B, are eliminated. All remaining references to March 15, 2012 are changed to September 1, 2012.

This amendment revises the definition of "alteration" to provide guidance as to what forms of normal maintenance, decorating and upgrades do not fall under the updated standards. As long as the altering activities do not affect the usability of the facility, the cost of reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal or changes to mechanical and electrical systems, as well as other normal maintenance, is not counted toward the 75% threshold of the replacement cost of the completed facility for purposes of the definition of "new construction" under Title 5, section 4582-C, subsection 1, paragraph E, and the activities do not trigger the accessibility requirements for alterations under Title 5, section 4582-C, subsection 3, paragraph C.

This amendment revises the definition of "standards of construction" to ensure that the appropriate standard is applied to multifamily dwellings and public housing. In general, for multifamily dwellings, Title 5, section 4582-C, subsection 3, paragraph A is intended to require the same level of accessibility as is required by the federal Fair Housing Act, as amended. Under the current 2009 version of American National Standards Institute's ANSI A 117.1, for example, the requirements in Title 5, section 4582-C, subsection 3, paragraph A, subparagraphs (2) and (3) of the bill for dwelling units and sleeping units would be satisfied by complying with the criteria for A 117.1-2009 section 1004, Type B Units. For public housing, the 10% requirements in Title 5, section 4582-C, subsection 3, paragraphs B and C of the bill would be satisfied by complying with the criteria for A 117.1-2009 sections 1002, Accessible Units, or 1003, Type A Units.

This amendment provides that a design professional's statement that the plans of the facility meet the required standards of construction is based on professional judgment and that the statement is based on the plans as they exist at the time the statement is made.

This amendment amends the bill to consistently use the term "unlawful housing discrimination."

This amendment changes the bill to make the language in Title 5, section 4594-A, subsection 2, paragraphs A and B consistent with the changes made by Public Law 2011, chapter 322, section 3.

This amendment provides that, although the bill authorizes punitive damages for unlawful housing discrimination to be consistent with federal law, punitive damages are not available against a governmental entity or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of the employee's employment.

Enacted Law Summary

Public Law 2011, chapter 613 amends the Maine Human Rights Act concerning unlawful housing discrimination.

Chapter 613 revises the definition of "aggrieved person" to apply to persons aggrieved by unlawful housing discrimination differently than it applies to persons aggrieved by other kinds of discrimination under the Maine Human Rights Act. The definition of "aggrieved person" with regard to unlawful housing discrimination is amended to be consistent with federal law: "aggrieved person" includes any person who claims to have been injured by unlawful housing discrimination, which covers persons who may not have been personally subject to unlawful housing discrimination, but who have nonetheless been injured by it.

Joint Standing Committee on Judiciary

Chapter 613 adopts a definition of "alteration" to provide guidance as to what forms of normal maintenance, decorating and upgrades do not fall under the updated standards.

Chapter 613 revises the definition of "standards of construction" to ensure that the appropriate standard is applied to multifamily dwellings and public housing.

Chapter 613 provides that a design professional's statement that the plans of the facility meet the required standards of construction is based on professional judgment and that the statement is based on the plans as they exist at the time the statement is made.

Chapter 613 authorizes punitive damages for unlawful housing discrimination to be consistent with federal law, except that punitive damages are not available against a governmental entity or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of the employee's employment.

Chapter 613 takes effect September 1, 2012.

LD 1546 An Act To Amend the Laws Governing the Deference Afforded to Agency Decisions

**MINORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN	OTP-AM MAJ ONTP MIN	

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill requires a court, in an appeal of an agency's interpretation of the statutes in making or administering rules under the Maine Administrative Procedure Act, to conduct a de novo review. The bill also clarifies that, on questions of fact, the court is required to defer to the agency unless the court finds that the agency's findings of fact are unsupported by substantial evidence.

Committee Amendment "A" (S-394)

This is the majority report of the Joint Standing Committee on Judiciary.

This amendment replaces the proposed language concerning the court's review of agency rulemaking to provide that the court, in conducting its review of a rule, is not required to give deference to the agency's interpretation of the statutes applicable to the rulemaking.

This amendment deletes the bill's proposed changes to the Maine Revised Statutes, Title 5, section 9061 and addresses judicial review of adjudicatory decisions under the Maine Administrative Procedure Act by amending Title 5, section 11007, subsection 3.

This amendment revises the provisions concerning the manner and scope of judicial review of final agency action contained in Title 5, section 11007. Current law provides that the court may not substitute its judgment for that of the agency on questions of fact. This amendment does not change that standard. This amendment establishes that the court is not required to give deference to the agency's interpretation of statutes and rules.

This amendment was not adopted.

Joint Standing Committee on Judiciary

Senate Amendment "A" To Committee Amendment "A" (S-424)

This amendment amends the committee amendment to remove the language that stipulates that the court is not required to give deference to the agency's interpretation of rules.

This amendment was not adopted.

LD 1594 An Act To Clarify the Requirements of Income Withholding Orders

PUBLIC 528

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS	OTP-AM	H-746

This bill amends the laws pertaining to the requirements of income withholding orders. It adds the requirement that the court notify any individual or department implementing a withholding order of the requirement to serve the obligor's payor of income with both the income withholding order and the payor notice required under the Maine Revised Statutes, Title 19-A, section 2655. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services and instead requires the court to instruct an obligee or an obligor seeking to implement a withholding order on where to obtain the payor notice. The bill also requires the Department of Health and Human Services to make available to the public a payor notice that conforms to the standard formats prescribed by the federal Secretary of Health and Human Services and to notify the courts as to where an obligee or an obligor seeking to implement a withholding order can obtain the payor notice.

Committee Amendment "A" (H-746)

This amendment replaces the bill. It amends the laws pertaining to the requirements of income withholding orders. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services.

Enacted Law Summary

Public Law 2011, chapter 528 amends the laws pertaining to the requirements of income withholding orders. It requires the court to notify any individual or department implementing an income withholding order of the requirement to serve the obligor's payor of income with both the support order that is subject to immediate income withholding and the payor notice required under the Maine Revised Statutes, Title 19-A, section 2655. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services and instead requires the court to instruct an obligee or an obligor seeking to implement a withholding order on where to obtain the payor notice. Chapter 528 also requires the Department of Health and Human Services to make available to the public a payor notice that conforms to the standard formats prescribed by the federal Secretary of Health and Human Services and to notify the courts as to where an obligee or an obligor seeking to implement a withholding order can obtain the payor notice.

Joint Standing Committee on Judiciary

LD 1595 An Act To Impose a Penalty for Making False Claims Regarding Affiliation with a Federally Recognized Tribe

PUBLIC 583

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
Soctomah	OTP-AM	H-821

This bill creates the crime of fraudulent claim of affiliation with a federally recognized tribe for when a person knowingly claims falsely to be affiliated with a federally recognized tribe with the intent to obtain, and does obtain, something of value to which the person is not entitled.

Committee Amendment "A" (H-821)

This amendment replaces the bill. It establishes a civil violation with a maximum fine of \$2,500 for a person who falsely claims to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, which are federally recognized, with the intent to obtain property to which the person is not entitled and, because of the false claim, does obtain property. This amendment provides that "property" has the same definition as provided in the Maine Revised Statutes, Title 17-A, section 352, subsection 1.

Enacted Law Summary

Public Law 2011, chapter 583 establishes a civil violation with a maximum fine of \$2,500 for a person who falsely claims to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, which are federally recognized, with the intent to obtain property to which the person is not entitled and, because of the false claim, does obtain property. "Property" has the same definition as provided in the Maine Revised Statutes, Title 17-A, section 352, subsection 1.

LD 1605 An Act To Promote Agricultural Activity in Maine by Limiting the Liability for Agritourism Activities

PUBLIC 609

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LIBBY THIBODEAU	OTP-AM MAJ ONTP MIN	H-839

This bill provides limited liability to landowners who open their land for agritourism activities.

Committee Amendment "A" (H-839)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill with a limitation on the liability of agritourism professionals based on participants' assumption of the inherent risks of agritourism activities.

Inherent risks include but are not limited to certain hazards, including surface and subsurface conditions and natural conditions of land, vegetation and waters; the behavior of wild and domestic animals, including but not limited to the depositing of manure; ordinary dangers of structures or equipment ordinarily used in farming and ranching operations; and the potential of injury to a participant or others if a participant acts in a negligent manner, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

Joint Standing Committee on Judiciary

An agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant arising from the inherent risks of agritourism activities if the participant is given notice of the inherent risks and the assumption of those risks. Notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities are conducted.

Enacted Law Summary

Public Law 2011, chapter 609 limits the liability of agritourism professionals based on participants' assumption of the inherent risks of agritourism activities.

Inherent risks include but are not limited to certain hazards, including surface and subsurface conditions and natural conditions of land, vegetation and waters; the behavior of wild and domestic animals, including but not limited to the depositing of manure; ordinary dangers of structures or equipment ordinarily used in farming and ranching operations; and the potential of injury to a participant or others if a participant acts in a negligent manner, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

An agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant arising from the inherent risks of agritourism activities if the participant is given notice of the inherent risks and the assumption of those risks. Notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities are conducted.

**LD 1606 An Act To Provide Magistrates To Assist the Court in Handling Small ONTP
Claims and Landlord-tenant Cases**

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

This bill authorizes the Chief Judge of the District Court to appoint no more than 4 magistrates to hear and dispose of landlord-tenant cases and small claims cases. Alternatively, it allows the Chief Judge to assign family law magistrates to hear and dispose of these kinds of cases. It authorizes the Chief Justice of the Supreme Judicial Court to increase filing fees for these kinds of cases to pay for the cost of magistrates appointed by the Chief Judge.

**LD 1647 Resolve, To Require Rulemaking Regarding Standing To Appeal in RESOLVE 144
Proceedings before the Board of Environmental Protection and the
Maine Land Use Regulation Commission**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO	ONTP MAJ OTP-AM MIN	S-464

This bill provides a definition of "person aggrieved" in the laws governing the Maine Land Use Regulation Commission and the Department of Environmental Protection. It also provides that a person aggrieved, rather than an interested party, may seek to supplement the record in an appeal to the Board of Environmental Protection.

Committee Amendment "A" (S-464)

Joint Standing Committee on Judiciary

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill with a resolve.

This amendment directs the Board of Environmental Protection and the Maine Land Use Regulation Commission to adopt rules governing standing for administrative appeals to the board and commission, respectively. The standing for administrative appeals must be the same as the standing that has been established for persons to appeal decisions of the board or the commission to court. The rules are major substantive rules under the Maine Administrative Procedure Act and are subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters.

Enacted Law Summary

Resolve 2011, chapter 144 directs the Board of Environmental Protection and the Maine Land Use Regulation Commission to adopt rules governing standing for administrative appeals to the board and commission, respectively. The standing for administrative appeals must be the same as the standing that has been established for persons to appeal decisions of the board or the commission to court. The rules are major substantive rules under the Maine Administrative Procedure Act and are subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters.

LD 1650 An Act Concerning the Collection of Child Support Obligations

**PUBLIC 550
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCORMICK	OTP-AM	S-435

This bill repeals the automatic suspension of the child support obligation of a noncustodial parent when that parent is in receipt of public assistance.

Committee Amendment "A" (S-435)

This amendment replaces the bill. This amendment allows the Department of Health and Human Services to intercept, while the obligor is receiving public assistance, tax refunds, lottery winnings and other lump sum awards to be applied to prior child support debts incurred by the obligor. Current law prohibits such collections.

This amendment replaces the emergency preamble and emergency clause to make the law take effect July 1, 2012.

Enacted Law Summary

Public Law 2011, chapter 550 allows the Department of Health and Human Services to intercept, while the obligor is receiving public assistance, tax refunds, lottery winnings and other lump sum awards to be applied to prior child support debts incurred by the obligor. Current law prohibits such collections.

Public Law 2011, chapter 550 was enacted as an emergency measure effective July 1, 2012.

Joint Standing Committee on Judiciary

LD 1659 An Act To Facilitate Recovery of Debts Owed to the State for Indigent Legal Services

PUBLIC 547

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASTINGS	OTP-AM	S-455

The purpose of this bill is to aid the Maine Commission on Indigent Legal Services in the collection of amounts owed to the commission for legal services. This bill authorizes the Judicial Department to disclose social security numbers and financial information to agencies or departments of the State, including the Maine Commission on Indigent Legal Services, and to private collection agencies working under contract for the State for the purpose of collection of the amounts owed.

Committee Amendment "A" (S-455)

This amendment amends the laws governing the Maine Commission on Indigent Legal Services to define "case information" and to provide for the sharing of information by the Judicial Department with the commission. The information to be shared is necessary for the commission to keep track of the assignment of attorneys to indigent defendants and to collect reimbursement when the court orders the defendant to reimburse some or all of the cost of the representation. The information shared with the commission remains confidential, except that the names of criminal defendants and juvenile crime defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

The amendment provides that if a person receives social security numbers or other financial information for the purpose of collecting amounts owed to the State or any agency or department of the State, that person must keep the information confidential and use it only for the purposes for which it was disclosed and not further disclose it.

Enacted Law Summary

Public Law 2011, chapter 547 will aid the Maine Commission on Indigent Legal Services in the collection of amounts owed to the commission for legal services. The Judicial Department is authorized to disclose social security numbers and financial information to agencies or departments of the State, including the Maine Commission on Indigent Legal Services, and to private collection agencies working under contract for the State for the purpose of collection of the amounts owed.

Chapter 547 defines "case information" and provides for the sharing of information by the Judicial Department with the commission. The information shared with the commission remains confidential, except that the names of criminal defendants and juvenile crime defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

Chapter 547 provides that if a person receives social security numbers or other financial information for the purpose of collecting amounts owed to the State or any agency or department of the State, that person must keep the information confidential and use it only for the purposes for which it was disclosed and not further disclose it.

Joint Standing Committee on Judiciary

LD 1660 An Act To Provide Tort Claims Immunity for Out-of-state Regional Transit Organizations That Provide Regular Service in Maine

PUBLIC 520

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HILL	OTP-AM	S-423

This bill provides the same tort claims immunity to transit organizations operating in this State but organized under the laws of another state as applies to transit organizations organized in this State.

Committee Amendment "A" (S-423)

This amendment provides that the cap on damages for tort claims against a transit organization organized in another state is either the \$400,000 limit established in the Maine Revised Statutes, Title 14, section 8105, subsection 1, or the limit established by the applicable tort claims statute in the state in which the transit organization is organized, whichever is higher. The transit organization must be organized in a state that is contiguous to this State to benefit from the Maine Tort Claims Act protections, and the transit organization must maintain insurance coverage of at least \$1,000,000.

This extension of the protection of the Maine Tort Claims Act is repealed on July 1, 2016.

Enacted Law Summary

Public Law 2011, chapter 520 extends the application of the Maine Tort Claims Act to transit organizations operating in this State but organized under the laws of another state. Damages for tort claims against such a transit organization are capped at either the \$400,000 limit established in the Maine Revised Statutes, Title 14, section 8105, subsection 1, or the limit established by the applicable tort claims statute in the state in which the transit organization is organized, whichever is higher. The transit organization must be organized in a state that is contiguous to this State to benefit from the Maine Tort Claims Act protections, and the transit organization must maintain insurance coverage of at least \$1,000,000.

This extension of the protection of the Maine Tort Claims Act is repealed on July 1, 2016.

LD 1669 An Act To Clarify the Process for Removing a Person from a Dormitory Operated by a Nonprofit Organization and the Municipal Regulation of Such Facilities

ONTP

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

This bill clarifies the definition of "dormitory" excluded from municipal licensing as a lodging house. This bill also provides that a dormitory owned or managed by a nonprofit organization exempt from income tax or property tax is not subject to the forcible entry and detainer process for eviction of tenants who cause an unnecessary disturbance, damage the property of the dormitory or violate rules that are part of an agreement with the tenant or posted in the dormitory. Under the provisions of this bill, the owner or manager is permitted to use reasonable force to remove tenants from the property who cause unnecessary disturbance or damage and refuse to leave after being asked to do so.

Joint Standing Committee on Judiciary

LD 1684 An Act To Amend the Uniform Commercial Code Regarding Motor Vehicle Warranties

PUBLIC 523

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

This bill allows a seller or manufacturer of a motor vehicle to indicate that, to the extent permitted by law, the seller or manufacturer is excluding or modifying implied warranties.

Enacted Law Summary

Public Law 2011, chapter 523 allows a seller or manufacturer of a motor vehicle to indicate that, to the extent permitted by law, the seller or manufacturer is excluding or modifying implied warranties.

LD 1687 An Act To Clarify the Liability of 3rd-party Building Inspectors

**MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOULTON RECTOR	ONTP MAJ OTP-AM MIN	

This bill clarifies the law to ensure that 3rd-party inspectors acting pursuant to the Maine Uniform Building and Energy Code or a local building code have the same protection from liability under the Maine Tort Claims Act as other persons acting on behalf of a governmental entity.

Committee Amendment "A" (H-811)

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill and provides limitations on damages and actions against 3rd-party building inspectors who perform services on behalf of either builders or municipalities leading to the issuance of a municipal certificate of occupancy. This amendment establishes limitations similar to those that apply to municipal building inspectors under the Maine Tort Claims Act.

This amendment was not adopted.

LD 1690 An Act To Protect the Privacy of Social Workers

ONTP

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

This bill specifies that the score of a person taking the examination for licensure as a social worker, a clinical social worker or a master social worker is confidential and not subject to public disclosure under the freedom of access

Joint Standing Committee on Judiciary

laws.

LD 1698 An Act To Establish Veterans Treatment Courts

**PUBLIC 500
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALONEY GOODALL	OTP-AM	H-729

This bill authorizes the Chief Justice of the Supreme Judicial Court to establish veterans treatment courts. It also authorizes the State Court Administrator to seek federal funding for these courts.

This bill is presented in memory of former Army Ranger Justin Crowley-Smilek of Farmington, who served his country in Afghanistan.

Committee Amendment "A" (H-729)

This amendment revises the emergency preamble to clarify that the bill provides help for veterans who are involved in the criminal justice system.

The Chief Justice of the Supreme Judicial Court may establish veterans treatment courts, which are specialized sentencing dockets in select criminal cases in which the defendant is a veteran or a member of the United States Armed Forces. The specialized dockets will enable veterans agencies and social service agencies to provide treatment for that defendant. The Supreme Judicial Court may adopt administrative orders and court rules of practice as necessary.

The State Court Administrator as well as other state departments and social service agencies may seek federal funding for the veterans treatment courts. The treatment is not provided by the courts but by participating social service agencies and government departments.

The bill as amended is presented in the memory of former Army Ranger Justin Crowley-Smilek of Farmington, a decorated combat veteran who received both the National Defense Service Medal and the Joint Service Achievement Medal and who served his country in Afghanistan.

Enacted Law Summary

Public Law 2011, chapter 500 is intended to provide help for veterans who are involved in the criminal justice system.

The Chief Justice of the Supreme Judicial Court may establish veterans treatment courts, which are specialized sentencing dockets in select criminal cases in which the defendant is a veteran or a member of the United States Armed Forces. The specialized dockets will enable veterans agencies and social service agencies to provide treatment for that defendant. The Supreme Judicial Court may adopt administrative orders and court rules of practice as necessary.

The State Court Administrator as well as other state departments and social service agencies may seek federal funding for the veterans treatment courts. The treatment is not provided by the courts but by participating social service agencies and government departments.

The bill as amended was presented in the memory of former Army Ranger Justin Crowley-Smilek of Farmington, a decorated combat veteran who received both the National Defense Service Medal and the Joint Service Achievement Medal and who served his country in Afghanistan.

Joint Standing Committee on Judiciary

Public Law 2011, chapter 500 was enacted as an emergency measure effective March 14, 2012.

**LD 1726 An Act to Make Technical Corrections to the Laws Governing the
Indian Representatives to the Legislature**

**PUBLIC 467
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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Current law authorizes a member of the Houlton Band of Maliseet Indians elected by it to represent the Houlton Band of Maliseet Indians to the Legislature. This bill changes Public Law 2009, chapter 636 to provide that, for the Second Regular Session of the 125th Legislature, the member may be appointed rather than elected by the Houlton Band of Maliseet Indians. This bill was presented by Speaker Nutting and enacted without reference to a committee.

Enacted Law Summary

Current law authorizes a member of the Houlton Band of Maliseet Indians elected by it to represent the Houlton Band of Maliseet Indians to the Legislature. Public Law 2011, chapter 467 amends Public Law 2009, chapter 636 to provide that, for the Second Regular Session of the 125th Legislature, the member may be appointed rather than elected by the Houlton Band of Maliseet Indians.

Public Law 2011, chapter 467 was enacted as an emergency measure effective January 4, 2012.

LD 1796 An Act Relating to False Claims under the Medicaid Program

ONTP

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

This bill enacts the MaineCare False Claims Act in order to protect the State and the Federal Government against false and fraudulent claims under the Medicaid program, known in the State as the MaineCare program. This bill provides authorization for qui tam actions, which are brought by a person for the benefit of the person and the State in the name of the State. This bill provides protection from discrimination for an employee who participates in a qui tam action. This bill provides possible recoveries for the person who brings the qui tam action in addition to recoveries for the State. This bill establishes the MaineCare False Claims Act Fund to receive the proceeds payable to the State as a result of false claims litigation to be used for investigatory, enforcement and litigation expenses.

**LD 1801 An Act To Create Efficiencies in Cases Concerning Court-ordered Child
Contact and Care by Providing for Parent Education**

**MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP MAJ OTP-AM MIN	

Joint Standing Committee on Judiciary

This bill addresses the issue of parents who do not comply with court orders concerning residential care of or contact with a child. If a parent fails to allow a child to spend time with the other parent as required in the court order or fails to return the child as required in the court order, the court may, in addition to imposing other sanctions or remedies, order the parent in violation of the court order to participate in parent education.

Committee Amendment "A" (S-433)

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill to confirm that the court has the authority to require participation in a parenting education program as part of any order concerning parental rights and responsibilities. Although courts have this authority now, this amendment includes specific mention of the authority to order participation in parenting education to endorse court-ordered referrals of parents to parenting education programs while leaving it to the discretion of a judge or magistrate in each case to take into account relevant considerations, such as the availability of a program in the area, the parties' ability to afford to pay for the program or get a fee waiver, the existence of domestic violence or other appropriate factors.

This amendment was not adopted.

LD 1802 An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts

PUBLIC 559

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-463

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to Resolve 2011, chapter 104, section 9. This bill incorporates the recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts.

Part A of the bill replaces varied statutory language regarding the priority of cases in court dockets with uniform language in statutes dealing with issues including civil appeals to Superior Court, animal welfare, the Maine Labor Relations Board, administrative licenses and other miscellaneous civil provisions.

Part B of the bill eliminates a provision regarding speedy trials for those arrested for traffic infractions, as it is duplicative.

Part C amends the protection from harassment statutes. It adds the commission's proposed uniform language to the provision regarding dissolution or modification of protection from harassment orders. It amends the definition of "harassment" by limiting damage to property to only business property and by repealing language describing harassment as 3 or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution. It repeals as unnecessary a provision regarding whether reasonable efforts have been made by the court to give written or oral notice to a defendant in a hearing regarding an allegation of harassment, which is a criterion as to whether the court may enter a temporary protection from harassment order. It also amends the process of seeking a protection from harassment order by requiring that if the alleged harassment does not meet the definition of "harassment" in the Maine Revised Statutes, Title 5, section 4651, subsection 2, paragraph C, the plaintiff must seek and file a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A or a statement of good cause why a notice was not sought or obtained.

Committee Amendment "A" (S-463)

Joint Standing Committee on Judiciary

The bill amends the definition of "harassment" in the protection from harassment laws to limit qualifying damage to property to damage to business property. This amendment removes that limitation and amends the definition to include damage to personal property only.

The bill requires that, except in a narrow category of situations, a person seeking a protection from harassment order must first seek a cease harassment notice under the Maine Revised Statutes, Title 17-A, section 506-A. This amendment expands that list of situations in which a notice under Title 17-A, section 506-A is not required to include cases related to allegations of domestic violence, violence against a dating partner, sexual assault and stalking. These are facts already identified by the court as important in hearing complaints seeking protection from harassment orders.

Enacted Law Summary

Public Law 2011, chapter 559 is based on the recommendations of the Commission to Study Priorities and Timing of Judicial Proceedings in State Courts.

Part A replaces varied statutory language regarding the priority of cases in court dockets with uniform language in statutes dealing with issues including civil appeals to Superior Court, animal welfare, the Maine Labor Relations Board, administrative licenses and other miscellaneous civil provisions.

Part B eliminates a provision regarding speedy trials for those arrested for traffic infractions, as it is duplicative.

Part C amends the protection from harassment statutes. It adds the commission's proposed uniform language to the provision regarding dissolution or modification of protection from harassment orders. It amends the definition of "harassment" by limiting damage to property to only personal property and by repealing language describing harassment as 3 or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution. It repeals as unnecessary a provision regarding whether reasonable efforts have been made by the court to give written or oral notice to a defendant in a hearing regarding an allegation of harassment, which is a criterion as to whether the court may enter a temporary protection from harassment order. It also amends the process of seeking a protection from harassment order by requiring that if the alleged harassment does not meet the definition of "harassment" in the Maine Revised Statutes, Title 5, section 4651, subsection 2, paragraph C, the plaintiff must seek and file a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A or a statement of good cause why a notice was not sought or obtained. Notice under Title 17-A, section 506-A is not required in cases related to allegations of domestic violence, violence against a dating partner, sexual assault and stalking. These are facts already identified by the court as important in hearing complaints seeking protection from harassment orders.

LD 1804 An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions

PUBLIC 524

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

This bill incorporates recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions in the Maine Revised Statutes, Titles 22 to 25.

Enacted Law Summary

Joint Standing Committee on Judiciary

Public Law 2011, chapter 524 implements recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions in the Maine Revised Statutes, Titles 22 to 25.

It repeals the provision that designates as confidential lists maintained by the Attorney General's office of known unlicensed tobacco retailers. The Attorney General no longer maintains such lists as a result of a United States Supreme Court decision that state law is preempted by federal law.

It gives the Department of the Attorney General, Office of Chief Medical Examiner the discretion to release confidential information and materials about a missing person if the Chief Medical Examiner determines that releasing the information or materials may assist in the search for the missing person.

It removes language related to confidentiality of data held by the former Maine Health Care Finance Commission. Chapter 524 retains language authorizing the Board of Directors of the Maine Health Data Organization to determine certain financial data submitted to the organization by health care providers to be confidential if disclosure of the data will place the provider at a competitive economic disadvantage.

It provides that engineering estimates are public after the execution of project contracts and applies the public records provisions to all Department of Transportation and Maine Turnpike Authority records.

It removes the confidentiality provisions in current law that apply to the records of the Northern New England Passenger Rail Authority. It places the confidentiality provisions applying to the records of the Northern New England Passenger Rail Authority in a new section and clarifies what records are not subject to public access. Chapter 524 provides that records and correspondence relating to negotiations of agreements are confidential, although the final agreements are not designated confidential by this language. It also clarifies that estimates of costs of goods or services to be procured by or at the expense of the authority are confidential if the estimates are prepared by the authority or at the direction of the authority. It also revises the employment application confidentiality to be consistent with that of state, county and municipal employee applicants. All documents relating to applicants are confidential, except for records pertaining to the applicant who is hired, most of which become public. Personal contact information of a public employee is not a public record. Chapter 524 also clarifies the language concerning the lawyer-client privilege; it allows the authority to claim the lawyer-client privilege in the same manner and circumstances as a corporation is authorized to do so.

It amends current law to clarify that the confidentiality provisions of the Maine Health Security Act govern the confidentiality of reports to appropriate medical licensing boards.

It amends current law to authorize medical licensing boards to share confidential information with state and federal agencies when the information contains evidence of possible violations of laws enforced by those agencies. It clarifies that information provided by self-insurers to the governing board of the Maine Workers' Compensation Residual Market Pool or the Superintendent of Insurance related to payment of workers' compensation residual market surcharges continues to be confidential until that information is destroyed.

**LD 1805 An Act To Implement Recommendations of the Right To Know
Advisory Committee Concerning a Public Records Exception for
Proposed Legislation, Reports and Working Papers of the Governor**

**DIED IN
CONCURRENCE**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM A
ONTP B
OTP-AM C

Joint Standing Committee on Judiciary

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G. This bill incorporates recommendations of the majority of the Right To Know Advisory Committee.

This bill creates a public records exception for proposed legislation, reports and working papers of the Governor and the Governor's office that is parallel to the Legislature's public records exception in existing law. The proposed legislation, reports and working papers do not become public records until they are publicly distributed or until the adjournment of the legislative session for which the proposed legislation, reports and working papers are prepared.

Committee Amendment "A" (H-882)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill. It provides a temporary public records exception for records relating to the deliberative process of the Governor for legislative proposals and budgeting proposals and requests.

"Records relating to the deliberative process of the Governor" is defined to mean all records containing predecisional advice, opinions, deliberations or recommendations created by the Governor or the internal staff of the Governor and maintained within the exclusive custody and control of the Governor or the internal staff of the Governor. The internal staff of the Governor consists of the chief of staff, legal counsel, director of policy and employees under their direct supervision. The records become public when the first of the following occurs:

1. The records are made available to any person or agency outside the internal staff of the Governor;
2. The records are publicly distributed in accordance with legislative rules;
3. Adjournment of the Legislature for which the records were prepared occurs; or
4. Six months from the creation of the records has passed.

This amendment provides that the public records exception for the records relating to the deliberative process of the Governor is repealed December 31, 2013.

Senate Amendment "A" To Committee Amendment "A" (S-531)

This amendment maintains the provisions of Committee Amendment "A" and repeals the public records exception that applies to legislative working papers and other records. It also adds an appropriations and allocations section.

This amendment was not adopted.

Senate Amendment "B" To Committee Amendment "A" (S-544)

This amendment provides an effective date of January 1, 2015, and removes repealing provisions inconsistent with that change.

This amendment was not adopted.

**LD 1810 An Act To Implement Recommendations of the Committee To Review INDEF PP
Issues Dealing with Regulatory Takings**

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

Joint Standing Committee on Judiciary

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to Resolve 2011, chapter 111, section 9. This bill incorporates the recommendations of the majority of the Committee to Review Issues Dealing with Regulatory Takings.

The purpose of this bill is to establish standards for relief when state regulation imposes an inordinate burden on an individual property owner, as well as efficient mechanisms for pursuit of such relief.

To eliminate any fiscal impact from the establishment of these new standards and mechanisms, they will apply prospectively: that is, only to burdens from regulations enacted in the future. The bill provides mechanisms designed to achieve fair results and to resolve disputes efficiently, including the ability, at the State's option, to grant variances, which is an option consistent with general land use principles; the encouragement of the use of informal dispute resolution avenues reducing and potentially eliminating any litigation costs; and, when regulatory impact on fair market value depends upon other regulatory avenues, the ability of a property owner to obtain a nonbinding identification of the uses the state will allow on the affected property.

Claims of diminution of fair market value based on speculative uses are precluded by the requirement that the property owner provide an appraisal reflecting a diminution of 50% or more in actual fair market value of the owner's entire parcel as well as by the limitation of relief to the reasonable investment-backed expectations of the owner.

Committee Amendment "A" (H-921)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill.

The amendment provides enabling language for the establishment by the Legislature of a joint legislative committee created to review effectiveness and fairness of land use laws and rules. The committee is to be established by joint rule of the Legislature. Its duties include hearing and investigating complaints of property owners about land use laws and rules; reviewing requested information from relevant state agencies about any law or rule alleged to have resulted in more than a minor reduction in the economically beneficial or productive uses of land; receiving information provided by the Attorney General regarding each rule the committee has reviewed that was the subject of public comment suggesting either that the rule might result in a potential taking of real property under the Constitution of Maine or that a variance was necessary to avoid such a taking; and recommending legislation to adjust land use laws and rules. The selection of members is suggested to provide for representation from joint standing committees of the Legislature with jurisdiction over environment and natural resources matters, agriculture, conservation and forestry matters and judiciary matters.

The amendment repeals the existing land use mediation program, reinstates it in the Maine Revised Statutes, Title 1 and corrects cross-references to the program. It requires the Court Alternative Dispute Resolution Service to submit an annual report about land use mediations to the joint legislative committee created to review effectiveness and fairness of land use laws and rules. The Court Alternative Dispute Resolution Service must make available online brochures about the program and applications for landowner participation in the land use mediation program.

The amendment requires state agencies that administer land use laws to provide, when making regulatory decisions, information about the land use mediation program as well as the right to appeal the regulatory decisions. The special advocate appointed by the Secretary of State pursuant to Title 5, section 90-P must provide land use mediation program brochures to businesses that are pursuing permit applications with state agencies. State agencies that administer land use laws and the Court Alternative Dispute Resolution Service must ensure that information about the land use mediation program is available in an electronic format on agency publicly accessible websites.

The amendment also adds an appropriations and allocations section.

This amendment was not adopted.

Joint Standing Committee on Judiciary

Committee Amendment "B" (H-922)

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill, making changes by:

1. Adding a definition of "affiliate," which is used to prevent the dividing of property to circumvent the provision in the bill regarding measuring diminution of value against the entire parcel;
2. Adding a definition of "underlying governmental land use action," which is used to help determine ripeness of a claim;
3. Clarifying that a property owner must obtain a professional appraisal, and not simply an appraisal, as part of making a claim;
4. Clarifying the description of "reasonable investment-backed expectations" by adding a temporal reference found in Florida statute;
5. Clarifying that property cannot be divided to circumvent the provision in the bill regarding measuring diminution of value against the entire parcel and clarifying that an entire contiguous parcel's failure to meet the diminution threshold of 50% precludes recovery under this legislation;
6. Limiting recovery to either damages, capped at \$400,000, as established in the Maine Tort Claims Act, or a takings variance. Compensation for the entire fair market value of a parcel as an option for relief is eliminated; it is always an available avenue for the State to exercise if it chooses under the Constitution of Maine;
7. Adjusting tolling provisions to account for the inclusion of a mandatory mediation program and the opportunity for the Legislature to direct changes in the land use laws and rules that cause the diminution of property values;
8. Clarifying that municipalities are exempt from this legislation and are not subject to costs as a result of this legislation;
9. Rewriting the alternative dispute resolution section proposed in the bill in order to create a mandatory mediation program, which:
 - A. Requires that before a takings claim can be filed in court, a property owner must pursue relief under the land use mediation program, subject to enhanced requirements;
 - B. Requires that a property owner applying for relief under mandatory mediation must also include a professional appraisal indicating 50% or greater diminution in property value with the application. By applying for mediation, the property owner consents to grant the mediator and the State access to the property owner's land for purposes of resolving a dispute;
 - C. Describes ripeness for purposes of seeking mandatory mediation, requiring the property owner, before mediation, to apply for and be denied a land use unless a regulation on its face would clearly cause a 50% diminution in property value;
 - D. Limits recovery from speculative uses of the property;
 - E. Requires that abutting property owners be notified when a property owner initiates mandatory mediation;
 - F. Provides that as part of mediation the State must identify what land uses are permitted on the property in

Joint Standing Committee on Judiciary

question. The State may also present a written settlement offer as part of mediation that may include various proposals in order to reach a settlement agreement. This settlement offer may then later be used as a defense in the event a claim is filed in court;

G. Provides that the property owner and the State have up to one year to complete the mediation process;

H. Provides that any settlement agreement reached in mediation must be formalized in writing and be self-executing;

I. Specifies that only after a failed mediation is a property owner allowed to proceed to court and creates financial incentives for a property owner to accept a bona fide offer from the State during mediation;

J. Provides that, when mediation fails to produce a settlement, the property owner shall report the failure to produce a settlement to the Office of the Attorney General, who is required to report that information to the joint legislative committee created to review effectiveness and fairness of land use laws and rules. In order to give the committee time and opportunity to address the underlying land use laws and rules, the property owner must delay filing a claim in court until March 15th after the failed mediation is reported by the Attorney General to the committee; and

K. Provides flexibility to the courts in determining administrative fees for mandatory mediation;

10. Expanding the provisions about attorney's fees to include that either the State or a property owner could be liable for attorney's fees in the event that either party does not make a bona fide attempt at settlement during the mediation process;

11. Requiring that the judicial branch provide regular reports to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the number of cases pursued in court under this legislation so that future Legislatures can assess the impact of this legislation on court dockets;

12. Enabling the establishment by the Legislature of a joint legislative committee created to review effectiveness and fairness of land use laws and rules. The committee must be established by joint rule of the Legislature. Its duties include hearing and investigating complaints of property owners about land use laws and rules, receiving information collected and cataloged by the Attorney General regarding land use mediations in which settlement was not reached and recommending legislation to adjust land use laws and rules;

13. Delaying the implementation of the new regulatory takings program by excluding land use regulations enacted prior to August 1, 2013; and

14. Adding an appropriations and allocations section.

This amendment was not adopted.

Senate Amendment "A" To Committee Amendment "B" (S-556)

This amendment removes the option of a takings variance as relief for a regulatory taking and limits the options available to the State in a written settlement offer as part of mediation.

This amendment was not adopted.

Senate Amendment "B" To Committee Amendment "B" (S-565)

Under Committee Amendment "B" the cause of action for a regulatory taking does not apply to regulations enacted prior to August 1, 2013. This amendment changes the date to August 1, 2014. This amendment also adds an effective date of January 1, 2014, to the provisions of the amendment establishing the land use mediation program

Joint Standing Committee on Judiciary

and regulatory fairness review. This amendment replaces the appropriations and allocations section.

This amendment was not adopted.

Under Committee Amendment "B" the cause of action for a regulatory taking does not apply to regulations enacted prior to August 1, 2013. This amendment changes the date to August 1, 2015. This amendment also adds an effective date of July 1, 2013 to the provisions of the amendment establishing the land use mediation program and regulatory fairness review. This amendment removes the appropriations and allocations section.

This amendment was not adopted.

LD 1824 An Act To Provide Immunity for Prescribing and Dispensing Intranasal Naloxone Kits ONTP

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

This bill provides immunity for health care professionals and persons who assist a person who is experiencing or likely to experience an opiate-related drug overdose with intranasal naloxone. This bill is a recommendation from the Substance Abuse Services Commission's work group convened pursuant to Resolve 2011, chapter 81 and is submitted by the Joint Standing Committee on Health and Human Services.

LD 1831 An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes PUBLIC 606

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOSSEL KATZ	OTP-AM	H-838

This bill permits a court to order the forfeiture of benefits of a public employee who is a member of the Maine Public Employees Retirement System if the member is convicted of a crime for which the penalties are equal to or greater than a Class C crime if the crime is committed in connection with the member's public office or public employment or if the member's position placed the member in a position to commit the crime.

The bill also provides that amounts credited to the account of a member of the retirement system are available to pay any court-ordered restitution for economic loss suffered by the State or a political subdivision of the State as the result of the crime.

Committee Amendment "A" (H-838)

This amendment replaces the bill but carries out the intent of the bill to give a court discretion to order the forfeiture of retirement benefits of a member of the Maine Public Employees Retirement System who commits a crime in connection with the member's public office or public employment or a crime the member's position placed the member in a position to commit.

Enacted Law Summary

Public Law 2011, chapter 606 gives a court discretion to order the forfeiture of retirement benefits of a member of the Maine Public Employees Retirement System, including the gubernatorial retirement system, the legislative

Joint Standing Committee on Judiciary

retirement system and the judicial retirement system, who commits a crime in connection with the member's public office or public employment or a crime the member's position placed the member in a position to commit.

Chapter 606 allows the court to award to the spouse, dependent or former spouse of the employee benefits that would otherwise be payable if not for the forfeiture because of the crime. The Maine Public Employees Retirement System is required to provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award pursuant to an order of the court. The Maine Public Employees Retirement System is not required to provide any additional benefits or benefit options.

LD 1860 An Act To Allow Marriage Licenses for Same-sex Couples and Protect Religious Freedom INDEF PP

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

This initiated bill repeals the provision that limits marriage to one man and one woman and replaces it with the authorization for marriage between any 2 persons that meet the other requirements of Maine law. It also specifies that a marriage between 2 persons of the same sex in another state that is valid in that state is valid and must be recognized in this State. It also provides that a member of the clergy is not required to perform and a church, religious denomination or other religious institution is not required to host a marriage in violation of the religious beliefs of that member of the clergy, church, religious denomination or other religious institution and that any such refusal cannot be the basis for a lawsuit or liability and does not affect the tax-exempt status of the church, religious denomination or other religious institution.

This initiated bill will appear on the November 2012 ballot.

LD 1868 An Act To Correct Errors and Inconsistencies in the Laws of Maine PUBLIC 691 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-928 S-566 HASTINGS S-585 HASTINGS S-586 HASTINGS

This bill is submitted to the Joint Standing Committee on Judiciary pursuant to Title 1, section 94.

Part A makes technical corrections in the laws of Maine.

Part B corrects one reference to the Department of Administration and several references to the Bureau of Public Improvements, which is now the Bureau of General Services.

Committee Amendment "A" (H-928)

This amendment deletes sections in the bill addressing provisions of law that have been addressed in other

Joint Standing Committee on Judiciary

legislation. Part A, section 7 is deleted to allow the appropriate department and committee of jurisdiction to propose corrective legislation. Part B, sections 21 and 22 are deleted because they apply to school construction prior to the reorganization and renaming of the Bureau of Public Improvements. Part B, section 30 is amended by replacing the term "deemed" with "determined."

This amendment adds Part C to make technical changes.

This amendment adds Part D to make changes that are or may be considered substantive.

Section 1 repeals the Maine Revised Statutes, Title 2, chapter 5. Public Law 2011, chapter 90 repealed Title 2, sections 101, 103 and 104 and Public Law 2011, chapter 213 repealed Title 2, section 102, all of which are in Title 2, chapter 5. The only section left in chapter 5 is section 105, which gives the Governor the authority to adopt rules to implement the chapter.

Section 2 corrects an internal reference.

Section 3 corrects a formatting error in Title 11, section 3-1301.

Section 4 repeals a duplicate section of law.

Sections 5 and 6 correct the error of requiring a municipality proposing to join an existing regional school unit to vote and not the municipal members of that existing regional school unit.

Sections 7 and 8 clarify that a regional school unit must conduct, not call, a referendum vote on an article to allow a new municipality to join an existing regional school unit after the vote has been conducted by the joining municipality and the results are in the affirmative. This allows the referendum election to be called but not conducted before the results from the municipality proposing to join the regional school unit are known.

Section 9 corrects an error in the structure of a subsection.

Section 10 amends the statute governing the State Board of Alcohol and Drug Counselors within the Department of Professional and Financial Regulation, which now has 5 members, to provide that a majority of members constitutes a quorum.

Section 11 corrects a clerical error.

Section 12 corrects the description of an easement to cross a state-owned recreational trail in Franklin County.

This amendment adds Part E to restore provisions that were repealed by their own terms. The restored provisions provide for the Department of Education to approve the annual entitlement plan and budget of intermediate education units and establish a state-level advisory committee, composed in part of members of each board of directors of a regional site, to provide advice to the Department of Education on implementing the general administration and supervision provisions. These changes are substantive.

Senate Amendment "A" to Committee Amendment "A" (S-547)

This amendment corrects a conflict created when Public Law 2011, chapter 298 amended the Maine Revised Statutes, Title 17-A, section 1057, subsection 3 and chapter 394 repealed Title 17-A, section 1057, subsection 3. It corrects the conflict by repealing the subsection and replacing it with the chapter 298 version. The chapter 298 version provides that it is not a defense to a prosecution under the laws governing the possession of firearms in an establishment licensed for on-premises consumption of liquor that a person holds a permit to carry a concealed weapon.

Joint Standing Committee on Judiciary

This amendment was not adopted.

House Amendment "A" To Committee Amendment "A" (H-954)

This amendment corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by this amendment was enacted by Public Law 2011, chapter 622.

This amendment was not adopted.

Senate Amendment "B" To Committee Amendment "A" (S-566)

This amendment corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by this amendment was enacted by Public Law 2011, chapter 622.

Senate Amendment "D" To Committee Amendment "A" (S-585)

This amendment removes the provision that amends the Maine Revised Statutes, Title 38, section 410-M, last paragraph, which is repealed in Public Law 2011, chapter 655, Part EE, section 22.

It also removes provisions, added by the Committee Amendment, that provide for the Department of Education to approve the annual entitlement plan and budget of intermediate education units and establish a state-level advisory committee to provide advice to the department on implementing general administration and supervision provisions because of changes made in Public Law 2011, chapter 655, Part OO.

Senate Amendment "C" To Committee Amendment "A" (S-570)

This amendment amends Committee Amendment "A" to provide that the Appellate Division of the Workers' Compensation Board is established on January 1, 2013. Current law will continue to apply to appeals of decisions of hearing officers before January 1, 2013.

This amendment was not adopted.

Senate Amendment "E" To Committee Amendment "A" (S-586)

Public Law 2011, chapter 527, which took effect on March 18, 2012, allows the Commissioner of Marine Resources to close contaminated areas to the harvesting of marine organisms through issuing text and map descriptions rather than through emergency rulemaking. Although the intent was to cover all clams, quahogs, oysters and mussels, the new closure process inadvertently omitted mahogany quahogs and mussels. This amendment provides that the new closure process applies to mahogany quahogs and mussels.

Enacted Law Summary

Public Law 2011, chapter 691 corrects errors and inconsistencies in the laws of Maine.

Part A makes technical corrections.

Part B corrects one reference to the Department of Administration and several references to the Bureau of Public Improvements, which is now the Bureau of General Services.

Part C makes technical changes.

Part D makes changes that are or may be considered substantive.

Section 1 repeals the Maine Revised Statutes, Title 2, chapter 5. Public Law 2011, chapter 90 repealed Title 2,

Joint Standing Committee on Judiciary

sections 101, 103 and 104 and Public Law 2011, chapter 213 repealed Title 2, section 102, all of which are in Title 2, chapter 5. The only section left in chapter 5 is section 105, which gives the Governor the authority to adopt rules to implement the chapter.

Section 2 corrects an internal reference.

Section 3 corrects a formatting error in Title 11, section 3-1301.

Section 4 repeals a duplicate section of law.

Sections 5 and 6 correct the error of requiring a municipality proposing to join an existing regional school unit to vote and not the municipal members of that existing regional school unit.

Sections 7 and 8 clarify that a regional school unit must conduct, not call, a referendum vote on an article to allow a new municipality to join an existing regional school unit after the vote has been conducted by the joining municipality and the results are in the affirmative. This allows the referendum election to be called but not conducted before the results from the municipality proposing to join the regional school unit are known.

Section 9 corrects an error in the structure of a subsection.

Section 10 amends the statute governing the State Board of Alcohol and Drug Counselors within the Department of Professional and Financial Regulation, which now has 5 members, to provide that a majority of members constitutes a quorum.

Part E corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by Part E was enacted by Public Law 2011, chapter 622.

Public Law 2011, chapter 527, which took effect on March 18, 2012, allows the Commissioner of Marine Resources to close contaminated areas to the harvesting of marine organisms through issuing text and map descriptions rather than through emergency rulemaking. Although the intent was to cover all clams, quahogs, oysters and mussels, the new closure process inadvertently omitted mahogany quahogs and mussels. Part F provides that the new closure process applies to mahogany quahogs and mussels.

Public Law 2011, chapter 691 was enacted as an emergency measure effective May 22, 2012.

Joint Standing Committee on Judiciary

SUBJECT INDEX

Commercial Code

Enacted

LD 1684 **An Act To Amend the Uniform Commercial Code Regarding
Motor Vehicle Warranties** **PUBLIC 523**

Confidentiality/Freedom of Access

Enacted

LD 1465 **An Act To Amend the Laws Governing Freedom of Access** **PUBLIC 662**

LD 1804 **An Act To Implement Recommendations of the Right To Know
Advisory Committee Concerning Public Records Exceptions** **PUBLIC 524**

Not Enacted

LD 1690 **An Act To Protect the Privacy of Social Workers** **ONTP**

LD 1805 **An Act To Implement Recommendations of the Right To Know
Advisory Committee Concerning a Public Records Exception for
Proposed Legislation, Reports and Working Papers of the
Governor** **DIED IN
CONCURRENCE**

Courts, Justices and Judges

Enacted

LD 1698 **An Act To Establish Veterans Treatment Courts** **PUBLIC 500
EMERGENCY**

LD 1802 **An Act To Implement Recommendations of the Commission To
Study Priorities and Timing of Judicial Proceedings in State
Courts** **PUBLIC 559**

Not Enacted

LD 1546 **An Act To Amend the Laws Governing the Deference Afforded to
Agency Decisions** **MINORITY
(ONTP) REPORT**

LD 1606 **An Act To Provide Magistrates To Assist the Court in Handling
Small Claims and Landlord-tenant Cases** **ONTP**

Criminal Law and Procedure

Enacted

LD 1831 **An Act To Allow Forfeiture of Maine Public Employees
Retirement System Benefits for Persons Convicted of Certain
Crimes** **PUBLIC 606**

Family Law, General

Not Enacted

LD 1801 **An Act To Create Efficiencies in Cases Concerning
Court-ordered Child Contact and Care by Providing for Parent
Education** **MAJORITY
(ONTP) REPORT**

Family Law, Child Support

Enacted

LD 1594 **An Act To Clarify the Requirements of Income Withholding
Orders** **PUBLIC 528**

LD 1650 **An Act Concerning the Collection of Child Support Obligations** **PUBLIC 550
EMERGENCY**

Foreclosure

Not Enacted

LD 145 **An Act To Clarify and Streamline Foreclosure Proceedings** **VETO SUSTAINED**

Human Rights and Medical Rights

Enacted

LD 1530 **An Act To Amend the Housing Provisions of the Maine Human
Rights Act** **PUBLIC 613**

Not Enacted

LD 1860 **An Act To Allow Marriage Licenses for Same-sex Couples and
Protect Religious Freedom** **INDEF PP**

Landlord and Tenant Issues

Not Enacted

LD 1669 **An Act To Clarify the Process for Removing a Person from a
Dormitory Operated by a Nonprofit Organization and the
Municipal Regulation of Such Facilities** **ONTP**

Legal Services

Enacted

LD 1659 **An Act To Facilitate Recovery of Debts Owed to the State for
Indigent Legal Services** **PUBLIC 547**

Minors and Juveniles

Enacted

LD 978 **An Act To Provide for School Enrollment and an Appeal Process
in Specific Cases in Which Students Do Not Reside with Parents** **PUBLIC 502**

Probate Code and Trust Code

Enacted

LD 1377 **An Act To Adopt the Uniform Adult Guardianship and
Protective Proceedings Jurisdiction Act** **PUBLIC 564**

Not Enacted

LD 419 **An Act To Ensure the Payment of Survivor Benefits to Certain
Children** **ONTP**

Real Property, Property Rights and Eminent Domain

Not Enacted

LD 1810 **An Act To Implement Recommendations of the Committee To
Review Issues Dealing with Regulatory Takings** **INDEF PP**

Statutes

Enacted

LD 1868 **An Act To Correct Errors and Inconsistencies in the Laws of
Maine** **PUBLIC 691
EMERGENCY**

Torts and Immunity, General

Enacted

LD 1605 **An Act To Promote Agricultural Activity in Maine by Limiting
the Liability for Agritourism Activities** **PUBLIC 609**

LD 1660 **An Act To Provide Tort Claims Immunity for Out-of-state
Regional Transit Organizations That Provide Regular Service in
Maine** **PUBLIC 520**

Not Enacted

LD 1687 **An Act To Clarify the Liability of 3rd-party Building Inspectors** **MAJORITY
(ONTP) REPORT**

Torts and Immunity, Medical Malpractice

Not Enacted

LD 1824 **An Act To Provide Immunity for Prescribing and Dispensing
Intranasal Naloxone Kits** **ONTP**

Tribal-State Relations

Enacted

LD 1595	An Act To Impose a Penalty for Making False Claims Regarding Affiliation with a Federally Recognized Tribe	PUBLIC 583
LD 1726	An Act to Make Technical Corrections to the Laws Governing the Indian Representatives to the Legislature	PUBLIC 467 EMERGENCY

Not Enacted

LD 651	An Act To Improve Tribal-State Relations	ONTP
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Uncategorized

Enacted

LD 1647	Resolve, To Require Rulemaking Regarding Standing To Appeal in Proceedings before the Board of Environmental Protection and the Maine Land Use Regulation Commission	RESOLVE 144
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Not Enacted

LD 324	An Act To Authorize Parents with Power of Attorney To Make Decisions Regarding the Education of Their Adult Children	ONTP
LD 1796	An Act Relating to False Claims under the Medicaid Program	ONTP

LD INDEX

LD #		Page #
LD 145	-----	Page 1
LD 324	-----	Page 3
LD 419	-----	Page 3
LD 651	-----	Page 4
LD 978	-----	Page 4
LD 1377	-----	Page 6
LD 1465	-----	Page 7
LD 1530	-----	Page 9
LD 1546	-----	Page 11
LD 1594	-----	Page 12
LD 1595	-----	Page 13
LD 1605	-----	Page 13
LD 1606	-----	Page 14
LD 1647	-----	Page 14
LD 1650	-----	Page 15
LD 1659	-----	Page 16
LD 1660	-----	Page 17
LD 1669	-----	Page 17
LD 1684	-----	Page 18
LD 1687	-----	Page 18
LD 1690	-----	Page 18
LD 1698	-----	Page 19
LD 1726	-----	Page 20
LD 1796	-----	Page 20
LD 1801	-----	Page 20
LD 1802	-----	Page 21
LD 1804	-----	Page 22
LD 1805	-----	Page 23
LD 1810	-----	Page 24
LD 1824	-----	Page 28
LD 1831	-----	Page 28
LD 1860	-----	Page 29
LD 1868	-----	Page 29